

HOUSE BILL NO. 5459

February 04, 2020, Introduced by Reps. Rabhi, Steven Johnson, Miller, Reilly, Eisen, Paquette, Yarooh, Hammoud, Sowerby, Bollin, Schroeder, Meerman, Kuppaa, Afendoulis, Yancey, Berman, Hall and Brann and referred to the Committee on Tax Policy.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 88b and 88r (MCL 125.2088b and 125.2088r), section 88b as amended by 2014 PA 505 and section 88r as amended by 2018 PA 458.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 88b. (1) The fund shall create and operate programs
- 2 authorized under this act. The fund board shall determine the
- 3 annual allocation of money for programs authorized under this act



1 and make authorized expenditures or investments from the investment
2 fund of the 21st century jobs trust fund created in the Michigan
3 trust fund act, 2000 PA 489, MCL 12.251 to ~~12.260~~, **12.262**, as
4 authorized under this act for programs and activities authorized
5 under this act.

6 (2) Money transferred or appropriated by law to the fund for
7 the purposes of carrying out this chapter or chapter 8C shall be
8 expended or invested by the fund as authorized by law for the
9 following purposes:

10 (a) 21st century investments as long as those investments
11 provide for repayment for breach of the written agreement or the
12 failure to meet measurable outcomes.

13 (b) Grants and loans approved by the commercialization board
14 under section 88k as long as those grants and loans provide for
15 repayment for breach of the written agreement or the failure to
16 meet measurable outcomes.

17 (c) Other programs or activities authorized under this
18 chapter, any other chapter of this act, or as provided in an
19 appropriation act as long as those programs or activities provide
20 for repayment for breach of the written agreement or the failure to
21 meet measurable outcomes.

22 (d) For promotion of tourism in this state. For fiscal year
23 2010-2011 only, \$20,000,000.00 for the promotion of tourism in this
24 state from funds appropriated in the jobs for Michigan investment
25 program - 21st century jobs fund line in section 109 of 2010 PA 191
26 with not less than \$1,500,000.00 to be used for the 2010-2011
27 winter advertisement buy. For all funds used for promotion of
28 tourism in this state under this subdivision, the fund shall report
29 to the legislature at the same time and in the same manner as



1 provided in section 89d.

2 (e) Grants, loans, or other economic assistance under section
3 88r and community revitalization incentives under chapter 8C as
4 long as those grants, loans, other economic assistance, and
5 community revitalization incentives provide for repayment for
6 breach of the written agreement or the failure to meet measurable
7 outcomes.

8 (3) Not more than 4% of the annual appropriation as provided
9 by law from the 21st century jobs trust fund created in the
10 Michigan trust fund act, 2000 PA 489, MCL 12.251 to ~~12.260~~, **12.262**,
11 may be used for the purposes of administering the programs and
12 activities authorized under this chapter. However, the fund and the
13 fund board shall not use more than 3% of the annual appropriation
14 for administering the programs and activities authorized under this
15 chapter unless the fund board by a 2/3 vote authorizes the
16 additional 1% for administration. The MEDC may charge actual and
17 reasonable fees for costs associated with loans, grants, or other
18 economic assistance under this chapter. These fees are in addition
19 to an amount of the appropriation used for administering the
20 programs and activities authorized under this chapter.

21 (4) Not more than 5% of the annual appropriation as provided
22 by law from the 21st century jobs trust fund created in the
23 Michigan trust fund act, 2000 PA 489, MCL 12.251 to ~~12.260~~, **12.262**,
24 may be used for business development and business marketing costs.
25 No funds may be used for any business development and business
26 marketing effort that includes a reference to or the image or voice
27 of an elected state officer or a candidate for elective state
28 office and that is targeted to a media market in Michigan.

29 (5) The fund shall not use any money appropriated or



1 transferred for purposes authorized under this chapter to acquire
2 interests in or improve real property. The restriction under this
3 subsection does not prohibit the fund from taking a security
4 interest in real property. The restriction under this subsection
5 applies only to the fund and not to recipients of expenditures or
6 investments under this chapter.

7 (6) The fund board may select all vendors for all expenditures
8 and for program awards under this chapter by issuing a request for
9 proposal or an alternative competitive process as determined by the
10 fund board. At a minimum, the request for proposal shall require
11 the responding entities to disclose any conflict of interest,
12 disclose any criminal convictions, disclose any investigations by
13 the internal revenue service or any other federal or state taxing
14 body or court, disclose any litigation involving the entity, and
15 maintain records and evidence pertaining to work performed. The
16 fund board shall establish a standard process to evaluate proposals
17 submitted as a result of a request for proposal and appoint a
18 committee to review the proposals. The fund or the fund board shall
19 not appoint or designate any person paid or unpaid to a committee
20 to review proposals if that person has a conflict of interest with
21 any potential vendors as determined by the office of the chief
22 compliance officer established in section 88i.

23 (7) Application fees received for programs and activities
24 authorized under this chapter or chapter 8C may be used by the fund
25 for administering the programs and activities authorized under this
26 chapter or chapter 8C. The restrictions on expenditures under
27 subsection (3) do not apply to expenditure of application fee
28 revenue under this subsection.

29 (8) Funds appropriated by law to the fund board or the fund



1 may be expended by the fund board or fund without further
2 appropriation regardless of the source of those funds.

3 **(9) The fund shall post on its website a notice of all**
4 **businesses that have received a grant, loan, or other economic**
5 **assistance under this act that have ceased operations in this**
6 **state. The notice shall include all of the following:**

7 **(a) The name of the business and whether the assistance**
8 **received by the business was a grant, loan, or other economic**
9 **assistance.**

10 **(b) The amount of the grant, loan, or other economic**
11 **assistance received by the business.**

12 **(c) If the business is in breach of its agreement with the**
13 **fund, a statement by the fund on the likelihood of recovering any**
14 **portion of the grant, loan, or other economic assistance due under**
15 **the agreement.**

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

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

23 (a) Grants, loans, and other economic assistance to assist
24 qualified businesses in making qualified investments and providing
25 new jobs in this state, with preference given to qualified
26 businesses that need additional assistance for deal-closing and for
27 second stage company gap financing.

28 (b) A detailed application, approval, and compliance process
29 published and available on the fund's website. The detailed



1 application, approval, and compliance process must, at a minimum,
2 contain the following:

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

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

9 (iii) The written agreement must provide in a clear and concise
10 manner all of the conditions imposed, including specific time
11 frames, on the qualified business to receive a grant, loan, or
12 other economic assistance under this section.

13 (iv) The written agreement must provide for a repayment
14 provision of any grants, loans, or other economic assistance if the
15 qualified business fails to comply with the provisions of the
16 written agreement.

17 (v) The written agreement must provide for an audit provision
18 that requires the fund to verify that established milestones for
19 the project have been met.

20 (c) In any fiscal year, a qualified business shall not receive
21 more than \$10,000,000.00 for a project funded under this section.

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

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

26 (b) The qualified business provides a business plan or
27 demonstrates the need for the grant, loan, or other economic
28 assistance.

29 (c) The qualified business agrees to provide the data



1 described in the written agreement necessary for the fund to report
2 to the legislature under this act.

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

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

13 (6) The legislature finds and declares that funding authorized
14 under this section to encourage diversification of the economy, to
15 encourage capital investment in this state, and to promote the
16 creation of qualified new jobs in this state is a public purpose
17 and of paramount concern in the interest of the health, safety, and
18 general welfare of the citizens of this state.

19 (7) **If the fund receives notice from a qualified business that**
20 **it seeks to amend its written agreement, the fund shall post on its**
21 **website within 3 days a notice that the qualified business seeks to**
22 **amend its agreement and what terms of the agreement it seeks to**
23 **amend.**

24 (8) **When a qualified business fails to meet the terms of a**
25 **written agreement, the fund shall post on its website within 3 days**
26 **a notice that the qualified business has failed to meet the terms**
27 **of its written agreement. The notice shall describe all of the**
28 **following:**

29 (a) **The terms of the written agreement that have not been met.**



1 (b) The number of created or retained qualified new jobs at
2 the qualified business.

3 (c) The amount of grants, loans, or other economic assistance
4 the qualified business has received.

5 (d) If the qualified business is in breach of its written
6 agreement with the fund, a statement by the fund on the likelihood
7 of recovering any portion of the grant, loan, or other economic
8 assistance due under the written agreement.

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

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

12 (b) "Qualified business" means a business that is located in
13 or operates in this state or will locate or will operate in this
14 state as determined by the fund. A qualified business may include
15 more than 1 business as determined by the fund board.

16 (c) "Qualified investment" means investment in this state
17 related to a project subject to a written agreement under this
18 section.

19 (d) "Qualified new job" means a job performed by an individual
20 who is a resident of this state whose Michigan income taxes are
21 withheld by an employer, or an employee leasing company or
22 professional employer organization on behalf of the employer, or by
23 an individual who is not a resident of this state and is employed
24 by a business at a project location that is located in this state,
25 provided that the business certifies in writing at the time of
26 disbursement that not less than 75% of the employees of that
27 business are residents of this state, that is in excess of the
28 number of jobs maintained by the qualified business in this state
29 prior to the expansion or location, as determined and verified by



1 the fund.

