

HOUSE BILL NO. 5461

February 04, 2020, Introduced by Reps. Afendoulis, Anthony, Rabhi, Miller, Reilly, Eisen, Leutheuser, Paquette, Steven Johnson, Yaroach, Hammoud, Sowerby, Bollin, Schroeder, Meerman, Hoitenga, Kuppa, Calley, 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 9 and 88r (MCL 125.2009 and 125.2088r),
section 9 as amended by 2017 PA 109 and section 88r as amended by
2018 PA 458.

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



1 house fiscal agencies annually a report of its activities. The
2 report shall be transmitted not later than April 10 of each year
3 for activities in the immediately preceding state fiscal year. The
4 report shall not include information exempt from disclosure under
5 section 5. The report shall include, but is not limited to, all of
6 the following for each program operated under this act:

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

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

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

10 (d) For each separate form of financial assistance, all of the
11 following:

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

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

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

18 (iv) The actual number of retained jobs that are not temporary
19 employees.

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

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

24 (e) The duration of the financial assistance.

25 (f) The amount of financial support other than state
26 resources.

27 (g) Money or other revenue or property returned to the fund,
28 including any repayments through a clawback provision in the
29 agreement.



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

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

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

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

10 (iii) The members of the house commerce committee.

11 (iv) The members of the house appropriations subcommittee on
12 general government.

13 (v) The members of the senate economic development committee.

14 (vi) The members of the senate appropriations subcommittee on
15 general government.

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

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

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

27 (3) The fund shall also transmit the audit described in
28 subsection (2) to the chairperson and minority vice-chairperson of
29 the senate appropriations subcommittee on general government and



1 the house of representatives appropriations subcommittee on general
2 government. The fund shall make the report and audit available to
3 the public on the fund's website.

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

7 (a) The amount of qualified venture capital fund investments,
8 qualified mezzanine fund investments, and qualified private equity
9 fund investments under management in this state, including year-to-
10 year growth.

11 (b) The value of loan enhancement program investments,
12 qualified private equity fund investments, qualified mezzanine fund
13 investments, and qualified venture capital investments in qualified
14 businesses, including year-to-year growth.

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

18 (5) The report described in subsection (1) shall also include,
19 but is not limited to, all of the following for all actions under
20 section 88r:

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

23 (b) The total actual number of new jobs created under section
24 88r as reported to the fund.

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

28 (d) For each qualified business, whether it is a new business,
29 whether it is an expansion of an existing business, or whether it



1 relocated from outside of this state.

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

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

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

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

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

14 (b) For business development 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 business promotion campaign.

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

19 (7) The report described in subsection (1) shall also include,
20 but is not limited to, all of the following for all actions under
21 section 90d:

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

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

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



1 commercial, residential, or retail.

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

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

9 (f) Each project that received a community revitalization
10 incentive outside the fund program standards and guidelines and why
11 the variance was given.

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

18 (a) The chairperson and minority vice-chairperson of the house
19 commerce committee.

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

22 (c) The chairperson and minority vice-chairperson of the
23 senate economic development committee.

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

26 (9) The report described in subsection (1) shall also include
27 a summary of the approximate administrative costs used to
28 administer the programs and activities authorized in the following
29 sections:



1 (a) Section 88b.

2 (b) Section 88h.

3 (c) Section 90b.

4 (10) The report described in subsection (1) shall also
5 include, but is not limited to, all of the following for all
6 actions for business incubators approved by the fund after January
7 14, 2015:

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

10 (b) Amounts of other funds leveraged by current clients of the
11 business incubator.

12 (c) Increases in revenue for current clients of the business
13 incubator.

14 (11) The report described in subsection (1) shall also include
15 the actual repayments received by the fund for failure to comply
16 with clawback provisions of the written agreement under all of the
17 following:

18 (a) Section 78.

19 (b) Section 88d.

20 (c) Section 88k.

21 (d) Section 88q.

22 (e) Section 88r.

23 (f) Section 90b.

24 (12) Beginning on July 1, 2015, the fund shall post on the
25 fund's website a list of each contract, agreement, or other written
26 loan or grant documentation, **or any modification of a contract or**
27 **agreement made after the effective date of the amendatory act that**
28 **amended this subsection**, for financial assistance under sections
29 88r and 90b that the fund entered into or modified in the



1 immediately preceding fiscal year.

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

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

6 (b) The total amount of the loan.

7 (c) Whether payments on the loan balance are current or
8 delinquent.

9 (d) The interest rate of the loan.

10 **(e) A description of any modification of a loan made under**
11 **section 88r after the effective date of the amendatory act that**
12 **added this subdivision, clearly stating if the number of jobs or**
13 **new jobs has been reduced in the modification.**

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

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

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

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

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

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

28 (a) The name of the authorized business.

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



1 maintained.

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

4 (17) As used in this section, "financial assistance" means
5 grants, loans, other economic assistance, and any other incentives
6 or assistance under this act.

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

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

14 (a) Grants, loans, and other economic assistance to assist
15 qualified businesses in making qualified investments and providing
16 new jobs in this state, with preference given to qualified
17 businesses that need additional assistance for deal-closing and for
18 second stage company gap financing.

19 (b) A detailed application, approval, and compliance process
20 published and available on the fund's website. The detailed
21 application, approval, and compliance process must, at a minimum,
22 contain the following:

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

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

29 (iii) The written agreement must provide in a clear and concise



1 manner all of the conditions imposed, including specific time
2 frames, on the qualified business to receive a grant, loan, or
3 other economic assistance under this section.

4 (iv) The written agreement must provide for a repayment
5 provision of any grants, loans, or other economic assistance if the
6 qualified business fails to comply with the provisions of the
7 written agreement.

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

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

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

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

17 (b) The qualified business provides a business plan or
18 demonstrates the need for the grant, loan, or other economic
19 assistance.

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

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

28 (5) Beginning February 1, 2012 and not less than every 3
29 months thereafter, the fund shall post on its internet website the



1 name and location of a qualified business that received approval of
2 a grant, loan, or other economic assistance under this section in
3 the immediately preceding 3-month period.

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

10 (7) **If the fund or fund board modifies a grant, loan, or other**
11 **economic assistance with an existing qualified business under this**
12 **section and that modification reduces the number of qualified new**
13 **jobs of that qualified business, then the grant, loan, or other**
14 **economic assistance shall be reduced in the same proportion that**
15 **the qualified new jobs are reduced from the original agreement**
16 **under this section, as determined by the fund.**

17 (8) ~~(7)~~—As used in this section:

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

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

24 (c) "Qualified investment" means investment in this state
25 related to a project subject to a written agreement under this
26 section.

27 (d) "Qualified new job" means a job performed by an individual
28 who is a resident of this state whose Michigan income taxes are
29 withheld by an employer, or an employee leasing company or



1 professional employer organization on behalf of the employer, or by
2 an individual who is not a resident of this state and is employed
3 by a business at a project location that is located in this state,
4 provided that the business certifies in writing at the time of
5 disbursement that not less than 75% of the employees of that
6 business are residents of this state, that is in excess of the
7 number of jobs maintained by the qualified business in this state
8 prior to the expansion or location, as determined and verified by
9 the fund.

