

SENATE BILL NO. 769

February 04, 2020, Introduced by Senators BARRETT, MCMORROW, IRWIN, RUNESTAD, BUMSTEAD, CHANG, POLEHANKI, BAYER, ANANICH, BULLOCK, JOHNSON, THEIS and HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 88b, 88h, 88r, and 90b (MCL 125.2088b, 125.2088h, 125.2088r, and 125.2090b), section 88b as amended by 2014 PA 505, section 88h as amended by 2012 PA 145, section 88r as amended by 2018 PA 458, and section 90b as amended by 2018 PA 423.

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. **All money**
3 **returned to the fund from the repayment of a loan, grant, or other**
4 **economic assistance, from whatever source, and any funds that were**
5 **committed for a loan, grant, or other economic assistance in which**
6 **the intended recipient is no longer eligible to receive, shall**
7 **revert to the general fund of this state.**

8 Sec. 88h. (1) The jobs for Michigan investment fund is created
9 within the fund as a permanent fund authorized by section 19 of
10 article IX of the state constitution of 1963. Money in the
11 investment fund at the close of the fiscal year shall remain in the
12 investment fund and shall not lapse to the general fund. Money in
13 the investment fund shall not be transferred to another
14 governmental entity or a separate legal entity and public body
15 corporate established under the urban cooperation act of 1967, 1967
16 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized in
17 this chapter.

18 (2) Money or other assets deposited in the investment fund
19 shall be held as permanent funds as provided under section 19 of
20 article IX of the state constitution of 1963 and invested only as
21 authorized under this chapter, including, but not limited to,
22 investments in the stock of a company, association, or corporation.

23 (3) The investment fund shall be invested as authorized under
24 this chapter for the benefit of the people of the state of Michigan
25 and for the purpose of creating incentives for the following in
26 this state:

- 27 (a) Retaining or creating jobs.
28 (b) Increasing capital investment activity.
29 (c) Increasing commercial lending activity.

1 (d) Encouraging the development and commercialization of
2 competitive edge technologies.

3 (e) Revitalizing Michigan communities.

4 (4) Funds or other assets of the investment fund also may be
5 invested in debt instruments or debt obligations for loans or
6 guarantees authorized under this chapter.

7 (5) The investment fund shall consist of ~~all of the following:~~

8 ~~(a) Any **the** funds appropriated to, transferred to, or~~
9 ~~deposited in the investment fund from the 21st century jobs trust~~
10 ~~fund under the Michigan trust fund act, 2000 PA 489, MCL 12.251 to~~
11 ~~12.260.12.262.~~

12 ~~(b) Earnings, royalties, return on investments, return of~~
13 ~~principal, payments made, or other money received by or payable to~~
14 ~~the fund under agreements related to grants, loans, investments, or~~
15 ~~expenditures by the fund under this chapter or chapter 8C.~~

16 ~~(c) Assets, property, money, earnings, royalties, return on~~
17 ~~investments, return of principal, payments made, or other money~~
18 ~~owed, received by, or payable to the fund or the Michigan economic~~
19 ~~development corporation under agreements related to grants, loans,~~
20 ~~investments, or other payments funded by appropriations from the~~
21 ~~state general fund or tobacco settlement revenue under 1 or more of~~
22 ~~the following:~~

23 ~~(i) Section 418 of 1999 PA 120, commonly known as the health~~
24 ~~and aging research and development initiative or the Michigan life~~
25 ~~sciences corridor initiative, or any successor program.~~

26 ~~(ii) Section 410 of 2000 PA 292, commonly known as the health~~
27 ~~and aging research and development initiative or the Michigan life~~
28 ~~sciences corridor initiative, or any successor program.~~

29 ~~(iii) Section 410 of 2001 PA 80, commonly known as the health~~

1 ~~and aging research and development initiative or the Michigan life~~
2 ~~sciences corridor initiative, or any successor program.~~

3 ~~(iv) Section 410 of 2002 PA 517, commonly known as the Michigan~~
4 ~~life sciences corridor initiative, or any successor program.~~

5 ~~(v) Section 410 of 2003 PA 169, commonly known as the Michigan~~
6 ~~life sciences and technology tri-corridor initiative, or any~~
7 ~~successor program.~~

8 ~~(vi) Section 510 of 2004 PA 354, commonly known as the Michigan~~
9 ~~technology tri-corridor and life sciences initiative, or any~~
10 ~~successor program.~~

11 ~~(vii) Section 801 of 2005 PA 11, commonly known as the~~
12 ~~technology tri corridor and life sciences initiative, or any~~
13 ~~successor program.~~

14 ~~(viii) Section 381(1)(c) of 2003 PA 173, providing for payments~~
15 ~~to the life sciences commercial development fund.~~

16 ~~(d) Money or assets received by the state treasurer or the~~
17 ~~fund from any source for deposit in the investment fund.~~

18 ~~(e) Interest and earnings on any funds or other assets~~
19 ~~deposited in the investment fund or other net income of the~~
20 ~~investment fund.~~

21 (6) The net income of the investment fund may be expended by
22 the fund only for purposes authorized under this chapter or chapter
23 8C pursuant to an appropriation authorized by law. As used in this
24 section, the net income of the investment fund shall be computed
25 annually as of the last day of the state fiscal year in accordance
26 with generally accepted accounting principles, excluding any
27 unrealized gains or losses.

28 (7) The fund board shall be the trustees of the investment
29 fund and shall direct the investment and reinvestment of the funds

1 and assets of the investment fund as consistent with the objectives
2 of this chapter or chapter 8C.

3 (8) The fund board may establish restricted subaccounts within
4 the investment fund as necessary to administer the investment fund.
5 The fund board may contract with the state treasurer to assist the
6 fund board in administering the investment fund. The fund board may
7 authorize money in the investment fund not invested as authorized
8 under sections 88d, 88e, 88f, 88g, 88q, and 88r and chapter 8C to
9 be managed by the state treasurer as part of the common cash fund
10 of this state under 1967 PA 55, MCL 12.51 to 12.53. Money managed
11 by the state treasurer under this subsection shall be separately
12 accounted for by the state treasurer. When authorized under this
13 subsection, the state treasurer may invest the funds or assets of
14 the investment fund in any investment authorized under 1855 PA 105,
15 MCL 21.141 to 21.147, for surplus funds of this state, in
16 obligations issued by any state or political subdivision or
17 instrumentality of the United States, or in any obligation issued,
18 assumed, or guaranteed by a solvent entity created or existing
19 under the laws of the United States or of any state, district, or
20 territory of the United States, which are not in default as to
21 principal or interest.

22 (9) A member of the fund board or officer of the fund shall
23 not gain from any investment of funds or assets of the investment
24 fund. A member of the fund board or officer of the fund shall not
25 have any direct or indirect interest in an investment of funds or
26 assets of the investment fund. A member of the fund board or person
27 connected with the investment fund directly or indirectly, for
28 himself or herself, or as an agent or partner of others, shall not
29 borrow any of the funds or assets of the investment fund or in any

1 manner use funds or assets of the investment fund except as
2 authorized under this chapter. A member of the fund board or
3 officer of the fund shall not become an endorser or surety or
4 become in any manner an obligor for money loaned by or borrowed
5 from the investment fund. Failure to comply with this subsection
6 constitutes misconduct in office subject to removal under section
7 94. In addition to any other sanction, a person who violates this
8 subsection is guilty of a misdemeanor punishable by imprisonment
9 for not more than 90 days or a fine of not more than \$500.00, or
10 both.

11 **(10) All money returned to the fund from the repayment of a**
12 **loan, grant, or other economic assistance, from whatever source,**
13 **and any funds that were committed for a loan, grant, or other**
14 **economic assistance in which the intended recipient is no longer**
15 **eligible to receive, shall revert to the general fund of this**
16 **state.**

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

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

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

29 (b) A detailed application, approval, and compliance process

1 published and available on the fund's website. The detailed
2 application, approval, and compliance process must, at a minimum,
3 contain the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **(7) All money returned to the fund from the repayment of a**
21 **loan, grant, or other economic assistance, from whatever source,**
22 **and any funds that were committed for a loan, grant, or other**
23 **economic assistance in which the intended recipient is no longer**
24 **eligible to receive, shall revert to the general fund of this**
25 **state.**

26 (8) ~~(7)~~—As used in this section:

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

29 (b) "Qualified business" means a business that is located in

1 or operates in this state or will locate or will operate in this
2 state as determined by the fund. A qualified business may include
3 more than 1 business as determined by the fund board.

4 (c) "Qualified investment" means investment in this state
5 related to a project subject to a written agreement under this
6 section.

7 (d) "Qualified new job" means a job performed by an individual
8 who is a resident of this state whose Michigan income taxes are
9 withheld by an employer, or an employee leasing company or
10 professional employer organization on behalf of the employer, or by
11 an individual who is not a resident of this state and is employed
12 by a business at a project location that is located in this state,
13 provided that the business certifies in writing at the time of
14 disbursement that not less than 75% of the employees of that
15 business are residents of this state, that is in excess of the
16 number of jobs maintained by the qualified business in this state
17 prior to the expansion or location, as determined and verified by
18 the fund.

19 Sec. 90b. (1) The fund shall create and operate the Michigan
20 community revitalization program to provide community
21 revitalization incentives for eligible investments on eligible
22 property in this state. The fund shall develop and use a detailed
23 application, approval, and compliance process adopted by a
24 resolution of the board and published and available on the fund's
25 website. Program standards, guidelines, templates, or any other
26 forms used by the fund to implement the Michigan community
27 revitalization program shall be approved by the board.

28 (2) A person or 2 or more persons may apply to the fund for
29 approval of community revitalization incentives associated with a

1 project under this section. Community revitalization incentives
2 shall not be approved for any property that is not eligible
3 property.

4 (3) Funds appropriated for programs under this chapter must be
5 placed in the 21st century jobs trust fund created in the Michigan
6 trust fund act, 2000 PA 489, MCL 12.251 to 12.262.

7 (4) Subject to section 88c, the fund shall review all
8 applications for community revitalization incentives. As part of
9 the application, the applicant shall include documentation
10 establishing that the project is located on eligible property and a
11 project description that includes a project pro-forma. The fund
12 shall consider the following criteria to the extent reasonably
13 applicable as reasonably determined by the fund board or its
14 designee to the type of project proposed when approving a community
15 revitalization incentive:

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

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

20 (c) The amount of local community and financial support for
21 the project.

22 (d) The applicant's financial need for a community
23 revitalization incentive.

24 (e) The extent of reuse of vacant buildings, reuse of historic
25 resources, and redevelopment of blighted property.

26 (f) Creation of jobs.

27 (g) The level of private sector and other contributions,
28 including, but not limited to, federal funds and federal tax
29 credits.

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

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

3 (j) Whether the project promotes mixed-use development and
4 walkable communities.

5 (k) Whether the project converts abandoned public buildings to
6 private use.

7 (l) Whether the project promotes sustainable development.

8 (m) Whether the project involves the rehabilitation of a
9 historic resource.

10 (n) Whether the project addresses areawide redevelopment.

11 (o) Whether the project addresses underserved markets of
12 commerce.

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

14 (q) If the rehabilitation of the historic resource will meet
15 the federal secretary of the interior's standards for
16 rehabilitation and guidelines for rehabilitating historic
17 buildings, 36 CFR 67, when applied after engaging in discussions
18 with the state historic preservation office.

19 (r) Whether the project will compete with or affect existing
20 Michigan businesses within the same industry.

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

24 (5) An application shall be approved or denied not more than
25 90 days after receipt of the application that is considered
26 administratively complete by the board or its designee. If the
27 application is neither approved nor denied within 90 days after
28 being considered administratively complete, it must be considered
29 by the fund board, or its president if delegated, for action at, or

1 by, the next regularly scheduled board meeting. If an application
2 is approved, the fund shall determine the amount of community
3 revitalization incentives for the project based on the fund's
4 review of the application and the criteria specified in subsection
5 (4).

6 (6) Except as otherwise provided in this subsection, the
7 amount of community revitalization incentives that the board may
8 approve for a single project shall not exceed 25% of a project's
9 eligible investment up to \$10,000,000.00. However, in a city,
10 village, or township with a population of 15,000 or less based on
11 the most recent federal decennial census, the amount of community
12 revitalization incentives that the board may approve for a single
13 project shall not exceed 50% of a project's eligible investment up
14 to \$10,000,000.00. A community revitalization loan shall not exceed
15 \$10,000,000.00, and a community revitalization grant shall not
16 exceed \$1,500,000.00. However, a combination of loans, grants, and
17 other economic assistance under this chapter shall not exceed
18 \$10,000,000.00 per project. The board may not approve
19 \$10,000,000.00 per project in community revitalization incentives
20 to more than 3 projects per fiscal year. The board shall approve
21 not less than 5 projects of \$1,000,000.00 or less per project per
22 fiscal year. If, after reviewing all applications in a fiscal year,
23 the fund determines that less than 5 projects warranted an award of
24 \$1,000,000.00 or less, this subsection does not apply.
25 Notwithstanding any other limitation in this subsection, each year,
26 of the community revitalization projects approved by the board, the
27 board may approve up to 3 single projects that shall not exceed 50%
28 of a project's eligible investment up to \$10,000,000.00 for
29 community revitalization loans and grants for the specific purpose

1 of historic preservation. Beginning for the 2017-2018 fiscal year
2 and through the 2021-2022 fiscal year, except as otherwise provided
3 in subsection (9), not less than 5% of community revitalization
4 incentives shall be awarded to neighborhood and commercial corridor
5 food initiatives.

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

18 (8) Not more than 4% of the annual appropriation as provided
19 by law from the 21st century jobs trust fund established in the
20 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.262, may be
21 used for the purposes of administering the programs and activities
22 authorized under this chapter. However, the fund and the fund board
23 shall not use more than 3% of the annual appropriation for
24 administering the programs and activities authorized under this
25 chapter unless the fund board by a 2/3 vote authorizes the
26 additional 1% for administration. The MEDC may charge actual and
27 reasonable fees for costs associated with the community
28 revitalization incentive authorized under this chapter. These fees
29 are in addition to an amount of the appropriation used for

1 administering the programs and activities authorized under this
2 chapter.

3 (9) The application process for community revitalization
4 incentives for neighborhood and commercial corridor food
5 initiatives must provide that applications for neighborhood and
6 commercial corridor food initiatives must be received on or before
7 June 1 for that fiscal year. If there are insufficient approved
8 applications in a fiscal year for community revitalization
9 incentives for neighborhood and commercial corridor food
10 initiatives, then the remaining allocated funds may be used for
11 community revitalization incentives that are not for neighborhood
12 and commercial corridor food initiatives as determined by the
13 board. In addition, a new neighborhood and commercial corridor food
14 initiative, as determined by the board, is not eligible for a
15 community revitalization incentive if it is located within 1 mile
16 of an existing retail supermarket, grocery store, or produce
17 market, as determined by the board, that offers unprocessed USDA-
18 inspected meat and poultry products or meat products that carry the
19 USDA organic seal, fresh fruits and vegetables, and dairy products
20 for sale to the public.

21 (10) The legislature finds and declares that funding
22 authorized under this section is intended to encourage
23 diversification of the economy, to encourage capital investment in
24 this state, to promote the creation of qualified new jobs in this
25 state, and to promote the investment in brownfield and historic
26 preservation projects that reclaim previously used property that is
27 less likely to be revitalized without the investment.

28 **(11) All money returned to the fund from the repayment of a**
29 **loan, grant, or other economic assistance, from whatever source,**

1 and any funds that were committed for a loan, grant, or other
2 economic assistance in which the intended recipient is no longer
3 eligible to receive, shall revert to the general fund of this
4 state.