

HOUSE BILL NO. 5413

January 30, 2024, Introduced by Reps. Hoskins, Filler, Farhat and Martus and referred to the Committee on Economic Development and Small Business.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 9, 90g, and 90h (MCL 125.2009, 125.2090g, and 125.2090h), section 9 as amended by 2021 PA 136 and sections 90g and 90h as added by 2017 PA 109.

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

1 report ~~shall~~**must** be transmitted not later than April 10 of each
2 year for activities in the immediately preceding state fiscal year.
3 The report ~~shall~~**must** not include information exempt from
4 disclosure under section 5. The report ~~shall~~**must** include, but is
5 not limited to, all of the following for each program operated
6 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 of~~
3 **which** the fund has received actual notice, ~~of,~~ filed by a direct
4 recipient of an active single incentive of at least \$500,000.00. In
5 addition, the fund shall, within 120 days after the fund receives
6 notice, provide a report of the notice of bankruptcy on its website
7 and 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 and tourism~~ **economic**
11 **development and small business** committee.

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

14 (v) The members of the senate economic and ~~small business~~
15 **community** development committee.

16 (vi) The members of the senate appropriations subcommittee on
17 general government.

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

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

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

29 (3) The fund shall also transmit the audit described in

1 subsection (2) to the chairperson and minority vice-chairperson of
2 the senate appropriations subcommittee on general government and
3 the house of representatives appropriations subcommittee on general
4 government. The fund shall make the report and audit available to
5 the public on the fund's website.

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

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

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

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

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

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

25 (b) The total actual number of new jobs created under section
26 88r as reported to the fund.

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

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

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

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

10 (a) For tourism promotion 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 tourism promotion campaign.

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

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

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

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

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

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

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

28 (c) The total actual amount of square footage revitalized or
 29 added for each project approved under section 90d as reported to

1 the fund. When reporting square footage, the person must report the
 2 square footage by category, including, but not limited to,
 3 commercial, residential, or retail.

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

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

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

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

20 (a) The chairperson and minority vice-chairperson of the house
 21 ~~commerce and tourism~~ **economic development and small business**
 22 committee.

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

25 (c) The chairperson and minority vice-chairperson of the
 26 senate economic and ~~small business~~ **community** development committee.

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

29 (9) The report described in subsection (1) must also include a

1 summary of the approximate administrative costs used to administer
2 the programs and activities authorized in the following sections:

3 (a) Section 88b.

4 (b) Section 88h.

5 (c) Section 90b.

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

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

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

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

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

19 (a) Section 78.

20 (b) Section 88d.

21 (c) Section 88k.

22 (d) Section 88q.

23 (e) Section 88r.

24 (f) Section 90b.

25 (12) Beginning on July 1, 2015, the fund shall post on the
26 fund's website a list of each contract, agreement, or other written
27 loan or grant documentation for financial assistance under sections
28 88r and 90b that the fund entered into or modified in the
29 immediately preceding fiscal year.

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

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

5 (b) The total amount of the loan.

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

8 (d) The interest rate of the loan.

9 (14) Beginning July 1, 2015, the report described in
10 subsection (1) ~~shall~~**must** also contain all of the following for
11 each program that provides financial assistance under this act that
12 requires a site visit:

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

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

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

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

19 (16) The report described in subsection (1) must also include,
20 but is not limited to, all of the following for all written
21 agreements related to the ~~good jobs for~~**high-wage incentive for**
22 **regional employment in (H.I.R.E.)** Michigan program created under
23 chapter 8D:

24 (a) The name of the authorized business.

25 (b) The number of certified new jobs required to be
26 maintained.

27 (c) The amount and duration of the withholding tax capture
28 revenues.

29 (17) The report described in subsection (1) must also include

1 the activities of the critical industry program described in
2 section 88s.

3 (18) The report described in subsection (1) must also include
4 the activities of the Michigan strategic site readiness program
5 described in section 88t.

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

9 Sec. 90g. As used in this chapter:

10 (a) "Authorized business" means an eligible business that has
11 met the requirements of this chapter and with which the fund has
12 entered into a written agreement for withholding tax capture
13 revenues ~~pursuant to~~ **under** this chapter and section 51f of the
14 income tax act of 1967, 1967 PA 281, MCL 206.51f.

15 (b) "Casino" means a casino regulated by this state under the
16 Michigan ~~gaming control and revenue act,~~ **Gaming Control and Revenue**
17 **Act**, 1996 IL 1, MCL 432.201 to 432.226, a casino at which gaming is
18 conducted under the Indian gaming regulatory act, Public Law 100-
19 497, ~~102 Stat 2467,~~ or property associated or affiliated with the
20 operation of either type of casino described in this subdivision,
21 including, but not limited to, a parking lot, hotel, or motel.

22 (c) "Certified new job" means a **permanent**, full-time job
23 created by an authorized business at a facility in this state that
24 is in excess of the number of **permanent**, full-time jobs that
25 authorized business maintained in this state ~~prior to~~ **before** the
26 expansion or location and the number of **permanent**, full-time jobs
27 that the authorized business acquired through a merger or
28 acquisition that were located in this state ~~prior to~~ **before** the
29 expansion or location, as determined by the fund. ~~Pursuant to a~~

1 ~~written agreement between the authorized business, the fund, and~~
 2 ~~the primary supplier, certified new jobs for an authorized business~~
 3 ~~described in subdivision (d) (i) may, as determined by the fund,~~
 4 ~~include the number of those new jobs created by the primary~~
 5 ~~supplier of that authorized business as a result of the new or~~
 6 ~~increased business activity with that authorized business as~~
 7 ~~determined by the fund.~~

8 (d) "Eligible business" means a business other than a retail
 9 establishment, professional sports stadium, casino, or that portion
 10 of an eligible business used exclusively for retail sales that
 11 proposes to create 1 or more of the following:

12 ~~(i) A minimum of 3,000 certified new jobs in this state with an~~
 13 ~~average annual wage that is equal to or greater than the prosperity~~
 14 ~~region average wage.~~

15 ~~(ii) A minimum of 500 certified new jobs in this state with an~~
 16 ~~average annual wage that is equal to or greater than the prosperity~~
 17 ~~region average wage.~~

18 (i) ~~(iii)~~ A minimum of 250 certified new jobs in this state with
 19 ~~an average~~ **a median** annual wage that is equal to 125% or more of
 20 the prosperity region ~~average~~ **median** wage.

21 **(ii) A minimum of 25 certified new jobs in this state with a**
 22 **median annual wage that is equal to 150% or more of the prosperity**
 23 **region median wage.**

24 (e) "Facility" means a site or sites within this state in
 25 which an authorized business creates certified new jobs.

26 (f) "Full-time job" means a full-time job as determined by the
 27 fund performed by an individual whose income and social security
 28 taxes are withheld by 1 or more of the following:

29 (i) An authorized business.

1 (ii) An employee leasing company.

2 (iii) A professional employer organization on behalf of the
3 authorized business.

4 (g) ~~"Good jobs for Michigan"~~ **H.I.R.E. Michigan** fund" means the
5 ~~good jobs for Michigan~~ **high-wage incentive for regional employment**
6 **in (H.I.R.E.) Michigan** fund created in section 90j.

7 (h) "Municipality" means that term as defined in section 4.

8 ~~(i) "Primary supplier" means an entity that creates not fewer~~
9 ~~than 25 new jobs in this state and that provides both of the~~
10 ~~following to an authorized business pursuant to a written agreement~~
11 ~~under this chapter:~~

12 ~~(i) A minimum of \$5,000,000.00 in tangible personal property~~
13 ~~annually as determined by the fund.~~

14 ~~(ii) A minimum of 10% of the tangible personal property used by~~
15 ~~the authorized business annually as determined by the fund.~~

16 (i) ~~(j)~~ "Prosperity region" means each of the 10 prosperity
17 regions identified by the department of technology, management, and
18 budget on ~~the effective date of the amendatory act that added this~~
19 ~~section.~~ **August 25, 2017.**

20 (j) ~~(k)~~ "Prosperity region average ~~median~~ wage" means the
21 ~~average~~ **median** annual wage for the prosperity region where the
22 facility is located based on the most recent data made available by
23 the Michigan bureau of labor market information and strategic
24 initiatives.

25 (k) ~~(l)~~ "Withholding tax capture revenues" means the amount of
26 income tax withheld under ~~part 3~~ **chapter 17** of the income tax act
27 of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~ **206.715**, each
28 calendar year that is attributable to individuals employed within
29 certified new jobs. The state treasurer shall develop methods and

1 processes that are necessary for each authorized business to report
 2 the amount of withholding under ~~part 3~~ **chapter 17** of the income tax
 3 act of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~ **206.715**, from
 4 individuals employed within certified new jobs.

5 (l) ~~(m)~~ "Written agreement" means a written agreement made
 6 between the eligible business and the fund ~~pursuant to~~ **under** this
 7 chapter.

8 Sec. 90h. (1) The fund shall create and operate the ~~good jobs~~
 9 ~~for~~ **high-wage incentive for regional employment in (H.I.R.E.)**
 10 Michigan program to authorize the transfer of the dedicated portion
 11 of withholding tax capture revenues to authorized businesses that
 12 provide certified new jobs in this state. The fund shall develop
 13 and use a detailed application, approval, and compliance process
 14 published and available on the fund's website.

15 (2) An eligible business may apply to the fund to enter into a
 16 written agreement ~~which~~ **that** authorizes the payment of withholding
 17 tax capture revenues under this chapter.

18 (3) The fund may request information, in addition to that
 19 contained in an application, ~~as may be~~ **if** needed to permit the fund
 20 to discharge its responsibilities under this chapter.

21 (4) After receipt of an application, the fund may enter into
 22 an agreement with an eligible business for withholding tax capture
 23 revenues under this chapter if the fund determines that all of the
 24 following are met:

25 (a) The eligible business proposes to create and maintain the
 26 minimum number of certified new jobs at a facility in this state
 27 and to pay an ~~average~~ annual wage that is described in section
 28 90g(d).

29 (b) In addition to the jobs specified in subdivision (a), the

1 eligible business, if already located within this state, agrees to
 2 maintain a number of full-time jobs equal to or greater than the
 3 number of full-time jobs it maintained in this state ~~prior to~~
 4 **before** the expansion, as determined by the fund.

5 (c) The plans for the expansion or location are economically
 6 sound.

7 (d) The expansion or location of the eligible business will
 8 benefit the people of this state by increasing opportunities for
 9 employment and by strengthening the economy of this state.

10 (e) The withholding tax capture revenues offered under this
 11 chapter and paid from the ~~good jobs for H.I.R.E.~~ Michigan fund is
 12 an incentive to expand or locate the eligible business in this
 13 state and address ~~the competitive disadvantages with sites outside~~
 14 ~~this state.~~ **a need for additional assistance for deal closing and**
 15 **second stage company gap financing.**

16 (f) An industry-recognized regional economic model cost-
 17 benefit analysis reveals that the payment of withholding tax
 18 capture revenues under this chapter to an eligible business will
 19 result in an overall positive fiscal impact to ~~the~~ **this** state.

20 (g) The eligible business will create the requisite number of
 21 certified new jobs within not more than 5 years after entering into
 22 the written agreement as determined by the fund.

23 (h) The eligible business will maintain the number of
 24 certified new jobs throughout the duration of the period of time
 25 that the authorized business receives withholding tax capture
 26 revenues paid from the ~~good jobs for H.I.R.E.~~ Michigan fund.
 27 However, if the authorized business fails to maintain the requisite
 28 number of certified new jobs as provided in the written agreement,
 29 the authorized business will forfeit the withholding tax capture

1 revenues for that calendar year.

2 (i) ~~That the~~ **The** local governing body of the municipality in
3 which the facility is located approves the expansion or new
4 location by resolution.

5 (j) **The eligible business provides detailed hiring and**
6 **training plans, including any registered apprenticeships or**
7 **certifications provided, and agrees to coordinate with local**
8 **workforce development agencies, including local Michigan Works!**
9 **agencies, to attract and train, if needed, a qualified workforce.**
10 **As used in this subdivision, "local Michigan Works! agency" means a**
11 **Michigan works agency as that term is defined in section 3 of the**
12 **Michigan works one-stop service center system act, 2006 PA 491, MCL**
13 **408.113.**

14 (5) If the fund determines that the eligible business
15 satisfies all of the requirements of subsection (4), subject to
16 subsection (6), the fund shall determine the amount and duration of
17 the withholding tax capture revenues to be authorized under this
18 chapter and shall enter into a written agreement as provided in
19 this section. The duration of the withholding tax capture revenues
20 must not exceed ~~5 or 10 years, whichever is applicable based on the~~
21 ~~average annual wage of the certified new jobs,~~ **as determined by the**
22 **fund under subsection (6),** from the date the authorized business
23 creates the certified new jobs as provided in the written
24 agreement. Subject to subsection (6), in determining the maximum
25 amount and maximum duration of the withholding tax capture revenues
26 authorized, the fund shall consider the following factors, if
27 applicable:

28 (a) The number of certified new jobs to be created.

29 (b) The degree to which the ~~average~~ **median** annual wage of the

1 certified new jobs exceeds the prosperity region ~~average~~**median**
2 wage.

3 (c) Whether there is a disadvantage to the eligible business
4 if it were to expand or locate in this state versus a site outside
5 this state.

6 (d) The potential impact of the expansion or location on the
7 economy of this state.

8 (e) The estimated cost of the reimbursement of withholding tax
9 capture revenues under this chapter, the staff, financial, or
10 economic assistance provided by the municipality, or local economic
11 development corporation or similar entity, and the value of
12 assistance otherwise provided by this state.

13 (f) Whether the expansion or location will occur in this state
14 without the payment of withholding tax capture revenues offered
15 under this chapter.

16 (g) Whether the eligible business has made a written
17 commitment to fund some portion of costs for applicable training of
18 the individuals who will perform the full-time jobs that leads to a
19 professional or technical certification for these individuals.

20 ~~(h) That the eligible business will make a good faith effort~~
21 ~~to employ, if qualified, Michigan residents at the facility.~~**Whether**
22 **the expansion or location of the eligible business will support or**
23 **enable progress toward the following goals:**

24 (i) **Community enhancement or engagement opportunities.**

25 (ii) **Investing in this state's labor and workforce.**

26 (iii) **Enacting a workforce plan that includes recruitment,**
27 **hiring, training strategies, and advancement strategies for**
28 **employees.**

29 (6) The fund shall determine the duration and amount of the

1 withholding tax capture revenues. In determining the duration of
 2 the withholding tax capture revenues, the fund shall provide a
 3 duration of up to ~~5 years for eligible businesses described in~~
 4 ~~section 90g(d) (ii) and up to a duration of 10 years, for eligible~~
 5 ~~businesses described in section 90g(d) (i) or (iii).~~ **as determined by**
 6 **the fund.** In determining the amount of the withholding tax capture
 7 revenue payments, the fund may approve a payment of ~~not more than~~
 8 ~~50% of the withholding tax capture revenues for an eligible~~
 9 ~~business described in section 90g(d) (ii) and a payment of up to 100%~~
 10 ~~of the withholding tax capture revenues. for an eligible business~~
 11 ~~described in section 90g(d) (i) or (iii).~~ The amount of withholding
 12 tax capture revenues certified to be paid to an authorized business
 13 shall be reduced by 5%, which shall be retained by the fund for
 14 additional administrative expenses under this chapter **and for the**
 15 **periodic evaluation of economic development incentives under this**
 16 **chapter in compliance with the economic development incentive**
 17 **evaluation act, 2018 PA 540, MCL 18.1751 to 18.1759,** as provided
 18 under section 90i.

19 (7) A written agreement between an eligible business and the
 20 fund must include, but ~~need-is~~ not be limited to, all of the
 21 following:

22 (a) A description of the business expansion or location that
 23 is the subject of the written agreement.

24 (b) ~~Conditions upon~~ **Subject to subsections (10) and (11),**
 25 **conditions on** which the authorized business designation is made.

26 (c) A statement from the eligible business that the eligible
 27 business would not have added certified new jobs without the
 28 withholding tax capture revenue payments authorized under this
 29 chapter.

1 (d) An estimate of the amount of withholding tax capture
2 revenues expected to be generated for each calendar year of the
3 duration of the written agreement.

4 (e) A statement by the eligible business that a violation of
5 the written agreement may result in the revocation of the
6 designation as an authorized business, the loss or reduction of
7 future withholding tax capture revenue payments under this chapter,
8 or a repayment of withholding tax capture revenues received
9 ~~pursuant to~~ **under** this chapter.

10 (f) A statement by the eligible business that a
11 misrepresentation in the application may result in the revocation
12 of the designation as an authorized business and the repayment of
13 withholding tax capture revenues received under this chapter plus a
14 penalty equal to 10% of the withholding tax capture revenue
15 payments received ~~pursuant to~~ **under** this chapter.

16 (g) A method for measuring and verifying **permanent**, full-time
17 jobs before and after an expansion or location of an authorized
18 business in this state.

19 (h) A provision that the authorized business that is certified
20 under section 90i(2) for a payment from the ~~good jobs for~~ **H.I.R.E.**
21 Michigan fund shall file the required returns and reports under
22 this chapter and ~~part 3~~ **chapter 17** of the income tax act of 1967,
23 1967 PA 281, MCL 206.701 to ~~206.713,~~ **206.715**, with the department
24 of treasury, and shall provide any other information reasonably
25 requested by the fund or the department of treasury.

26 (i) A maximum amount of withholding tax capture revenues that
27 the authorized business may claim before reduction of the 5%
28 payment described in section 90i for administrative expenses **and**
29 **for the periodic evaluation of economic development incentives**

1 **under this chapter in compliance with the economic development**
 2 **incentive evaluation act, 2018 PA 540, MCL 18.1751 to 18.1759.**

3 (8) ~~Upon~~**On** execution of a written agreement as provided in
 4 this chapter, an eligible business is an authorized business. The
 5 fund shall provide a copy of each written agreement to the
 6 department of treasury. ~~Upon~~**On** execution of the written agreement,
 7 the transfer and payment of withholding tax capture revenues as
 8 specified in this chapter and in the written agreement is binding
 9 on this state. The state treasurer shall calculate, based on the
 10 written agreements received ~~pursuant to~~**under** this subsection, the
 11 amount of withholding tax capture revenues collected as a result of
 12 the certified new jobs created pursuant to those written agreements
 13 for each calendar year and the percentage of that amount that needs
 14 to be transferred from the general fund and deposited, in
 15 accordance with section 51f of the income tax act of 1967, 1967 PA
 16 281, MCL 206.51f, into the ~~good jobs for~~**H.I.R.E.** Michigan fund,
 17 ~~where from which~~ the fund shall issue payments to the authorized
 18 business in the manner provided in section 90i.

19 (9) The fund shall not commit, and the department of treasury
 20 shall not disburse, an **annual** amount of total withholding tax
 21 capture revenues that exceeds \$200,000,000.00, which includes the
 22 5% payment for administrative expenses **and the periodic evaluation**
 23 **of economic development incentives** as provided in section 90i. ~~The~~
 24 ~~fund shall not execute more than 15 new written agreements each~~
 25 ~~calendar year for authorized businesses. If the fund approves fewer~~
 26 ~~than 15 written agreements in a calendar year, then any unused~~
 27 ~~written agreements shall carry forward into future calendar years,~~
 28 ~~and shall be in addition to the annual limit that is otherwise~~
 29 ~~applicable.~~**If the amount committed or disbursed in a calendar year**

1 is less than \$200,000,000.00, the difference between that amount
2 and \$200,000,000.00 is available to be committed or disbursed in
3 subsequent calendar years and is in addition to the annual limit
4 otherwise applicable. The fund must allocate the \$200,000,000.00
5 annual limit among multiple eligible businesses and must not commit
6 the entire amount to single eligible business. For purposes of this
7 subsection, "total withholding tax capture revenues" means the
8 aggregate amount of withholding tax capture revenues that may be
9 distributed to authorized businesses under all written agreements.

10 (10) Except as otherwise provided in subsection (11), an
11 authorized business must meet 1 of the following timelines, as
12 applicable, or both the authorized business and the fund are
13 released from the written agreement:

14 (a) For an authorized business whose location or expansion in
15 this state requires construction, the following timeline:

16 (i) The authorized business must begin construction not later
17 than 3 years after the written agreement is executed.

18 (ii) The authorized business must complete its first hire of an
19 individual to fill a certified new job not later than 2 years after
20 the start of construction.

21 (iii) The authorized business must create the certified new jobs
22 as provided in the written agreement and begin receiving
23 withholding tax capture revenues not later than 3 years after its
24 first hire as described in subparagraph (ii).

25 (b) For an authorized business whose location or expansion in
26 this state does not require construction, the following timeline:

27 (i) The authorized business must complete its first hire of an
28 individual to fill a certified new job not later than 3 years after
29 the written agreement is executed.

1 (ii) The authorized business must create the certified new jobs
2 as provided in the written agreement and begin receiving
3 withholding tax capture revenues not later than 3 years after its
4 first hire as described in subparagraph (i).

5 (11) The fund shall notify an authorized business of an
6 applicable deadline under subsection (10) not less than 90 days
7 before the deadline. The fund may extend an applicable deadline
8 under subsection (10) for 1 year if the fund determines that the
9 authorized business has proceeded in good faith with the location
10 or expansion in this state and there is good cause for the
11 authorized business's delay in meeting the deadline. The fund may
12 request, and the authorized business shall provide, any information
13 the fund considers necessary to make the determination under this
14 subsection.

15 (12) ~~(10)~~—The fund shall not designate an authorized business
16 or enter into a new written agreement on or after ~~December 31,~~
17 ~~2019~~ the date that is 8 years after the effective date of the
18 amendatory act that added subsection (13).

19 (13) The provisions of the amendatory act that added this
20 subsection do not apply to a written agreement executed before the
21 effective date of the amendatory act that added this subsection.

22 Enacting section 1. This amendatory act does not take effect
23 unless House Bill No. 5414 (request no. H04478'23 *) of the 102nd
24 Legislature is enacted into law.