

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 556

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 88b (MCL 125.2088b), as amended by 2011 PA 3,
and by adding section 88r.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88b. (1) The fund shall create and operate programs
2 authorized under this chapter. The fund board shall determine the
3 annual allocation of money for programs authorized under this
4 chapter and make authorized expenditures or investments from the
5 investment fund of the 21st century jobs trust fund created in the
6 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, as
7 authorized under this chapter for programs and activities
8 authorized under this chapter.

9 (2) Money transferred or appropriated by law to the fund for

1 the purposes of carrying out this chapter **OR CHAPTER 8C** shall be
2 expended or invested by the fund as authorized by law for the
3 following purposes:

4 (a) 21st century investments.

5 (b) Grants and loans approved by the commercialization board
6 under section 88k.

7 (c) Other programs or activities authorized under this
8 chapter.

9 (d) For promotion of tourism in this state. For fiscal year
10 2010-2011 only, \$20,000,000.00 for the promotion of tourism in this
11 state from funds appropriated in the jobs for Michigan investment
12 program - 21st century jobs fund line in section 109 of 2010 PA 191
13 with not less than \$1,500,000.00 to be used for the 2010-2011
14 winter advertisement buy. For all funds used for promotion of
15 tourism in this state under this subdivision, the fund shall report
16 to the legislature at the same time and in the same manner as
17 provided in section 89d.

18 **(E) GRANTS, LOANS, OR OTHER ECONOMIC ASSISTANCE UNDER SECTION**
19 **88R AND COMMUNITY REVITALIZATION INCENTIVES UNDER CHAPTER 8C.**

20 ~~—— (3) Except for the appropriations described in section 88j(3)~~
21 ~~and as otherwise provided in section 88g, for fiscal years other~~
22 ~~than the 2008-2009 and 2009-2010 fiscal years the fund board shall~~
23 ~~not expend more than the following amounts each year from the 21st~~
24 ~~century jobs trust fund created in the Michigan trust fund act,~~
25 ~~2000 PA 489, MCL 12.251 to 12.260, for the following purposes:~~

26 ~~—— (a) 25% for the loan enhancement program.~~

27 ~~—— (b) 40% for the private equity investment program, the venture~~

1 capital investment program, and the mezzanine investment program
2 combined.

3 ~~—— (c) 70% for competitive edge technology grants and loans under~~
4 ~~section 88k. The commercialization board shall not authorize the~~
5 ~~expenditure of more than \$100,000,000.00 of the amount described in~~
6 ~~this subdivision for basic research over the life of the program.~~

7 (3) ~~(4)~~ Not more than 4% of the annual appropriation as
8 provided by law from the 21st century jobs trust fund created in
9 the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may
10 be used for the purposes of administering the programs and
11 activities authorized under this chapter. However, the fund and the
12 fund board shall not use more than 3% of the annual appropriation
13 for administering the programs and activities authorized under this
14 chapter unless the fund board by a 2/3 vote authorizes the
15 additional 1% for administration. **THE MEDC MAY CHARGE ACTUAL AND**
16 **REASONABLE FEES FOR COSTS ASSOCIATED WITH LOANS UNDER THIS CHAPTER.**
17 **THESE FEES ARE IN ADDITION TO AN AMOUNT OF THE APPROPRIATION USED**
18 **FOR ADMINISTERING THE PROGRAMS AND ACTIVITIES AUTHORIZED UNDER THIS**
19 **CHAPTER.**

20 (4) ~~(5)~~ Not more than 5% of the annual appropriation as
21 provided by law from the 21st century jobs trust fund created in
22 the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may
23 be used for business development and business marketing costs. Not
24 less than 80% of the funds committed for business development and
25 business marketing costs shall be targeted to persons or entities
26 outside of this state. No funds may be used for any business
27 development and business marketing effort that includes a reference

1 to or the image or voice of an elected state officer or a candidate
2 for elective state office and that is targeted to a media market in
3 Michigan. The fund board shall select all vendors for all marketing
4 expenditures under this chapter by issuing a request for proposal.
5 At a minimum, the request for proposal shall require the responding
6 entities to disclose any conflict of interest, disclose any
7 criminal convictions, disclose any investigations by the internal
8 revenue service or any other federal or state taxing body or court,
9 disclose any pertinent litigation regarding the conduct of the
10 entity, and maintain records and evidence pertaining to work
11 performed. The fund board shall establish a standard process to
12 evaluate proposals submitted as a result of a request for proposal
13 and appoint a committee to review the proposals. The fund or the
14 fund board shall not appoint or designate any person paid or unpaid
15 to a committee to review proposals if that person has a conflict of
16 interest with any potential vendors as determined by the office of
17 the chief compliance officer established in section 88i.

18 (5) ~~(6)~~—The fund shall not use any money appropriated or
19 transferred for purposes authorized under this chapter to acquire
20 interests in or improve real property. **THE RESTRICTION UNDER THIS**
21 **SUBSECTION DOES NOT PROHIBIT THE FUND FROM TAKING A SECURITY**
22 **INTEREST IN REAL PROPERTY.** The restriction under this subsection
23 applies only to the fund and not to recipients of expenditures or
24 investments under this chapter.

25 **SEC. 88R. (1) THE FUND SHALL CREATE AND OPERATE THE MICHIGAN**
26 **BUSINESS DEVELOPMENT PROGRAM TO PROVIDE GRANTS, LOANS, AND OTHER**
27 **ECONOMIC ASSISTANCE TO QUALIFIED BUSINESSES THAT MAKE QUALIFIED**

1 INVESTMENTS IN THIS STATE OR PROVIDE QUALIFIED NEW JOBS IN THIS
2 STATE.

3 (2) THE MICHIGAN BUSINESS DEVELOPMENT PROGRAM SHALL PROVIDE
4 FOR ALL OF THE FOLLOWING:

5 (A) GRANTS, LOANS, AND OTHER ECONOMIC ASSISTANCE TO ASSIST
6 QUALIFIED BUSINESSES IN MAKING QUALIFIED INVESTMENTS AND PROVIDING
7 NEW JOBS IN THIS STATE, WITH PREFERENCE GIVEN TO QUALIFIED
8 BUSINESSES THAT NEED ADDITIONAL ASSISTANCE FOR DEAL-CLOSING AND FOR
9 SECOND STAGE COMPANY GAP FINANCING.

10 (B) A DETAILED APPLICATION, APPROVAL, AND COMPLIANCE PROCESS
11 PUBLISHED AND AVAILABLE ON THE FUND'S WEBSITE. THE DETAILED
12 APPLICATION, APPROVAL, AND COMPLIANCE PROCESS SHALL, AT A MINIMUM,
13 CONTAIN THE FOLLOWING:

14 (i) A QUALIFIED BUSINESS MAY APPLY FOR A GRANT, LOAN, OR OTHER
15 ECONOMIC ASSISTANCE IN A FORM AND MANNER DETERMINED BY THE FUND.

16 (ii) AFTER RECEIPT OF AN APPLICATION, THE FUND MAY ENTER INTO A
17 WRITTEN AGREEMENT WITH THE QUALIFIED BUSINESS IF THE QUALIFIED
18 BUSINESS AGREES TO MAKE CERTAIN QUALIFIED INVESTMENTS OR CREATE A
19 CERTAIN NUMBER OF NEW JOBS IN THIS STATE.

20 (iii) THE WRITTEN AGREEMENT SHALL PROVIDE IN A CLEAR AND CONCISE
21 MANNER ALL OF THE CONDITIONS IMPOSED, INCLUDING SPECIFIC TIME
22 FRAMES, ON THE QUALIFIED BUSINESS TO RECEIVE A GRANT, LOAN, OR
23 OTHER ECONOMIC ASSISTANCE UNDER THIS SECTION.

24 (iv) THE WRITTEN AGREEMENT SHALL PROVIDE FOR A REPAYMENT
25 PROVISION OF ANY GRANTS, LOANS, OR OTHER ECONOMIC ASSISTANCE IF THE
26 QUALIFIED BUSINESS FAILS TO COMPLY WITH THE PROVISIONS OF THE
27 WRITTEN AGREEMENT.

1 (v) THE WRITTEN AGREEMENT SHALL PROVIDE FOR AN AUDIT PROVISION
2 THAT REQUIRES THE FUND TO VERIFY THAT ESTABLISHED MILESTONES FOR
3 THE PROJECT HAVE BEEN MET.

4 (c) IN ANY FISCAL YEAR, A QUALIFIED BUSINESS SHALL NOT RECEIVE
5 MORE THAN \$10,000,000.00 FOR A PROJECT FUNDED UNDER THIS SECTION.

6 (3) THE FUND SHALL NOT ENTER INTO A WRITTEN AGREEMENT WITH A
7 QUALIFIED BUSINESS UNLESS ALL OF THE FOLLOWING ARE MET:

8 (a) THE MUNICIPALITY MAKES A STAFF, FINANCIAL, OR ECONOMIC
9 COMMITMENT TO THE PROJECT AS DETERMINED BY THE FUND.

10 (b) THE QUALIFIED BUSINESS PROVIDES A BUSINESS PLAN OR
11 DEMONSTRATES THE NEED FOR THE GRANT, LOAN, OR OTHER ECONOMIC
12 ASSISTANCE.

13 (c) THE QUALIFIED BUSINESS AGREES TO PROVIDE THE DATA
14 DESCRIBED IN THE WRITTEN AGREEMENT NECESSARY FOR THE FUND TO REPORT
15 TO THE LEGISLATURE UNDER THIS ACT.

16 (4) THE FUND SHALL POST ON ITS WEBSITE OR POST ON THE WEBSITE
17 OF THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION THE NAME AND
18 LOCATION OF EACH QUALIFIED BUSINESS THAT RECEIVED A GRANT, LOAN, OR
19 OTHER ECONOMIC ASSISTANCE AWARDED UNDER THIS SECTION AND THE AMOUNT
20 OF THE GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE.

21 (5) THE FUND, WITH ASSISTANCE FROM THE MICHIGAN ECONOMIC
22 DEVELOPMENT CORPORATION AND THE OFFICE OF THE CHIEF COMPLIANCE
23 OFFICER, SHALL ESTABLISH POLICIES AND PROCEDURES TO CONDUCT
24 BACKGROUND CHECKS ON EACH QUALIFIED BUSINESS APPLYING FOR A GRANT,
25 LOAN, OR OTHER ECONOMIC ASSISTANCE UNDER THIS SECTION.

26 (6) BEGINNING NOVEMBER 1, 2012 AND EACH YEAR THEREAFTER, THE
27 FUND SHALL REPORT TO EACH HOUSE OF THE LEGISLATURE ON THE

1 ACTIVITIES OF THE FUND UNDER THIS SECTION THAT OCCURRED IN THE
2 PREVIOUS FISCAL YEAR. THE REPORT SHALL BE MADE AVAILABLE IN AN
3 ELECTRONIC FORMAT. THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO,
4 ALL OF THE FOLLOWING:

5 (A) THE TOTAL PROPOSED AMOUNT OF QUALIFIED INVESTMENT
6 ATTRACTED UNDER THIS SECTION.

7 (B) THE TOTAL ACTUAL AMOUNT OF QUALIFIED INVESTMENT ATTRACTED
8 UNDER THIS SECTION AS REPORTED TO THE FUND.

9 (C) THE TOTAL COMMITTED NUMBER OF NEW JOBS CREATED UNDER THIS
10 SECTION.

11 (D) THE TOTAL ACTUAL NUMBER OF NEW JOBS CREATED UNDER THIS
12 SECTION AS REPORTED TO THE FUND.

13 (E) THE TOTAL NUMBER OF NEW WRITTEN AGREEMENTS.

14 (F) THE AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
15 ASSISTANCE AWARDED UNDER THIS SECTION SEPARATELY FOR EACH QUALIFIED
16 BUSINESS.

17 (G) THE ACTUAL AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
18 ASSISTANCE MADE UNDER THIS SECTION SEPARATELY FOR EACH QUALIFIED
19 BUSINESS VERIFIED BY THE FUND.

20 (H) FOR EACH QUALIFIED BUSINESS, WHETHER IT IS A NEW BUSINESS,
21 WHETHER IT IS AN EXPANSION OF AN EXISTING BUSINESS, OR WHETHER IT
22 RELOCATED FROM OUTSIDE OF THIS STATE.

23 (I) AN EVALUATION OF THE AGGREGATE RETURN ON INVESTMENT THAT
24 THIS STATE REALIZES ON THE ACTUAL QUALIFIED NEW JOBS AND ACTUAL
25 QUALIFIED INVESTMENT MADE BY QUALIFIED BUSINESSES.

26 (J) A REPORT ON THE INDIVIDUALS HIRED BY THE QUALIFIED
27 BUSINESS THAT INCLUDES THE NUMBER OF INDIVIDUALS HIRED BY THE

1 QUALIFIED BUSINESS, THEIR EDUCATIONAL ATTAINMENT, INCLUDING, BUT
2 NOT LIMITED TO, HIGH SCHOOL DIPLOMA OR EQUIVALENT, HIGHER EDUCATION
3 CERTIFICATE OR DEGREE, OR ADVANCED DEGREE OR TRAINING, AND THE
4 NUMBER OF INDIVIDUALS HIRED BY THE QUALIFIED BUSINESS WHO RELOCATED
5 TO THIS STATE AS REPORTED TO THE FUND.

6 (7) BEGINNING FEBRUARY 1, 2012 AND NOT LESS THAN EVERY 3
7 MONTHS THEREAFTER, THE FUND SHALL POST ON ITS INTERNET WEBSITE THE
8 NAME AND LOCATION OF A QUALIFIED BUSINESS THAT RECEIVED APPROVAL OF
9 A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE UNDER THIS SECTION IN
10 THE IMMEDIATELY PRECEDING 3-MONTH PERIOD.

11 (8) THE LEGISLATURE FINDS AND DECLARES THAT FUNDING AUTHORIZED
12 UNDER THIS SECTION TO ENCOURAGE DIVERSIFICATION OF THE ECONOMY, TO
13 ENCOURAGE CAPITAL INVESTMENT IN THIS STATE, AND TO PROMOTE THE
14 CREATION OF QUALIFIED NEW JOBS IN THIS STATE IS A PUBLIC PURPOSE
15 AND OF PARAMOUNT CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND
16 GENERAL WELFARE OF THE CITIZENS OF THIS STATE.

17 (9) 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.

23 (C) "QUALIFIED INVESTMENT" MEANS INVESTMENT IN THIS STATE
24 RELATED TO A PROJECT SUBJECT TO A WRITTEN AGREEMENT UNDER THIS
25 SECTION.

26 (D) "QUALIFIED NEW JOB" MEANS A JOB PERFORMED BY AN INDIVIDUAL
27 WHO IS A RESIDENT OF THIS STATE WHOSE MICHIGAN INCOME TAXES ARE

1 WITHHELD BY AN EMPLOYER, OR AN EMPLOYEE LEASING COMPANY OR
2 PROFESSIONAL EMPLOYER ORGANIZATION ON BEHALF OF THE EMPLOYER, THAT
3 IS IN EXCESS OF THE NUMBER OF JOBS MAINTAINED BY THE QUALIFIED
4 BUSINESS MAINTAINED IN THIS STATE PRIOR TO THE EXPANSION OR
5 LOCATION, AS DETERMINED AND VERIFIED BY THE FUND.