

HOUSE BILL NO. 4890

July 18, 2023, Introduced by Reps. VanderWall, MacDonell, Borton, Roth, Schmaltz, Alexander and BeGole and referred to the Committee on Health Policy.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 9 (MCL 125.2009), as amended by 2021 PA 136,
and by adding chapter 8F.

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
5 report ~~shall~~**must** be transmitted not later than April 10 of each
6 year for activities in the immediately preceding state fiscal year.

1 The report ~~shall~~**must** not include information exempt from
2 disclosure under section 5. The report ~~shall~~**must** include, but is
3 not limited to, all of the following for each program operated
4 under this act:

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

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

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

8 (d) For each separate form of financial assistance, all of the
9 following:

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

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

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

16 (iv) The actual number of retained jobs that are not temporary
17 employees.

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

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

22 (e) The duration of the financial assistance.

23 (f) The amount of financial support other than state
24 resources.

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

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

29 (i) A list of all entities that are in bankruptcy, ~~that of~~

1 **which** the fund has received actual notice, ~~of,~~ filed by a direct
2 recipient of an active single incentive of ~~at least~~ **not less than**
3 \$500,000.00. In addition, the fund shall, within 120 days after the
4 fund receives notice, provide a report of the notice of bankruptcy
5 on its website and shall forward the report to each of the
6 following:

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

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

9 (iii) The members of the house commerce and tourism committee.

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

12 (v) The members of the senate economic and small business
13 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~~ **by** 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~~ **must** include a determination of whether the fund is likely to
25 be able to continue to meet its obligations, including a report on
26 the 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) must 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) must 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) must 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) must 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 and tourism 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 and small business 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) must also include a
27 summary of the approximate administrative costs used to administer
28 the programs and activities authorized in the following sections:

29 (a) Section 88b.

1 (b) Section 88h.

2 (c) Section 90b.

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

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

8 (b) Amounts of other funds leveraged by current clients of the
9 business incubator.

10 (c) Increases in revenue for current clients of the business
11 incubator.

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

16 (a) Section 78.

17 (b) Section 88d.

18 (c) Section 88k.

19 (d) Section 88q.

20 (e) Section 88r.

21 (f) Section 90b.

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

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

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

2 (b) The total amount of the loan.

3 (c) Whether payments on the loan balance are current or
4 delinquent.

5 (d) The interest rate of the loan.

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

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

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

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

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

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

20 (a) The name of the authorized business.

21 (b) The number of certified new jobs required to be
22 maintained.

23 (c) The amount and duration of the withholding tax capture
24 revenues.

25 (17) The report described in subsection (1) must also include
26 the activities of the critical industry program described in
27 section 88s.

28 (18) The report described in subsection (1) must also include
29 the activities of the Michigan strategic site readiness program

1 described in section 88t.

2 (19) The report described in subsection (1) must also include
3 the activities of the insulin production program described in
4 chapter 8F. The information provided under this subsection must
5 include all of the following:

6 (a) The name of the private sector contractor selected as a
7 partner for purposes of the insulin production program.

8 (b) The amount of any grant award to the private sector
9 contractor.

10 (c) The location and status of the insulin facilities.

11 (d) The types and amounts of insulin produced.

12 (e) The retail price of the insulin produced.

13 (f) The percentage of insulin produced that was sold to this
14 state.

15 (g) The percentage of insulin produced that was sold in this
16 state.

17 (h) The name of any temporary private sector contractors
18 selected to provide insulin to this state under section 90x and the
19 amount of insulin purchased by this state from each temporary
20 private sector contractor.

21 (20) ~~(19)~~ As used in this section, "financial assistance"
22 means grants, loans, other economic assistance, and any other
23 incentives or assistance under this act.

24 CHAPTER 8F

25 Sec. 90t. (1) The legislature finds that the cost of insulin
26 medications, particularly long-acting insulin, has risen to an
27 unacceptable level, and that this increase has resulted in reduced
28 access to life-sustaining medications for many residents of this
29 state with diabetes.

1 (2) It is the intent of the legislature that the insulin
2 production program will do all of the following:

3 (a) Create a strategic partnership between this state and a
4 private sector contractor for the production and distribution of
5 insulin medications in this state.

6 (b) Foster the creation of skilled biopharmaceutical
7 manufacturing jobs in this state.

8 (c) Ensure that residents of this state have access to
9 affordable generic or biosimilar forms of long-acting insulin and
10 other insulin medications.

11 (3) The legislature finds that the insulin production program
12 is a public purpose and of paramount concern in the interest of the
13 health, safety, and general welfare of the residents of this state.
14 It is the intent of the legislature that the economic benefits
15 resulting from this chapter occur substantially within this state.

16 Sec. 90u. As used in this chapter:

17 (a) "CFIUS" means the Committee on Foreign Investment in the
18 United States.

19 (b) "CFIUS clearance" means either of the following as
20 reflected by a written notice from CFIUS:

21 (i) CFIUS has determined that the transaction is not a covered
22 transaction or covered real estate transaction subject to review
23 under the DPA.

24 (ii) CFIUS has completed its review or investigation of the
25 transaction, determined that there are no unresolved national
26 security concerns with respect to the transaction, and advised that
27 all action under the DPA has concluded with respect to the
28 transaction.

29 (c) "Covered real estate transaction" means that term as

1 defined in 31 CFR 802.212.

2 (d) "Covered transaction" means that term as defined in 31 CFR
3 800.213.

4 (e) "DPA" means section 721 of the defense production act of
5 1950, 50 USC 4565, and the implementing regulations at 31 CFR parts
6 800 to 802.

7 (f) "Foreign person" means that term as defined in 31 CFR
8 800.224 or 802.221.

9 (g) "Insulin distribution facility" means 1 or more facilities
10 or operations that store and distribute insulin for medical use.

11 (h) "Insulin facilities" means facilities that include both an
12 insulin production facility and an insulin distribution facility.

13 (i) "Insulin production facility" means 1 or more facilities
14 or operations that manufacture insulin for medical use.

15 (j) "Insulin production fund" means the insulin production
16 fund created in section 90w.

17 (k) "Insulin production program" means the insulin production
18 program created in section 90v.

19 (l) "Pharmacy benefit manager" means that term as defined in
20 section 7 of the pharmacy benefit manager licensure and regulation
21 act, 2022 PA 11, MCL 550.817.

22 (m) "Private sector contractor" means an entity in the private
23 sector that develops generic or biosimilar insulin for medical use.

24 (n) "Temporary private sector contractor" means a private
25 sector contractor with an insulin product that has already received
26 approval from the United States Food and Drug Administration.

27 Sec. 90v. (1) The fund shall create and operate the insulin
28 production program to partner with a private sector contractor to
29 establish insulin facilities in this state that manufacture and

1 distribute, at a minimum, long-acting insulin. Under the insulin
2 production program, this state shall own the real property where
3 the insulin facilities are located, and the private sector
4 contractor selected as a partner shall operate and maintain the
5 insulin facilities.

6 (2) To select a private sector contractor as a partner for the
7 insulin production program as described in subsection (1), the fund
8 shall issue a request for proposal and receive bids from private
9 sector contractors. In evaluating the proposals submitted under
10 this subsection, the fund shall give priority to a private sector
11 contractor that meets the following requirements:

12 (a) Has an insulin product that has already received or is in
13 the process of receiving approval by the United States Food and
14 Drug Administration.

15 (b) Proposes to manufacture rapid-acting insulin in addition
16 to long-acting insulin.

17 (c) Is able to establish the insulin facilities in this state
18 in an expedient time frame.

19 (3) Subject to the requirement in subsection (1) that this
20 state own the real property where the insulin facilities are
21 located, all of the following apply:

22 (a) The fund may provide a grant of not more than
23 \$150,000,000.00 to the private sector contractor selected under
24 this section for the construction of new insulin facilities or
25 renovation of existing facilities into insulin facilities.

26 (b) The insulin facilities must be located at a location
27 jointly determined by the fund and the private sector contractor.

28 (c) The insulin distribution facility must be constructed or
29 renovated before the insulin production facility is constructed or

1 renovated.

2 (4) The fund shall not select a private sector contractor
3 under this section unless the private sector contractor does all of
4 the following:

5 (a) Demonstrates that it has a development plan in place to
6 bring to market the insulin products proposed for manufacture in
7 both vials and prefilled pens.

8 (b) Demonstrates it has sufficient available funding to
9 implement the development plan described in subdivision (a). The
10 sufficient available funding may include the amount of any grant
11 provided under subsection (3).

12 (c) Obtains any necessary license under part 177 of the public
13 health code, 1978 PA 368, MCL 333.17701 to 333.17780.

14 (d) Agrees to contract with this state in accordance with
15 subsection (5).

16 (5) Subject to subsection (6), the fund shall enter into a
17 written agreement with the private sector contractor selected under
18 this section that includes in a clear and concise manner all of the
19 terms and conditions related to the partnership, as determined by
20 the fund, including, but not limited to, all of the following:

21 (a) The amount of any grant award under subsection (3).

22 (b) The location of the insulin facilities, a provision that
23 the real property where the insulin facilities are located is owned
24 by this state, and, if applicable, a requirement that the private
25 sector contractor execute all necessary documents to vest ownership
26 of the real property in this state.

27 (c) The types of insulin to be produced.

28 (d) Applicable milestones.

29 (e) A requirement that the private sector contractor make

1 insulin available at a transparent price, including a description
2 of any price caps.

3 (f) A requirement that the private sector contractor sell the
4 insulin without rebates to a pharmacy benefit manager and a
5 provision that, if the private sector contractor cannot meet this
6 requirement, this state may distribute the insulin on behalf of the
7 private sector contractor.

8 (g) A requirement that the private sector contractor make
9 insulin available in such a manner as to facilitate insulin
10 availability to and benefit the residents of this state, including
11 any applicable distribution requirements.

12 (h) A requirement that the private sector contractor make
13 insulin branded with state of Michigan labels available for
14 purchase by this state, including a description of any minimum
15 quantities to be produced for purchase by this state.

16 (i) A repayment provision that requires the private sector
17 contractor to repay all or a portion of the grant award due to a
18 breach of the written agreement under this subsection, a failure to
19 meet applicable milestones, or another misuse of the money, unless
20 both of the following conditions are met:

21 (i) The breach, failure, or other misuse is caused by
22 circumstances beyond the control of the private sector contractor,
23 including, but not limited to, acts of God, wars, strikes, riots,
24 catastrophes, acts of government, or other conditions beyond the
25 control of the private sector contractor.

26 (ii) The private sector contractor did not have reason to know
27 of the circumstances described in subparagraph (i) when the written
28 agreement was executed.

29 (j) The term of the written agreement, which must not be less

1 than 15 years.

2 (k) Periodic reporting requirements to ensure compliance with
3 the agreement under this subsection and facilitate the fund's
4 report under section 9.

5 (6) If the private sector contractor selected by the fund is a
6 foreign person, the fund shall not enter into a written agreement
7 under subsection (5) unless the fund files a declaration or notice
8 of the transaction with CFIUS under the DPA and receives CFIUS
9 clearance.

10 Sec. 90w. (1) The insulin production fund is created in the
11 state treasury.

12 (2) The state treasurer shall deposit money and other assets
13 received from any source in the insulin production fund. The state
14 treasurer shall direct the investment of money in the insulin
15 production fund and credit interest and earnings from the
16 investments to the insulin production fund.

17 (3) Money in the insulin production fund at the close of the
18 fiscal year remains in the insulin production fund and does not
19 lapse to the general fund.

20 (4) The fund is the administrator of the insulin production
21 fund for audits of the insulin production fund.

22 (5) The fund shall expend money from the insulin production
23 fund, on appropriation, only for 1 or more of the following
24 purposes:

25 (a) Administering the insulin production program.

26 (b) Awarding a grant to a private sector contractor under the
27 insulin production program.

28 (c) Purchasing insulin from a private sector contractor or
29 temporary private sector contractor.

1 (d) Taking any other action that is necessary to achieve the
2 purposes of the insulin production program.

3 Sec. 90x. (1) Until the insulin production facility is
4 completed, the fund shall annually issue a request for proposal and
5 receive bids from temporary private sector contractors to sell
6 generic or biosimilar insulin for medical use to this state,
7 subject to both of the following requirements:

8 (a) The temporary private sector contractor must make insulin
9 branded with state of Michigan labels available for purchase by
10 this state.

11 (b) The temporary private sector contractor must sell the
12 insulin without rebates to a pharmacy benefit manager.

13 (2) The fund shall enter into a written agreement with a
14 temporary private sector contractor selected under this section
15 that includes the requirements described in subsection (1), the
16 quantities of insulin to be provided, the purchase price of the
17 insulin, the term of the agreement, which must not exceed 1 year,
18 and any other terms the fund considers necessary.

19 (3) The fund shall not purchase insulin under this section
20 unless the insulin distribution facility is completed or the fund
21 has another state facility that can be used for the storage and
22 distribution of the insulin.