

SUBSTITUTE FOR
HOUSE BILL NO. 5047

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending the title and sections 4, 5, 6, 7, and 13 (MCL
125.2004, 125.2005, 125.2006, 125.2007, and 125.2013), sections 4,
5, 6, and 13 as amended by 1987 PA 278, and by adding section 94
and chapter 8A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act relating to the economic development of this state; to
3 create the ~~Michigan strategic~~ **21ST CENTURY JOBS** fund and to
4 prescribe its powers and duties; to transfer and provide for the
5 acquisition and succession to the rights, properties, obligations,

and duties of the job development authority and the Michigan economic development authority to the ~~Michigan strategic~~ **21ST CENTURY JOBS** fund; to provide for the expenditure of proceeds in certain funds to which the ~~Michigan strategic~~ **21ST CENTURY JOBS** fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, **CERTAIN** notes and bonds; ~~of the Michigan strategic fund;~~ **TO CREATE CERTAIN BOARDS AND FUNDS; TO CREATE CERTAIN PERMANENT FUNDS;** to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the ~~Michigan strategic~~ **21ST CENTURY JOBS** fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of ~~the~~ **THIS** state; **TO MAKE CERTAIN LOANS AND INVESTMENTS;** to provide penalties; and to repeal ~~certain~~ acts and parts of acts.

Sec. 4. As used in this act:

(a) "Board" means the board of directors of the ~~Michigan strategic~~ **21ST CENTURY JOBS** fund, except **AS USED IN CHAPTER 8A OR** where the context clearly requires a different definition.

(b) "Economic development project" means an endeavor related to industrial, commercial, or agricultural enterprise. Economic development project includes, but is not limited to, a theme or recreation park; agricultural or forestry production, harvesting, storage, or processing facilities or equipment; and the use of equipment or facilities designed to produce energy from renewable resources. Economic development project does not include that

1 portion of an endeavor devoted to the sale of goods at retail,
 2 except that, as used in relation to the fund insuring a transaction
 3 entered into by a depository institution, and as used in relation
 4 to a loan by the fund to a minority owned business, an economic
 5 development project may include that portion of an endeavor devoted
 6 to the sale of goods at retail. Economic development project does
 7 not include that portion of an endeavor devoted to housing **OR A**
 8 **PROGRAM OR ACTIVITY AUTHORIZED UNDER CHAPTER 8A.**

9 (c) "Fund" means the ~~Michigan strategic~~ **21ST CENTURY JOBS**
 10 fund created under section 5, except where the context clearly
 11 requires a different definition.

12 (D) **"MICHIGAN ECONOMIC DEVELOPMENT CORPORATION" OR "MEDC"**
 13 **MEANS THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, THE PUBLIC**
 14 **BODY CORPORATE CREATED UNDER SECTION 28 OF ARTICLE VII OF THE STATE**
 15 **CONSTITUTION OF 1963 AND THE URBAN COOPERATION ACT OF 1967, 1967**
 16 **(EX SESS) PA 7, MCL 124.501 TO 124.512, BY A CONTRACTUAL INTERLOCAL**
 17 **AGREEMENT EFFECTIVE APRIL 5, 1999, AND SUBSEQUENTLY AMENDED,**
 18 **BETWEEN LOCAL PARTICIPATING ECONOMIC DEVELOPMENT CORPORATIONS**
 19 **FORMED UNDER THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA**
 20 **338, MCL 125.1601 TO 125.1636, AND THE FUND.**

21 (E) ~~-(d)-~~ "Municipality" means a county, city, village,
 22 township, port district, development organization, institution of
 23 higher education, community or junior college, or subdivision or
 24 instrumentality of any of the legal entities listed in this
 25 subdivision.

26 (F) ~~-(e)-~~ "Person" means an individual, sole proprietorship,
 27 partnership, **LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY,** joint

1 venture, profit or nonprofit corporation including a public or
2 private college or university, public utility, local industrial
3 development corporation, economic development corporation, or other
4 association of persons organized for agricultural, commercial, or
5 industrial purposes.

6 (G) ~~—(f)—~~ "Project" means an economic development project and,
7 in addition, means the acquisition, construction, reconstruction,
8 conversion, or leasing of an industrial, commercial, retail,
9 agricultural, or forestry enterprise, or any part ~~thereof~~ **OF**
10 **THESE**, to carry out the purposes and objectives of this act and of
11 the fund, including, but not limited to, acquisition of land or
12 interest in land, buildings, structures, or other planned or
13 existing planned improvements to land including leasehold
14 improvements, machinery, equipment, or furnishings which include,
15 but are not limited to, the following: research parks; office
16 facilities; engineering facilities; research and development
17 laboratories; warehousing facilities; parts distribution
18 facilities; depots or storage facilities; port facilities; railroad
19 facilities, including trackage, right of way, and appurtenances;
20 airports; water and air pollution control equipment or waste
21 disposal facilities; theme or recreational parks; equipment or
22 facilities designed to produce energy from renewable resources;
23 farms, ranches, forests, and other agricultural or forestry
24 commodity producers; agricultural harvesting, storage,
25 transportation, or processing facilities or equipment; grain
26 elevators; shipping heads and livestock pens; livestock;
27 warehouses; wharves and dock facilities; water, electricity, hydro

1 electric, coal, petroleum, or natural gas provision facilities;
2 dams and irrigation facilities; sewage, liquid, and solid waste
3 collection, disposal treatment, and drainage services and
4 facilities. **PROJECT DOES NOT INCLUDE A PROGRAM OR ACTIVITY**
5 **AUTHORIZED UNDER CHAPTER 8A.**

6 (H) ~~-(g)-~~ "Private sector" means other than the fund, a state
7 or federal source, or an agency ~~thereof~~ **OF A STATE OR THE FEDERAL**
8 **GOVERNMENT.**

9 Sec. 5. (1) There is created by this act a public body
10 corporate and politic to be known as the ~~Michigan strategic~~ **21ST**
11 **CENTURY JOBS** fund. The fund shall be within the department of
12 ~~commerce~~ **TREASURY** and shall exercise its prescribed statutory
13 powers, duties, and functions independently of the ~~director of~~
14 ~~commerce~~ **STATE TREASURER.** ~~However, the budgeting, procurement,~~
15 ~~and related functions of the fund and administrative~~
16 ~~responsibilities for employees of the fund shall be performed under~~
17 ~~the direction and supervision of the director of commerce.~~ **THE**
18 **STATUTORY AUTHORITY, POWERS, DUTIES, FUNCTIONS, RECORDS, PERSONNEL,**
19 **PROPERTY, UNEXPENDED BALANCES OF APPROPRIATIONS, ALLOCATIONS, AND**
20 **OTHER FUNDS OF THE FUND, INCLUDING THE FUNCTIONS OF BUDGETING,**
21 **PROCUREMENT, PERSONNEL, AND MANAGEMENT-RELATED FUNCTIONS, SHALL BE**
22 **RETAINED BY THE FUND, AND THE FUND SHALL BE AN AUTONOMOUS ENTITY**
23 **WITHIN THE DEPARTMENT OF TREASURY IN THE SAME MANNER AS THE**
24 **MICHIGAN EMPLOYMENT SECURITY COMMISSION WAS DESIGNATED AN**
25 **AUTONOMOUS ENTITY WITHIN THE MICHIGAN DEPARTMENT OF LABOR UNDER**
26 **SECTION 379 OF THE EXECUTIVE ORGANIZATION ACT OF 1965, 1965 PA 380,**
27 **MCL 16.479.**

(2) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, THE**
 purposes, powers, and duties of the ~~Michigan strategic~~ **21ST**
CENTURY JOBS fund are vested in and shall be exercised by a board
 of directors.

(3) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (4), THE** board
 shall consist of the director of the department of ~~commerce~~ **LABOR**
AND ECONOMIC GROWTH OR HIS OR HER DESIGNEE FROM WITHIN THE
DEPARTMENT OF LABOR AND ECONOMIC GROWTH, the state treasurer OR HIS
 OR HER DESIGNEE FROM WITHIN THE **DEPARTMENT OF TREASURY**, and 7 other
 members with knowledge, skill, and experience in the academic,
 business, or financial field, who shall be appointed by the
 governor with the advice and consent of the senate. ~~Not more than~~
~~2 of the 7 appointed members of the board shall be, during their~~
~~term of office on the board, employees of the state of Michigan.~~
~~The remainder of the appointed members of the board shall be~~
~~representatives~~ **NONE OF THE 7 MEMBERS APPOINTED UNDER THIS SECTION**
SHALL BE EMPLOYEES OF THIS STATE. NOT LESS THAN 5 MEMBERS OF THE
BOARD APPOINTED UNDER THIS SUBSECTION SHALL BE MEMBERS of the
 private sector. Five of the 7 ~~appointed~~ members **APPOINTED UNDER**
THIS SUBSECTION shall serve for fixed terms. ~~Of the 5 fixed term~~
~~members first appointed, 2 shall be appointed for a term that~~
~~expires December 31, 1986, and 3 shall be appointed for a term that~~
~~expires December 31, 1987.~~ Upon completion of each fixed term
EXPIRING AFTER DECEMBER 30, 2005, a member shall be appointed for a
 term of ~~3~~ **4** years. Of the private sector members appointed by the
 governor for a fixed term, 1 shall be appointed from ~~1~~ **A LIST OF**
3 or more nominees of the speaker of the house of representatives

1 REPRESENTING PERSONS WITHIN THE PRIVATE SECTOR WITH EXPERIENCE IN
 2 PRIVATE EQUITY OR VENTURE CAPITAL INVESTMENTS, COMMERCIAL LENDING,
 3 OR COMMERCIALIZATION OF TECHNOLOGY and 1 shall be appointed from ~~1~~
 4 A LIST OF 3 or more nominees of the senate majority leader
 5 REPRESENTING PERSONS WITHIN THE PRIVATE SECTOR WITH EXPERIENCE IN
 6 PRIVATE EQUITY OR VENTURE CAPITAL INVESTMENTS, COMMERCIAL LENDING,
 7 OR COMMERCIALIZATION OF TECHNOLOGY. A member APPOINTED UNDER THIS
 8 SUBSECTION OR SUBSECTION (4) shall serve until a successor is
 9 appointed, and a vacancy shall be filled for the balance of the
 10 unexpired term in the same manner as the original appointment. The
 11 2 ~~appointed~~ members APPOINTED UNDER THIS SUBSECTION AND serving
 12 without a fixed term shall serve at the pleasure of the governor.
 13 Of the members appointed UNDER THIS SUBSECTION AND SUBSECTION (4),
 14 there shall be minority, female, and small business representation.
 15 ~~The chief executive officer or director of any state department,~~
 16 ~~who is a designated member of or an appointee to the board, may~~
 17 ~~appoint a representative from the department to serve as a voting~~
 18 ~~member of the fund in the absence of the chief executive officer or~~
 19 ~~director.~~ AFTER DECEMBER 31, 2005, AT LEAST 2 OF THE MEMBERS OF THE
 20 BOARD SHALL HAVE EXPERIENCE IN PRIVATE EQUITY OR VENTURE CAPITAL
 21 INVESTMENTS, AT LEAST 1 OF THE MEMBERS SHALL HAVE EXPERIENCE IN
 22 COMMERCIAL LENDING, AND AT LEAST 1 OF THE MEMBERS OF THE BOARD
 23 SHALL HAVE EXPERIENCE IN COMMERCIALIZATION OF TECHNOLOGY.

24 (4) IN ADDITION TO THE 9 MEMBERS OF THE BOARD UNDER SUBSECTION
 25 (3), NOT LATER THAN DECEMBER 15, 2005, THE GOVERNOR SHALL APPOINT,
 26 WITH THE ADVICE AND CONSENT OF THE SENATE, 2 ADDITIONAL MEMBERS TO
 27 THE BOARD FOR TERMS EXPIRING DECEMBER 31, 2007. THE MEMBERS

1 APPOINTED UNDER THIS SUBSECTION SHALL BE FROM THE PRIVATE SECTOR
 2 AND SHALL HAVE EXPERIENCE IN PRIVATE EQUITY OR VENTURE CAPITAL
 3 INVESTMENTS, COMMERCIAL LENDING, OR COMMERCIALIZATION OF
 4 TECHNOLOGY. FROM THE DATE OF THE APPOINTMENT OF THE MEMBERS UNDER
 5 THIS SUBSECTION UNTIL DECEMBER 31, 2007, THE BOARD SHALL HAVE 11
 6 MEMBERS. AFTER DECEMBER 31, 2007, THE BOARD SHALL HAVE 9 MEMBERS.

7 (5) ~~-(4)-~~ The governor shall designate 1 member of the board
 8 to serve as its chairperson. ~~Of the 2 board members serving at the~~
 9 ~~pleasure of the governor, the~~ **THE DIRECTOR OF THE DEPARTMENT OF**
 10 **LABOR AND ECONOMIC GROWTH OR HIS OR HER DESIGNEE FROM WITHIN THE**
 11 **DEPARTMENT OF LABOR AND ECONOMIC GROWTH SHALL SERVE AS PRESIDENT OF**
 12 **THE FUND. OF THE 2 BOARD MEMBERS SERVING AT THE PLEASURE OF THE**
 13 **GOVERNOR, THE** governor ~~shall~~ **MAY** designate 1 member to serve as
 14 ~~the board's president and shall designate the other member to serve~~
 15 ~~as its vice-president if a vice-president is designated~~ **OF THE**
 16 **FUND.** The chairperson, ~~president,~~ and vice-president, **IF A VICE-**
 17 **PRESIDENT IS DESIGNATED,** shall serve as those officers at the
 18 pleasure of the governor.

19 (6) ~~-(5)-~~ Members of the board shall serve without
 20 compensation for their membership on the board, except that ~~the~~
 21 ~~president and vice-president shall receive such compensation as is~~
 22 ~~reasonable and established by the board, and~~ members of the board
 23 ~~shall~~ **MAY** receive reasonable reimbursement for necessary travel
 24 and expenses.

25 (7) ~~-(6)-~~ The board may delegate to its president, vice-
 26 president, staff, or others those functions and authority that the
 27 board deems necessary or appropriate, which may include the

oversight and supervision of employees of the fund. **HOWEVER,**
RESPONSIBILITIES SPECIFICALLY VESTED IN THE BOARD UNDER CHAPTER 8A
SHALL BE PERFORMED BY THE BOARD AND SHALL NOT BE TRANSFERRED TO THE
MEDC. EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, THE MEDC SHALL
PROVIDE ALL STAFFING, SUPPORT, AND ADMINISTRATIVE SERVICES
NECESSARY TO IMPLEMENT CHAPTER 8A.

(8) ~~-(7)-~~ A majority of the members of the board serving and
present in person at a board meeting constitutes a quorum for the
transaction of business at a meeting, or the exercise of a power or
function of the fund, notwithstanding the existence of 1 or more
vacancies. **THE BOARD MAY ACT ONLY BY RESOLUTION APPROVED BY A**
MAJORITY OF BOARD MEMBERS APPOINTED AND SERVING. Voting upon action
taken by the board shall be conducted by majority vote of the
members present in person at a meeting of the board or, if
authorized by the bylaws of the board, by use of ~~amplified~~
~~telephonic~~ **TELECOMMUNICATIONS OR OTHER ELECTRONIC** equipment. The
fund shall meet at the call of the chair and as may be provided in
the bylaws of the fund. Meetings of the fund may be held anywhere
within the state of Michigan.

(9) ~~-(8)-~~ The business ~~which~~ **OF** the board ~~may perform~~
shall be conducted at a public meeting of the board held in
compliance with the open meetings act, ~~Act No. 267 of the Public~~
~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~
~~Compiled Laws 1976 PA 267, MCL 15.261 TO 15.275.~~ Public notice of
the time, date, and place of the meeting shall be given in the
manner required by ~~Act No. 267 of the Public Acts of 1976~~ **THE**
OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.267, AND SHALL

1 ALSO BE PROVIDED ON AN INTERNET WEBSITE OPERATED BY THE FUND. A
2 record or portion of a record, material, or other data received,
3 prepared, used, or retained by the fund or any of its centers in
4 connection with an application to or with a project or product
5 assisted by the fund or any of its centers ~~which~~ OR WITH AN
6 AWARD, GRANT, LOAN, OR INVESTMENT UNDER CHAPTER 8A THAT relates to
7 financial or proprietary information submitted by the applicant
8 that is considered by the applicant and acknowledged by the board
9 as confidential shall not be subject to the disclosure requirements
10 of the freedom of information act, ~~Act No. 442 of the Public Acts~~
11 ~~of 1976, being sections 15.231 to 15.246 of the Michigan Compiled~~
12 ~~Laws~~ 1976 PA 442, MCL 15.231 TO 15.246. The board may also meet in
13 closed session pursuant to ~~Act No. 267 of the Public Acts of 1976~~
14 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.267, to make a
15 determination of whether it acknowledges as confidential any
16 financial or proprietary information submitted by the applicant and
17 considered by the applicant as confidential. Unless considered
18 proprietary information, the board shall not acknowledge routine
19 financial information as confidential. IF THE BOARD DETERMINES THAT
20 INFORMATION SUBMITTED TO THE FUND IS FINANCIAL OR PROPRIETARY
21 INFORMATION AND IS CONFIDENTIAL, THE BOARD SHALL RELEASE A WRITTEN
22 STATEMENT, SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION
23 ACT, 1976 PA 442, MCL 15.231 TO 15.246, THAT STATES ALL OF THE
24 FOLLOWING:

25 (A) THE NAME AND BUSINESS LOCATION OF THE PERSON REQUESTING
26 THAT THE INFORMATION SUBMITTED BE CONFIDENTIAL AS FINANCIAL OR
27 PROPRIETARY INFORMATION.

1 (B) THAT THE INFORMATION SUBMITTED WAS DETERMINED BY THE BOARD
2 TO BE CONFIDENTIAL AS FINANCIAL OR PROPRIETARY INFORMATION.

3 (C) A BROAD NONSPECIFIC OVERVIEW OF THE FINANCIAL OR
4 PROPRIETARY INFORMATION DETERMINED TO BE CONFIDENTIAL.

5 (10) ~~-(9)-~~ The fund shall not disclose financial or
6 proprietary information not subject to disclosure pursuant to
7 subsection ~~-(8)-~~ (9) without consent of the applicant submitting
8 the information.

9 (11) ~~-(10)-~~ Any document to which the fund is a party
10 evidencing a loan, insurance, mortgage, lease, venture, or other
11 type of agreement the fund is authorized to enter into shall not be
12 considered financial or proprietary information that may be exempt
13 from disclosure under subsection ~~-(8)-~~ (9).

14 (12) ~~-(11)-~~ For purposes of subsections ~~-(8)-~~, (9), (10), and
15 ~~-(10)-~~ (11), "financial or proprietary information" means
16 information ~~which~~ **THAT** has not been publicly disseminated or
17 which is unavailable from other sources, the release of which might
18 cause the applicant significant competitive harm.

19 Sec. 6. (1) ~~Members~~ **NOTWITHSTANDING SECTION 3(1) OF 1968 PA**
20 **317, MCL 15.323, MEMBERS** of the board and officers and employees of
21 the fund are subject to ~~Act No. 317 of the Public Acts of 1968,~~
22 ~~being sections 15.321 to 15.330 of the Michigan Compiled Laws, or~~
23 ~~Act No. 318 of the Public Acts of 1968, being sections 15.301 to~~
24 ~~15.310 of the Michigan Compiled Laws~~ **1968 PA 317, MCL 15.321 TO**
25 **15.330, OR 1968 PA 318, MCL 15.301 TO 15.310,** as applicable.

26 (2) A member of the board or officer, employee, or agent of
27 the fund shall discharge the duties of his or her position in a

1 nonpartisan manner, with good faith, and with that degree of
2 diligence, care, and skill which an ordinarily prudent person would
3 exercise under similar circumstances in a like position. In
4 discharging the duties, a member of the board or an officer,
5 employee, or agent, when acting in good faith, may rely upon the
6 opinion of counsel for the fund, upon the report of an independent
7 appraiser selected with reasonable care by the board, or upon
8 financial statements of the fund represented to the member of the
9 board or officer, employee, or agent of the fund to be correct by
10 the president or the officer of the fund having charge of its books
11 or account, or stated in a written report by a certified public
12 accountant or firm of certified public accountants fairly to
13 reflect the financial condition of the fund.

14 (3) A MEMBER OF THE BOARD SHALL NOT MAKE, PARTICIPATE IN
15 MAKING, OR IN ANY WAY ATTEMPT TO USE HIS OR HER POSITION AS A
16 MEMBER OF THE BOARD TO INFLUENCE A DECISION REGARDING A LOAN,
17 GRANT, INVESTMENT, OR OTHER EXPENDITURE UNDER THIS ACT TO HIS OR
18 HER EMPLOYER.

19 (4) AN INDEPENDENT PEER REVIEW EXPERT APPROVED BY THE BOARD
20 UNDER CHAPTER 8A SHALL NOT HAVE ANY FINANCIAL INTEREST IN A
21 RECIPIENT OF PROCEEDS FROM THE JOBS FOR MICHIGAN INVESTMENT FUND
22 CREATED UNDER SECTION 88B.

23 (5) A MEMBER, EMPLOYEE, OR AGENT OF THE BOARD SHALL NOT ENGAGE
24 IN ANY CONDUCT THAT CONSTITUTES A CONFLICT OF INTEREST AND SHALL
25 IMMEDIATELY ADVISE THE BOARD IN WRITING OF THE DETAILS OF ANY
26 INCIDENT OR CIRCUMSTANCES THAT MAY PRESENT THE EXISTENCE OF A
27 CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE BOARD-

House Bill No. 5047 (H-7) as amended September 28, 2005

1 RELATED WORK OR DUTY OF THE MEMBER, EMPLOYEE, OR AGENT OF THE
2 BOARD.

3 (6) A MEMBER WHO HAS A CONFLICT OF INTEREST RELATED TO ANY
4 MATTER BEFORE THE BOARD SHALL DISCLOSE THE CONFLICT OF INTEREST
5 BEFORE THE BOARD TAKES ANY ACTION WITH RESPECT TO THE MATTER, WHICH
6 DISCLOSURE SHALL BECOME A PART OF THE RECORD OF THE BOARD'S
7 OFFICIAL PROCEEDINGS. THE MEMBER WITH THE CONFLICT OF INTEREST
8 SHALL REFRAIN FROM DOING ALL OF THE FOLLOWING WITH RESPECT TO THE
9 MATTER THAT IS THE BASIS OF THE CONFLICT OF INTEREST:

10 (A) VOTING IN THE BOARD'S PROCEEDINGS RELATED TO THE MATTER.

11 (B) PARTICIPATING IN THE BOARD'S DISCUSSION OF AND
12 DELIBERATION ON THE MATTER.

13 (C) BEING PRESENT AT THE MEETING WHEN THE DISCUSSION,
14 DELIBERATION, AND VOTING ON THE MATTER TAKE PLACE.

15 (D) DISCUSSING THE MATTER WITH ANY OTHER BOARD MEMBER.

16 (7) FAILURE OF A MEMBER TO COMPLY WITH SUBSECTION (6)
17 CONSTITUTES MISCONDUCT IN OFFICE.

[(8) WHEN AUTHORIZING EXPENDITURES UNDER THIS ACT, THE BOARD AND
THE COMMITTEE SHALL NOT CONSIDER WHETHER A RECIPIENT HAS MADE A
CONTRIBUTION OR EXPENDITURE UNDER THE MICHIGAN CAMPAIGN FINANCE ACT, 1976
PA 388, MCL 169.201 TO 169.282.]

(9) EXPENDITURES UNDER THIS ACT SHALL NOT BE USED TO FINANCE OR
INFLUENCE POLITICAL ACTIVITIES.]

18 Sec. 7. The fund shall have the powers ~~necessary or~~
19 ~~convenient to carry out and effectuate the purposes, objectives,~~
20 ~~and provisions of this act, the purposes and objectives of the~~
21 ~~fund,~~ and DUTIES SPECIFIED IN THIS ACT, the powers delegated by
22 other laws or executive orders, AND ALL OTHER POWERS NECESSARY AND
23 PROPER TO FULLY AND EFFECTIVELY EXECUTE AND ADMINISTER THIS ACT,
24 including, but not limited to, the power to:

25 (a) Sue and be sued; to have a seal and alter the same at
26 pleasure; to have perpetual succession; to make, execute, and
27 deliver contracts, conveyances, and other instruments necessary or

1 convenient to the exercise of its powers; and to make and amend
2 bylaws.

3 (b) Solicit and accept gifts, grants, loans, and other aids
4 from any person or the federal, state, or a local government or any
5 agency of the federal, state, or a local government, or to
6 participate in any other way in any federal, state, or local
7 government program.

8 (c) Make grants, loans, and investments; to guarantee and
9 insure loans, leases, bonds, notes, or other indebtedness, whether
10 public or private; and to issue letters of credit.

11 (d) Construct; acquire by gift, purchase, installment
12 purchase, or lease; and reconstruct, improve, repair, or equip a
13 project or any part of a project.

14 (e) Borrow money and issue bonds and notes to finance part or
15 all of the project costs of a project, or of a loan ~~pursuant to~~
16 **UNDER** subdivision (r) for an export transaction, and to secure
17 those bonds and notes by mortgage, assignment, or pledge of any of
18 its money, revenues, income, and properties. The authority provided
19 by this subdivision includes but is not limited to issuing bonds
20 and notes to acquire and install machinery, equipment, furnishings,
21 and other personal property, notwithstanding that the fund does not
22 own or propose to own or finance the building or land in or near to
23 which the machinery, equipment, furnishings, and other personal
24 property is or is to be located.

25 (f) Acquire or contract to acquire from any person,
26 municipality, the federal or state government, or any agency of the
27 foregoing, or otherwise, leaseholds, real or personal property or

1 any interest in real or personal property; to own, hold, clear,
2 improve, and rehabilitate and to sell, assign, exchange, transfer,
3 convey, lease, mortgage, or otherwise dispose of or encumber
4 leaseholds, real or personal property or any interest in real or
5 personal property, as is convenient for the accomplishment of the
6 purposes of this act and of the fund.

7 (g) Procure insurance against any loss in connection with the
8 fund's property, assets, or activities.

9 (h) Invest any money of the fund at the fund's discretion, in
10 any obligations determined proper by the fund, and name and use
11 depositories for its money.

12 (i) Engage personnel as is necessary and engage the services
13 of private consultants, managers, counsel, auditors, engineers, and
14 scientists for rendering professional management and technical
15 assistance and advice, payable out of any money of the fund legally
16 available for this purpose.

17 (j) Charge, impose, and collect fees and charges in connection
18 with any transaction and provide for reasonable penalties for
19 delinquent payment of fees or charges.

20 (k) Indemnify and procure insurance indemnifying any members
21 of the board from personal loss or accountability from liability
22 asserted by a person on the bonds or notes of the fund or from any
23 personal liability or accountability by reason of the issuance of
24 the bonds, notes, insurance, or guarantees; by reason of
25 acquisition, construction, ownership, or operation of a project; or
26 by reason of any other action taken or the failure to act by the
27 fund.

1 (l) Enter into a lease for the use or sale of a project. The
2 lease may provide for options to purchase or renew.

3 (m) Mortgage or create security interests in a project or any
4 part of a project, or in a lease or loan, or in the rents,
5 revenues, or sums to be paid thereunder, in favor of the holders of
6 the bonds or notes issued by the fund.

7 (n) Convey or release a project or any part of a project to a
8 lessee, purchaser, or borrower under any agreement after provision
9 has been made for the retirement in full of the bonds or notes
10 issued for that project under terms and conditions provided in the
11 agreement or as may be agreed with the holders of the bonds or
12 notes, at any time where the obligation of the lessee, purchaser,
13 or borrower to make the payments prescribed shall remain fixed as
14 provided in the agreement notwithstanding the conveyance or
15 release, or as may otherwise be agreed with the holders of the
16 bonds or notes.

17 (o) Make loans, participate in the making of loans, undertake
18 commitments to make loans and mortgages, buy and sell loans and
19 mortgages at public or private sale, rewrite loans and mortgages,
20 discharge loans and mortgages, foreclose on a mortgage, commence an
21 action to protect or enforce a right conferred upon the fund by a
22 law, mortgage, loan, contract, or other agreement, bid for and
23 purchase property which was the subject of the mortgage at a
24 foreclosure or other sale, acquire or take possession of the
25 property and in that event complete, administer, pay the principal
26 and interest on obligations incurred in connection with that
27 property, and dispose of and otherwise deal with the property, in a

1 manner as may be necessary or desirable to protect the interests of
2 the fund.

3 (p) Certify, for the purpose of determining eligible
4 investments for the basis of a single business tax credit, minority
5 venture capital companies, as defined by law.

6 (q) To create and operate centers, accounts, and funds as
7 required ~~or permitted~~ by law for the use and disbursement of
8 assets of the fund.

9 (r) To make loans to a financial institution to facilitate
10 financing of all or part of an export related transaction
11 including, but not limited to, pre-export working capital financing
12 and postexport receivable financing.

13 ~~— (s) Do all other things necessary or convenient to achieve the~~
14 ~~objectives and purposes of the fund, this act, or other laws that~~
15 ~~relate to the purposes and responsibilities of the fund.~~

16 Sec. 13. The total debt owed to the fund, excluding rights and
17 royalties under a venture capital agreement or obligations to the
18 fund resulting from an industrial development revenue bond or note,
19 in relation to any 1 project shall at no time exceed 5% of the
20 total assets of the fund, except that upon approval by a 2/3 vote
21 of the board this amount may be increased to not to exceed 10% of
22 the assets of the fund. **THIS SECTION DOES NOT APPLY TO A PROGRAM OR**
23 **ACTIVITY AUTHORIZED UNDER CHAPTER 8A.**

24 **CHAPTER 8A**

25 **SEC. 88. (1) THE LEGISLATURE FINDS AND DECLARES THAT THE**
26 **ACTIVITIES AUTHORIZED UNDER THIS CHAPTER TO ENCOURAGE**
27 **DIVERSIFICATION OF THE ECONOMY AND THE CREATION OF JOBS IN THIS**

1 STATE ARE A PUBLIC PURPOSE AND OF PARAMOUNT CONCERN IN THE INTEREST
2 OF THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF THIS
3 STATE. IT IS THE INTENT OF THE LEGISLATURE THAT THE ECONOMIC
4 BENEFITS AND THE CREATION OF JOBS RESULTING FROM THIS CHAPTER SHALL
5 ACCRUE SUBSTANTIALLY WITHIN THIS STATE.

6 (2) ACTIVITIES AUTHORIZED UNDER THIS CHAPTER SHALL NOT BE
7 CONSIDERED A PROJECT, ECONOMIC DEVELOPMENT PROJECT, OR A PRODUCT
8 ASSISTED BY THE 21ST CENTURY JOBS FUND FOR PURPOSES OF CHAPTER 1 OR
9 2.

10 SEC. 88A. AS USED IN THIS CHAPTER:

11 (A) "ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS
12 TECHNOLOGY" MEANS ANY TECHNOLOGY THAT INVOLVES 1 OR MORE OF THE
13 FOLLOWING:

14 (i) MATERIALS WITH ENGINEERED PROPERTIES CREATED THROUGH THE
15 DEVELOPMENT OF SPECIALIZED PROCESS AND SYNTHESIS TECHNOLOGY.

16 (ii) NANOTECHNOLOGY, INCLUDING MATERIALS, DEVICES, OR SYSTEMS
17 AT THE ATOMIC, MOLECULAR, OR MACROMOLECULAR LEVEL, WITH A SCALE
18 MEASURED IN NANOMETERS.

19 (iii) MICROELECTROMECHANICAL SYSTEMS, INCLUDING DEVICES OR
20 SYSTEMS INTEGRATING MICROELECTRONICS WITH MECHANICAL PARTS AND A
21 SCALE MEASURED IN MICROMETERS.

22 (iv) IMPROVEMENTS TO VEHICLE SAFETY, VEHICLE PERFORMANCE,
23 VEHICLE PRODUCTION, OR ENVIRONMENTAL IMPACT, INCLUDING, BUT NOT
24 LIMITED TO, VEHICLE EQUIPMENT AND COMPONENT PARTS.

25 (v) ANY TECHNOLOGY THAT INVOLVES AN ALTERNATIVE ENERGY VEHICLE
26 OR ITS COMPONENTS, AS ALTERNATIVE ENERGY VEHICLE IS DEFINED UNDER
27 SECTION 2 OF THE MICHIGAN NEXT ENERGY AUTHORITY ACT, 2002 PA 593,

1 MCL 207.822.

2 (vi) ADVANCED COMPUTING OR ELECTRONIC DEVICE TECHNOLOGY RELATED
3 TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

4 (vii) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
5 TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

6 (viii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
7 DESCRIBED UNDER THIS SUBDIVISION.

8 (ix) A NEW TECHNOLOGY, DEVICE, OR SYSTEM THAT ENHANCES OR
9 IMPROVES THE MANUFACTURING PROCESS OF WOOD, TIMBER, OR
10 AGRICULTURAL-BASED PRODUCTS.

11 (B) "ADVANCED COMPUTING" MEANS ANY TECHNOLOGY USED IN THE
12 DESIGN AND DEVELOPMENT OF 1 OR MORE OF THE FOLLOWING:

13 (i) COMPUTER HARDWARE AND SOFTWARE.

14 (ii) DATA COMMUNICATIONS.

15 (iii) INFORMATION TECHNOLOGIES.

16 (C) "ALTERNATIVE ENERGY TECHNOLOGY" MEANS APPLIED RESEARCH OR
17 COMMERCIALIZATION OF NEW OR NEXT GENERATION TECHNOLOGY IN 1 OR MORE
18 OF THE FOLLOWING:

19 (i) ALTERNATIVE ENERGY TECHNOLOGY AS THAT TERM IS DEFINED IN
20 SECTION 2 OF THE MICHIGAN NEXT ENERGY AUTHORITY ACT, 2002 PA 593,
21 MCL 207.822.

22 (ii) DEVICES OR SYSTEMS DESIGNED AND USED SOLELY FOR THE
23 PURPOSE OF GENERATING ENERGY FROM AGRICULTURAL CROPS, RESIDUE AND
24 WASTE GENERATED FROM THE PRODUCTION AND PROCESSING OF AGRICULTURAL
25 PRODUCTS, ANIMAL WASTES, OR FOOD PROCESSING WASTES, NOT INCLUDING A
26 CONVENTIONAL GASOLINE OR DIESEL FUEL ENGINE OR RETROFITTED
27 CONVENTIONAL GASOLINE OR DIESEL FUEL ENGINE.

1 (iii) ADVANCED COMPUTING OR ELECTRONIC DEVICE TECHNOLOGY RELATED
2 TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

3 (iv) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
4 TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

5 (v) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO A TECHNOLOGY
6 DESCRIBED UNDER THIS SUBDIVISION.

7 (D) "APPLIED RESEARCH" MEANS TRANSLATIONAL RESEARCH CONDUCTED
8 WITH THE OBJECTIVE OF ATTAINING A SPECIFIC BENEFIT OR TO SOLVE A
9 PRACTICAL PROBLEM, OR OTHER RESEARCH ACTIVITY THAT SEEKS TO
10 UTILIZE, SYNTHESIZE, OR APPLY EXISTING KNOWLEDGE, INFORMATION, OR
11 RESOURCES TO THE RESOLUTION OF A SPECIFIED PROBLEM, QUESTION, OR
12 ISSUE, WITH HIGH PROBABILITY OF COMMERCIAL APPLICATION TO CREATE
13 JOBS IN THIS STATE.

14 (E) "BASIC RESEARCH" MEANS ANY ORIGINAL INVESTIGATION FOR THE
15 ADVANCEMENT OF SCIENTIFIC OR TECHNOLOGICAL KNOWLEDGE THAT WILL
16 ENHANCE THE RESEARCH CAPACITY OF THIS STATE IN A WAY THAT INCREASES
17 THE ABILITY TO ATTRACT TO OR DEVELOP COMPANIES, JOBS, RESEARCHERS,
18 OR STUDENTS IN THIS STATE.

19 (F) "COMMERCIALIZATION" MEANS THE TRANSITION FROM RESEARCH TO
20 THE ACTIONS NECESSARY TO ACHIEVE MARKET ENTRY AND GENERAL MARKET
21 COMPETITIVENESS OF NEW INNOVATIVE TECHNOLOGIES, PROCESSES, AND
22 PRODUCTS AND THE SERVICES THAT SUPPORT, ASSIST, EQUIP, FINANCE, OR
23 PROMOTE AN ENTITY WITH THAT TRANSITION.

24 (G) "COMPETITIVE EDGE TECHNOLOGY" MEANS 1 OR MORE OF THE
25 FOLLOWING:

26 (i) LIFE SCIENCES TECHNOLOGY.

27 (ii) ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS

1 TECHNOLOGY.

2 (iii) HOMELAND SECURITY AND DEFENSE TECHNOLOGY.

3 (iv) ALTERNATIVE ENERGY TECHNOLOGY.

4 (H) "COMPETITIVE EDGE TECHNOLOGY GRANT FUND" OR "GRANT FUND"
5 MEANS THE COMPETITIVE EDGE TECHNOLOGY GRANT FUND CREATED IN SECTION
6 88I.

7 (I) "ELECTRONIC DEVICE TECHNOLOGY" MEANS ANY TECHNOLOGY THAT
8 INVOLVES MICROELECTRONICS, SEMICONDUCTORS, ELECTRONIC EQUIPMENT,
9 AND INSTRUMENTATION, RADIO FREQUENCY, MICROWAVE, AND MILLIMETER
10 ELECTRONICS; OPTICAL AND OPTIC-ELECTRICAL DEVICES; OR DATA AND
11 DIGITAL COMMUNICATIONS AND IMAGING DEVICES.

12 (J) "FUND BOARD" MEANS THE BOARD OF THE 21ST CENTURY JOBS FUND
13 DESCRIBED IN SECTION 5.

14 (K) "HOMELAND SECURITY AND DEFENSE TECHNOLOGY" MEANS
15 TECHNOLOGY THAT ASSISTS IN THE ASSESSMENT OF THREATS OR DAMAGE TO
16 THE GENERAL POPULATION AND CRITICAL INFRASTRUCTURE, PROTECTION OF,
17 DEFENSE AGAINST, OR MITIGATION OF THE EFFECTS OF FOREIGN OR
18 DOMESTIC THREATS, DISASTERS, OR ATTACKS, OR SUPPORT FOR CRISIS OR
19 RESPONSE MANAGEMENT, INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF
20 THE FOLLOWING:

21 (i) SENSORS, SYSTEMS, PROCESSES, OR EQUIPMENT FOR
22 COMMUNICATIONS, IDENTIFICATION AND AUTHENTICATION, SCREENING,
23 SURVEILLANCE, TRACKING, AND DATA ANALYSIS.

24 (ii) ADVANCED COMPUTING OR ELECTRONIC DEVICE TECHNOLOGY RELATED
25 TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

26 (iii) AVIATION TECHNOLOGY, INCLUDING, BUT NOT LIMITED TO,
27 AVIONICS, AIRFRAME DESIGN, SENSORS, EARLY WARNING SYSTEMS, AND

1 SERVICES RELATED TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

2 (iv) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
3 TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

4 (v) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
5 DESCRIBED UNDER THIS SUBDIVISION.

6 (l) "INDEPENDENT PEER REVIEW EXPERT" MEANS A PERSON OR PERSONS
7 APPROVED BY THE BOARD WITH APPROPRIATE EXPERTISE TO CONDUCT AN
8 INDEPENDENT, UNBIASED, OBJECTIVE, AND COMPETITIVE EVALUATION OF
9 ACTIVITIES FUNDED UNDER THIS CHAPTER. THE PERSON OR PERSONS SHALL
10 DEMONSTRATE THE CAPABILITY AND EXPERIENCE, AS APPROPRIATE OR
11 NECESSARY FOR THE PARTICULAR ACTIVITY FUNDED, TO DO ALL OF THE
12 FOLLOWING:

13 (i) CONDUCT A HIGHLY COMPETITIVE AND INTENSIVE, INDEPENDENT,
14 MULTIPHASED, PEER-REVIEW-BASED EVALUATION PROCESS.

15 (ii) EMPLOY PERSONNEL WITH APPROPRIATE BUSINESS, SCIENTIFIC,
16 TECHNICAL, COMMERCIAL, OR OTHER SPECIALIZED EXPERTISE TO CARRY OUT
17 EACH ASPECT OF THE EVALUATION PROCESS.

18 (iii) PROVIDE RECOMMENDATIONS TO OR ASSIST THE BOARD IN
19 IDENTIFYING HIGH-QUALITY ACTIVITIES FOR FUNDING THAT ARE LIKELY TO
20 RESULT IN THE DEVELOPMENT AND COMMERCIALIZATION OF COMPETITIVE EDGE
21 TECHNOLOGY AND JOB CREATION IN THIS STATE. THE RECOMMENDATIONS
22 SHALL INCLUDE ALL MATERIALS USED BY THE INDEPENDENT PEER REVIEW
23 EXPERT IN MAKING THE RECOMMENDATION.

24 (iv) ASSURE THAT ANY PEER REVIEW PROCESS DEVELOPED MAINTAINS A
25 HIGH LEVEL OF INTEGRITY.

26 (m) "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF
27 HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN

1 SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
2 1963 OR AN INDEPENDENT NONPROFIT DEGREE-GRANTING INSTITUTION OF
3 POSTSECONDARY EDUCATION IN THIS STATE THAT IS APPROVED BY THE STATE
4 BOARD OF EDUCATION.

5 (N) "JOBS FOR MICHIGAN INVESTMENT FUND" OR "INVESTMENT FUND"
6 MEANS THE JOBS FOR MICHIGAN INVESTMENT FUND CREATED IN SECTION 88F.

7 (O) "LIFE SCIENCES" MEANS SCIENCE FOR THE EXAMINATION OR
8 UNDERSTANDING OF LIFE OR LIFE PROCESSES, INCLUDING, BUT NOT LIMITED
9 TO, ALL OF THE FOLLOWING:

10 (i) BIOENGINEERING.

11 (ii) BIOMEDICAL ENGINEERING.

12 (iii) GENOMICS.

13 (iv) PROTEOMICS.

14 (v) MOLECULAR AND CHEMICAL ECOLOGY.

15 (vi) BIOTECHNOLOGY, INCLUDING ANY TECHNOLOGY THAT USES LIVING
16 ORGANISMS, CELLS, MACROMOLECULES, MICROORGANISMS, OR SUBSTANCES
17 FROM LIVING ORGANISMS TO MAKE OR MODIFY A PRODUCT FOR USEFUL
18 PURPOSES. BIOTECHNOLOGY OR LIFE SCIENCES DOES NOT INCLUDE ANY OF
19 THE FOLLOWING:

20 (A) ACTIVITIES PROHIBITED UNDER SECTION 2685 OF THE PUBLIC
21 HEALTH CODE, 1978 PA 368, MCL 333.2685.

22 (B) ACTIVITIES PROHIBITED UNDER SECTION 2688 OF THE PUBLIC
23 HEALTH CODE, 1978 PA 368, MCL 333.2688.

24 (C) ACTIVITIES PROHIBITED UNDER SECTION 2690 OF THE PUBLIC
25 HEALTH CODE, 1978 PA 368, MCL 333.2690.

26 (D) ACTIVITIES PROHIBITED UNDER SECTION 16274 OF THE PUBLIC
27 HEALTH CODE, 1978 PA 368, MCL 333.16274.

1 (E) STEM CELL RESEARCH WITH HUMAN EMBRYONIC TISSUE.

2 (P) "LIFE SCIENCES TECHNOLOGY" MEANS ANY TECHNOLOGY DERIVED
3 FROM LIFE SCIENCES INTENDED TO IMPROVE HUMAN HEALTH OR THE OVERALL
4 QUALITY OF HUMAN LIFE, INCLUDING, BUT NOT LIMITED TO, SYSTEMS,
5 PROCESSES, OR EQUIPMENT FOR DRUG OR GENE THERAPIES, BIOSENSORS,
6 TESTING, MEDICAL DEVICES OR INSTRUMENTATION WITH A THERAPEUTIC OR
7 DIAGNOSTIC VALUE, A PHARMACEUTICAL OR OTHER PRODUCT THAT REQUIRES
8 UNITED STATES FOOD AND DRUG ADMINISTRATION APPROVAL OR REGISTRATION
9 PRIOR TO ITS INTRODUCTION IN THE MARKETPLACE AND IS A DRUG OR
10 MEDICAL DEVICE AS DEFINED BY THE FEDERAL FOOD, DRUG, AND COSMETIC
11 ACT, 21 USC 301 TO 399, OR 1 OR MORE OF THE FOLLOWING:

12 (i) ADVANCED COMPUTING OR ELECTRONIC DEVICE TECHNOLOGY RELATED
13 TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

14 (ii) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
15 TECHNOLOGY OR THE COMMERCIAL MANUFACTURING OF TECHNOLOGY DESCRIBED
16 UNDER THIS SUBDIVISION.

17 (iii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
18 DESCRIBED UNDER THIS SUBDIVISION.

19 (Q) "QUALIFIED BUSINESS" MEANS A BUSINESS ENTITY LOCATED IN
20 THIS STATE.

21 (R) "QUALIFIED MEZZANINE FUND" MEANS A PERSON OR ENTITY
22 PRIMARILY ENGAGED IN MAKING LOANS OR INVESTMENTS RANGING IN SIZE
23 FROM \$250,000.00 TO \$10,000,000.00 THAT IS MANAGED BY 2 OR MORE
24 INDIVIDUALS WITH NO LESS THAN 5 YEARS' DIRECT EXPERIENCE IN
25 MEZZANINE LENDING OR CAPITAL INVESTMENTS AND THAT HOLDS INVESTMENT
26 CAPITAL OR HAS COMMITMENTS FROM INVESTORS OTHER THAN THE FUND AND
27 AT LEAST 2 FINANCIAL INSTITUTIONS.

1 (S) "QUALIFIED PRIVATE EQUITY FUND" MEANS A FIRM PRINCIPALLY
2 OR PRIMARILY ENGAGED IN INVESTING IN OR ACQUIRING BUSINESSES THAT
3 IS MANAGED BY 2 OR MORE INDIVIDUALS WITH NO LESS THAN 5 YEARS OF
4 DIRECT EXPERIENCE IN PRIVATE EQUITY INVESTMENTS, AND THAT HOLDS
5 INVESTMENT CAPITAL FROM INVESTORS OTHER THAN THE FUND.

6 (T) "QUALIFIED VENTURE CAPITAL FUND" MEANS A FIRM PRINCIPALLY
7 OR PRIMARILY ENGAGED IN INVESTING IN OR ACQUIRING EARLY STAGE
8 BUSINESSES WITH GROWTH POTENTIAL THAT HAVE NOT YET DEMONSTRATED
9 CONSISTENT PROFITABILITY OR A PROVEN BUSINESS MODEL, THAT IS
10 MANAGED BY 2 OR MORE INDIVIDUALS WITH NOT LESS THAN 5 YEARS OF
11 DIRECT EXPERIENCE IN VENTURE CAPITAL, AND THAT HOLDS CAPITAL FROM
12 INVESTORS OTHER THAN THE FUND.

13 (U) "SMALL BUSINESS" MEANS A BUSINESS ENTITY FORMED OR DOING
14 BUSINESS IN THIS STATE, INCLUDING THE AFFILIATES OF THE BUSINESS
15 CONCERN, WHICH BUSINESS ENTITY IS INDEPENDENTLY OWNED AND OPERATED
16 AND EMPLOYS FEWER THAN 250 FULL-TIME EMPLOYEES OR HAS GROSS ANNUAL
17 SALES OF LESS THAN \$6,000,000.00.

18 (V) "21ST CENTURY INVESTMENTS" MEANS INVESTMENTS IN 1 OR MORE
19 OF THE FOLLOWING:

20 (i) COMMERCIAL LOAN GUARANTEES UNDER A LOAN ENHANCEMENT PROGRAM
21 OPERATED BY THE FUND.

22 (ii) PRIVATE EQUITY INVESTMENTS UNDER A PRIVATE EQUITY
23 INVESTMENT PROGRAM OPERATED BY THE FUND.

24 (iii) VENTURE CAPITAL INVESTMENTS UNDER A VENTURE CAPITAL
25 INVESTMENT PROGRAM OPERATED BY THE FUND AND MEZZANINE INVESTMENTS
26 UNDER A MEZZANINE INVESTMENT PROGRAM OPERATED BY THE FUND.

27 (W) "STRATEGIC ECONOMIC INVESTMENT BOARD" OR "BOARD" MEANS THE

1 STRATEGIC ECONOMIC INVESTMENT BOARD CREATED IN SECTION 88G.

2 (X) "UNIVERSITY TECHNOLOGY TRANSFER" MEANS INNOVATIVE METHODS
3 TO ACCELERATE THE CREATION OF START-UP COMPANIES AFFILIATED WITH
4 INSTITUTIONS OF HIGHER EDUCATION OR THE TRANSFER OF COMPETITIVE
5 EDGE TECHNOLOGY RESEARCH FROM AN INSTITUTION OF HIGHER EDUCATION TO
6 A QUALIFIED BUSINESS IN MICHIGAN.

7 SEC. 88B. (1) THE FUND SHALL CREATE AND OPERATE PROGRAMS
8 RELATING TO 21ST CENTURY INVESTMENTS AND DETERMINE THE ANNUAL
9 ALLOCATION OF MONEY TO THE INVESTMENT FUND AND THE GRANT FUND. THE
10 FUND BOARD SHALL NOT EXPEND MORE THAN THE FOLLOWING AMOUNTS FROM
11 THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE MICHIGAN TRUST FUND
12 ACT, 2000 PA 489, MCL 12.251 TO 12.256, FOR THE FOLLOWING PURPOSES:

13 (A) 25% FOR THE LOAN ENHANCEMENT PROGRAM.

14 (B) 40% FOR THE PRIVATE EQUITY INVESTMENT PROGRAM, THE VENTURE
15 CAPITAL INVESTMENT PROGRAM, AND THE MEZZANINE INVESTMENT PROGRAM
16 COMBINED.

17 (C) 70% FOR THE COMMERCIALIZATION OF COMPETITIVE EDGE
18 TECHNOLOGY.

19 (2) THE FUND AND ALL MEMBERS OF THE FUND BOARD HAVE A
20 FIDUCIARY DUTY TO THE CITIZENS OF THIS STATE IN ALL DECISIONS MADE
21 BY THE FUND AND FUND BOARD FOR 21ST CENTURY INVESTMENT PROGRAMS IN
22 THIS CHAPTER.

23 (3) THE FUND BOARD SHALL SELECT QUALIFIED PRIVATE EQUITY FUNDS
24 AND QUALIFIED VENTURE CAPITAL FUNDS BY ISSUING A REQUEST FOR
25 PROPOSAL. AT A MINIMUM, THE REQUEST FOR PROPOSAL SHALL REQUIRE THE
26 RESPONDING ENTITIES TO DISCLOSE ANY CONFLICT OF INTEREST, DISCLOSE
27 ANY INVESTIGATIONS BY THE INTERNAL REVENUE SERVICE, THE SECURITIES

1 AND EXCHANGE COMMISSION, OR ANY OTHER FEDERAL OR STATE TAXING OR
2 SECURITIES REGULATORY BODY, OR COURT, OR PERTINENT LITIGATION
3 REGARDING THE CONDUCT OF THE ENTITY. THE FUND BOARD SHALL ESTABLISH
4 A STANDARD PROCESS TO EVALUATE PROPOSALS SUBMITTED AS A RESULT OF A
5 REQUEST FOR PROPOSAL AND APPOINT A COMMITTEE TO REVIEW THE
6 PROPOSALS.

7 (4) THE FUND BOARD SHALL ENSURE THAT A RECIPIENT OF MONEY
8 UNDER SECTIONS 88C, 88D, AND 88E AGREES AS A CONDITION OF RECEIVING
9 THE MONEY NOT TO USE THE MONEY FOR ANY OF THE FOLLOWING:

10 (A) THE DEVELOPMENT OF A STADIUM OR ARENA FOR USE BY A
11 PROFESSIONAL SPORTS TEAM.

12 (B) THE DEVELOPMENT OF A CASINO REGULATED BY THIS STATE UNDER
13 THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF
14 1996, MCL 432.201 TO 432.226, A CASINO AT WHICH GAMING IS CONDUCTED
15 UNDER THE INDIAN GAMING REGULATORY ACT, PUBLIC LAW 100-497, 102
16 STAT. 2467, OR PROPERTY ASSOCIATED OR AFFILIATED WITH THE OPERATION
17 OF EITHER TYPE OF CASINO DESCRIBED IN THIS SUBDIVISION, INCLUDING,
18 BUT NOT LIMITED TO, A PARKING LOT, HOTEL, MOTEL, OR RETAIL STORE.

19 (C) A RECIPIENT OR AN AFFILIATE OF THE RECIPIENT WHO IS
20 INCORPORATED IN A TAX HAVEN COUNTRY AFTER SEPTEMBER 11, 2001, BUT
21 WITH THE UNITED STATES AS THE PRINCIPAL MARKET FOR THE PUBLIC
22 TRADING OF THE CORPORATION'S STOCK, AS DETERMINED BY THE BOARD. AS
23 USED IN THIS SECTION, "TAX HAVEN COUNTRY" INCLUDES A COUNTRY WITH
24 TAX LAWS THAT FACILITATE AVOIDANCE BY A CORPORATION OR AN AFFILIATE
25 OF THE CORPORATION OF UNITED STATES TAX OBLIGATIONS, INCLUDING
26 BARBADOS, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS,
27 COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF MAN, THE

1 PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO, AND THE
2 REPUBLIC OF THE SEYCHELLES.

3 (D) TO INDUCE QUALIFIED BUSINESSES OR SMALL BUSINESSES TO
4 LEAVE THIS STATE.

5 (5) THE FUND BOARD SHALL ENSURE THAT MONEY EXPENDED UNDER
6 SECTIONS 88C, 88D, AND 88E SHALL NOT BE USED FOR ANY OF THE
7 FOLLOWING:

8 (A) PROVISION OF MONEY TO A PERSON WHO HAS BEEN CONVICTED OF A
9 CRIMINAL OFFENSE INCIDENT TO THE APPLICATION FOR OR PERFORMANCE OF
10 A STATE CONTRACT OR SUBCONTRACT. AS USED IN THIS SUBDIVISION, IF A
11 PERSON IS A BUSINESS ENTITY, PERSON INCLUDES AFFILIATES,
12 SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL EMPLOYEES, AND ANY
13 PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A PECUNIARY INTEREST IN
14 THAT BUSINESS ENTITY OF 20% OR MORE.

15 (B) PROVISION OF MONEY TO A PERSON WHO HAS BEEN CONVICTED OF A
16 CRIMINAL OFFENSE, OR HELD LIABLE IN A CIVIL PROCEEDING, THAT
17 NEGATIVELY REFLECTS ON THE PERSON'S BUSINESS INTEGRITY, BASED ON A
18 FINDING OF EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR
19 DESTRUCTION OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF
20 STATE OR FEDERAL ANTITRUST STATUTES. AS USED IN THIS SUBDIVISION,
21 IF A PERSON IS A BUSINESS ENTITY, PERSON INCLUDES AFFILIATES,
22 SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL EMPLOYEES, AND ANY
23 PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A PECUNIARY INTEREST IN
24 THAT BUSINESS ENTITY OF 20% OR MORE.

25 (6) BEFORE ADOPTING A RESOLUTION THAT ESTABLISHES OR CHANGES A
26 21ST CENTURY INVESTMENT PROGRAM, INCLUDING ANY FEES, CHARGES, OR
27 PENALTIES ATTACHED TO THAT PROGRAM, THE FUND BOARD SHALL GIVE

1 NOTICE OF THE PROPOSED RESOLUTION TO THE GOVERNOR, TO MEMBERS OF
2 THE SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATION COMMITTEES,
3 TO MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
4 REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PROPOSED
5 RESOLUTION, AND TO EACH PERSON WHO REQUESTED FROM THE FUND IN
6 WRITING OR ELECTRONICALLY TO BE NOTIFIED REGARDING PROPOSED
7 RESOLUTIONS. THE NOTICE AND PROPOSED RESOLUTION AND ALL ATTACHMENTS
8 SHALL BE PUBLISHED ON THE FUND'S INTERNET WEBSITE. THE FUND BOARD
9 SHALL HOLD A PUBLIC HEARING NOT SOONER THAN 14 DAYS AND NOT LONGER
10 THAN 35 DAYS FROM THE DATE NOTICE OF A PROPOSED RESOLUTION IS GIVEN
11 AND OFFER A PERSON AN OPPORTUNITY TO PRESENT DATA, VIEWS,
12 QUESTIONS, AND ARGUMENTS. MEMBERS OF THE FUND BOARD OR 1 OR MORE
13 PERSONS DESIGNATED BY THE FUND BOARD WHO HAVE KNOWLEDGE OF THE
14 SUBJECT MATTER OF THE PROPOSED RESOLUTION SHALL BE PRESENT AT THE
15 PUBLIC HEARING AND SHALL PARTICIPATE IN THE DISCUSSION OF THE
16 PROPOSED RESOLUTION. THE FUND BOARD MAY ACT ON THE PROPOSED
17 RESOLUTION NO SOONER THAN 15 DAYS AFTER THE PUBLIC HEARING AND ALL
18 WRITTEN COMMENTS ARE RECEIVED. THE FUND BOARD SHALL PRODUCE A FINAL
19 DECISION DOCUMENT THAT DESCRIBES THE BASIS FOR ITS DECISION. THE
20 FINAL RESOLUTION AND ALL ATTACHMENTS AND THE DECISION DOCUMENT
21 SHALL BE PROVIDED TO MEMBERS OF THE SENATE AND HOUSE OF
22 REPRESENTATIVES APPROPRIATION COMMITTEES AND TO MEMBERS OF THE
23 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES THAT
24 DEAL WITH THE SUBJECT MATTER OF THE RESOLUTION AND SHALL BE
25 PUBLISHED ON THE FUND'S INTERNET WEBSITE.

26 (7) THE NOTICE DESCRIBED IN SUBSECTION (6) SHALL INCLUDE ALL
27 OF THE FOLLOWING:

1 (A) A COPY OF THE PROPOSED RESOLUTION AND ALL ATTACHMENTS.

2 (B) A STATEMENT THAT THE ADDRESSEE MAY EXPRESS ANY DATA,
3 VIEWS, OR ARGUMENTS REGARDING THE PROPOSED RESOLUTION.

4 (C) THE ADDRESS TO WHICH WRITTEN COMMENTS MAY BE SENT AND THE
5 DATE BY WHICH COMMENTS MUST BE MAILED OR ELECTRONICALLY
6 TRANSMITTED, WHICH DATE SHALL NOT BE LESS THAN 35 DAYS FROM THE
7 DATE OF THE MAILING OR ELECTRONIC TRANSMITTAL OF THE NOTICE.

8 (D) THE DATE, TIME, AND PLACE OF THE PUBLIC HEARING.

9 (8) THE FUND BOARD SHALL HIRE AN EXECUTIVE DIRECTOR TO MANAGE
10 THE PRIVATE EQUITY INVESTMENT PROGRAM AND THE VENTURE CAPITAL
11 INVESTMENT PROGRAM. THE EXECUTIVE DIRECTOR SHALL BE PAID A SALARY
12 AND BONUS COMPARABLE TO WHAT AN INDIVIDUAL IN A COMPARABLE POSITION
13 WITH SIMILAR RESPONSIBILITIES WOULD BE PAID IN THE PRIVATE SECTOR.
14 THE EXECUTIVE DIRECTOR SHALL HAVE NOT LESS THAN 10 YEARS'
15 EXPERIENCE IN PRIVATE EQUITY OR VENTURE CAPITAL.

16 (9) THE FUND BOARD AND BOARD SHALL NOT USE ANY MONEY OR FUNDS
17 DESCRIBED IN THIS CHAPTER TO PURCHASE OR IMPROVE REAL PROPERTY.

18 SEC. 88C. (1) THE FUND SHALL CREATE AND OPERATE A LOAN
19 ENHANCEMENT PROGRAM THAT SHALL DO ALL OF THE FOLLOWING:

20 (A) PROVIDE A GUARANTEE TO FINANCIAL INSTITUTIONS LOCATED IN
21 THIS STATE THAT PROVIDE COMMERCIAL LOANS TO QUALIFIED BUSINESSES.

22 (B) PROVIDE THAT THE FINANCIAL INSTITUTION CHARGE A HIGHER
23 RATE OF INTEREST FOR THE AMOUNT OF THE LOAN COVERED BY THE
24 GUARANTEE.

25 (C) PROVIDE THAT A QUALIFIED BUSINESS IS ONLY ELIGIBLE FOR A
26 LOAN GUARANTEE UNDER THIS SECTION IF IT HAS A DOCUMENTED GROWTH
27 OPPORTUNITY. AS USED IN THIS SUBDIVISION, "DOCUMENTED GROWTH

1 OPPORTUNITY" MEANS A PLANT EXPANSION, CAPITAL EQUIPMENT INVESTMENT,
2 ACQUISITION OF INTELLECTUAL PROPERTY OR TECHNOLOGY, OR THE HIRING
3 OF NEW EMPLOYEES TO MEET OR SATISFY A NEW BUSINESS OPPORTUNITY.

4 (D) PROVIDE THAT A QUALIFIED BUSINESS THAT ENGAGES PRIMARILY
5 IN RETAIL SALES IS NOT ELIGIBLE FOR A LOAN GUARANTEE UNDER THIS
6 CHAPTER UNLESS THE FUND BOARD MAKES A SPECIFIC FINDING THAT THE
7 LOAN GUARANTEE SUPPORTS A NEW CONCEPT THAT HAS SIGNIFICANT GROWTH
8 POTENTIAL.

9 (2) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
10 PROGRAM, THE FUND SHALL REESTABLISH THE SMALL BUSINESS CAPITAL
11 ACCESS PROGRAM THAT WAS PREVIOUSLY OPERATED BY THE FUND FOR SMALL
12 BUSINESSES IN A MANNER SIMILAR TO HOW THAT PROGRAM WAS OPERATED
13 BEFORE JANUARY 1, 2002. THE SMALL BUSINESS CAPITAL ACCESS PROGRAM
14 SHALL OPERATE ON A MARKET-DRIVEN BASIS AND PROVIDE FOR PREMIUM
15 PAYMENTS BY BORROWERS INTO A SPECIAL RESERVE FUND. THE SMALL
16 BUSINESS CAPITAL ACCESS PROGRAM ESTABLISHED BY THE BOARD SHALL
17 PROHIBIT AN OFFICER, DIRECTOR, PRINCIPAL SHAREHOLDER OF A
18 PARTICIPATING FINANCIAL INSTITUTION, OR HIS OR HER IMMEDIATE FAMILY
19 MEMBERS FROM RECEIVING A SMALL BUSINESS CAPITAL ACCESS PROGRAM LOAN
20 FROM THE FINANCIAL INSTITUTION. A LOAN UNDER THE SMALL BUSINESS
21 CAPITAL ACCESS PROGRAM SHALL PROVIDE THAT THE PROCEEDS OF A LOAN
22 MAY ONLY BE USED FOR A BUSINESS PURPOSE WITHIN THIS STATE AND MAY
23 NOT BE USED FOR ANY OF THE FOLLOWING:

24 (A) THE CONSTRUCTION OR PURCHASE OF RESIDENTIAL HOUSING.

25 (B) TO FINANCE PASSIVE REAL ESTATE OWNERSHIP.

26 (C) TO REFINANCE PRIOR DEBT FROM THE PARTICIPATING FINANCIAL
27 INSTITUTION THAT IS NOT PART OF THE SMALL BUSINESS CAPITAL ACCESS

1 PROGRAM.

2 (3) THERE ARE NO ANNUAL MINIMUM OR MAXIMUM AMOUNTS OF
3 INVESTMENTS UNDER THE LOAN ENHANCEMENT PROGRAMS OPERATED UNDER
4 SUBSECTION (1) OR (2).

5 (4) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
6 PROGRAM, THE INVESTMENT FUND SHALL PROVIDE \$26,000,000.00 TO THE
7 MICHIGAN FOREST FINANCE AUTHORITY. THE MONEY SHALL ONLY BE SPENT BY
8 THE MICHIGAN FOREST FINANCE AUTHORITY AS PROVIDED IN AN
9 APPROPRIATION. ANY FUNDS NOT SPENT WITHIN 5 YEARS SHALL RETURN TO
10 THE INVESTMENT FUND.

11 (5) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
12 PROGRAM, THE INVESTMENT FUND SHALL CREATE AND OPERATE A GRANT
13 PROGRAM TO EXPAND WIMAX WIRELESS INTERNET SYSTEMS IN THIS STATE.
14 THE INVESTMENT FUND SHALL PROVIDE GRANTS NOT TO EXCEED
15 \$60,000,000.00 OVER A 3-YEAR PERIOD BEGINNING ON THE DATE THE
16 AMENDATORY ACT THAT ADDED THIS CHAPTER TAKES EFFECT.

17 SEC. 88D. THE FUND SHALL CREATE AND OPERATE A PRIVATE EQUITY
18 INVESTMENT PROGRAM THAT SHALL INVEST ONLY IN OR ALONGSIDE A
19 QUALIFIED PRIVATE EQUITY FUND. THE PRIVATE EQUITY INVESTMENT
20 PROGRAM SHALL DO ALL OF THE FOLLOWING:

21 (A) PROVIDE THAT THE RETURN ON INVESTMENT THAT IS SOUGHT IS
22 GREATER THAN THE RETURN ON INVESTMENT UNDER THE COMMERCIAL LOAN
23 PORTION OF THE LOAN ENHANCEMENT PROGRAM TO REFLECT THE GREATER
24 RISK.

25 (B) PROVIDE THAT THE QUALIFIED PRIVATE EQUITY FUND WILL HAVE
26 AN AMOUNT AT RISK GREATER THAN THE FUND'S INVESTMENT.

27 (C) PROVIDE THAT A QUALIFIED PRIVATE EQUITY FUND IS NOT

1 ELIGIBLE TO PARTICIPATE IN THE PRIVATE EQUITY INVESTMENT PROGRAM
2 UNLESS IT OPENS A BUSINESS DEVELOPMENT OFFICE IN THIS STATE STAFFED
3 WITH AT LEAST 1 FULL-TIME EQUIVALENT EMPLOYEE WHO IS ACTIVELY
4 SEEKING OPPORTUNITIES FOR INVESTMENTS IN BUSINESSES LOCATED IN THIS
5 STATE UNLESS THE INVESTMENT OPPORTUNITY REQUESTED BY THE QUALIFIED
6 PRIVATE EQUITY FUND IS TARGETED TO A SPECIFIC TRANSACTION THAT WILL
7 SAVE JOBS AND WILL NOT OCCUR WITHOUT THE FUND'S INVESTMENT AS
8 DETERMINED BY THE FUND BOARD.

9 (D) PROVIDE THAT A QUALIFIED PRIVATE EQUITY FUND IS NOT
10 ELIGIBLE TO PARTICIPATE IN THE PRIVATE EQUITY INVESTMENT PROGRAM
11 UNLESS IT AGREES TO MAKE INVESTMENTS IN THIS STATE AT A PERCENTAGE
12 RATE THAT IS NOT LESS THAN THE PERCENTAGE RATE THAT THE FUND'S
13 INVESTMENT IN THE QUALIFIED PRIVATE EQUITY FUND BEARS TO THE TOTAL
14 AMOUNT IN THE QUALIFIED PRIVATE EQUITY FUND.

15 (E) PROVIDE THAT A QUALIFIED PRIVATE EQUITY FUND IS NOT
16 ELIGIBLE TO PARTICIPATE IN THE PRIVATE EQUITY INVESTMENT PROGRAM IF
17 ITS INVESTMENT STRATEGY PROVIDES FOR THE BREAK UP AND LIQUIDATION
18 OF BUSINESSES. THE FUND BOARD SHALL MAKE SURE THAT THE AGREEMENTS
19 WITH A PRIVATE EQUITY FUND HAVE THE APPROPRIATE PROVISIONS TO
20 PROHIBIT THE ACTIONS DESCRIBED IN THIS SUBDIVISION.

21 (F) PROVIDE THAT THERE ARE NO ANNUAL MINIMUM OR MAXIMUM
22 AMOUNTS OF INVESTMENTS UNDER THE PRIVATE EQUITY INVESTMENT PROGRAM.

23 SEC. 88E. (1) THE FUND SHALL CREATE AND OPERATE THE VENTURE
24 CAPITAL INVESTMENT PROGRAM THAT SHALL INVEST ONLY IN, OR ALONGSIDE,
25 A QUALIFIED VENTURE CAPITAL FUND THAT INVESTS PRIMARILY IN EARLY
26 STAGE BUSINESSES. THE VENTURE CAPITAL INVESTMENT PROGRAM SHALL DO
27 ALL OF THE FOLLOWING:

1 (A) PROVIDE THAT THE RETURN ON INVESTMENT THAT IS SOUGHT IS
2 GREATER THAN THE RETURN ON INVESTMENT UNDER THE COMMERCIAL LOAN
3 PORTION OF THE LOAN ENHANCEMENT PROGRAM TO REFLECT THE GREATER
4 RISK.

5 (B) PROVIDE THAT THE QUALIFIED VENTURE CAPITAL FUND WILL HAVE
6 AN AMOUNT AT RISK GREATER THAN THE FUND'S INVESTMENT.

7 (C) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND IS NOT
8 ELIGIBLE TO PARTICIPATE IN THE VENTURE CAPITAL INVESTMENT PROGRAM
9 UNLESS IT OPENS A BUSINESS DEVELOPMENT OFFICE IN THIS STATE STAFFED
10 WITH AT LEAST 1 FULL-TIME EQUIVALENT EMPLOYEE WHO IS ACTIVELY
11 SEEKING OPPORTUNITIES FOR VENTURE CAPITAL INVESTMENTS IN BUSINESSES
12 LOCATED IN THIS STATE UNLESS THE INVESTMENT OPPORTUNITY REQUESTED
13 BY THE QUALIFIED VENTURE CAPITAL FUND IS TARGETED TO A SPECIFIC
14 TRANSACTION INVOLVING A COMPETITIVE EDGE TECHNOLOGY THAT WILL NOT
15 OCCUR WITHOUT THE FUND'S INVESTMENT AS DETERMINED BY THE FUND
16 BOARD.

17 (D) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND IS NOT
18 ELIGIBLE TO PARTICIPATE IN THE VENTURE CAPITAL INVESTMENT PROGRAM
19 UNLESS IT AGREES TO MAKE VENTURE CAPITAL INVESTMENTS IN THIS STATE
20 AT A PERCENTAGE RATE THAT IS NOT LESS THAN THE PERCENTAGE RATE THAT
21 THE FUND'S INVESTMENT IN THE QUALIFIED VENTURE CAPITAL FUND BEARS
22 TO THE TOTAL AMOUNT IN THE QUALIFIED VENTURE CAPITAL FUND.

23 (E) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND IS NOT
24 ELIGIBLE TO PARTICIPATE IN THE VENTURE CAPITAL INVESTMENT PROGRAM
25 IF ITS INVESTMENT STRATEGY PROVIDES FOR THE BREAK UP AND
26 LIQUIDATION OF BUSINESSES. THE FUND BOARD SHALL MAKE SURE THAT THE
27 AGREEMENTS WITH A VENTURE CAPITAL FUND HAVE THE APPROPRIATE

1 PROVISIONS TO PROHIBIT THE ACTIONS DESCRIBED IN THIS SUBDIVISION.

2 (F) PROVIDE THAT THERE ARE NO ANNUAL MINIMUM OR MAXIMUM
3 AMOUNTS OF INVESTMENTS UNDER THE VENTURE CAPITAL INVESTMENT
4 PROGRAM.

5 (G) COORDINATE WITH THE MICHIGAN EARLY STAGE VENTURE
6 INVESTMENT FUND AS DEFINED IN SECTION 3 OF THE MICHIGAN EARLY STAGE
7 VENTURE INVESTMENT ACT OF 2003, 2003 PA 296, MCL 125.2233, TO
8 ENSURE THAT A CONTINUUM OF VENTURE CAPITAL IS AVAILABLE IN THIS
9 STATE.

10 (H) PROVIDE THAT 80% OF THE FUNDS ALLOCATED TO THE VENTURE
11 CAPITAL INVESTMENT PROGRAM SHALL FOCUS ON COMPETITIVE EDGE
12 TECHNOLOGIES.

13 (I) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND MAY MAKE
14 FOLLOW-UP INVESTMENTS THAT WERE ELIGIBLE FOR INVESTMENT AT THE TIME
15 OF INITIAL INVESTMENT BUT THAT SUBSEQUENTLY MAY NOT BE
16 CHARACTERIZED AS AN INVESTMENT IN AN EARLY STAGE BUSINESS.

17 (2) THE FUND SHALL CREATE AND OPERATE THE MEZZANINE INVESTMENT
18 PROGRAM THAT SHALL INVEST IN, OR ALONGSIDE, A QUALIFIED MEZZANINE
19 FUND. THE FUND SHALL OPERATE THE MEZZANINE INVESTMENT PROGRAM IN A
20 MANNER SIMILAR TO THE VENTURE CAPITAL INVESTMENT PROGRAM.

21 SEC. 88F. (1) THE JOBS FOR MICHIGAN INVESTMENT FUND IS CREATED
22 WITHIN THE STATE TREASURY AS A PERMANENT FUND DESCRIBED IN SECTION
23 19 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963.

24 (2) MONEY IN THE INVESTMENT FUND AT THE CLOSE OF THE FISCAL
25 YEAR SHALL REMAIN IN THE INVESTMENT FUND AND SHALL NOT LAPSE TO THE
26 GENERAL FUND.

27 (3) ALL EXPENDITURES BY THE INVESTMENT FUND SHALL BE MADE

1 PURSUANT TO AN APPROPRIATION AS PROVIDED BY LAW.

2 (4) THE FUND BOARD AND THE BOARD SHALL NOT EXPEND OVER THE
3 LIFE OF THE INVESTMENT FUND AND THE GRANT FUND MORE THAN 5% OF THE
4 INITIAL AMOUNT ALLOCATED UNDER THIS CHAPTER FOR MARKETING COSTS,
5 AND NOT MORE THAN 3% OF THE INITIAL AMOUNT ALLOCATED UNDER THIS
6 CHAPTER FOR ADMINISTRATIVE COSTS AND ALL OTHER COSTS DESCRIBED IN
7 THIS CHAPTER.

8 (5) THE FUND BOARD SHALL MAINTAIN A BALANCE IN THE FUND OF NOT
9 LESS THAN \$50,000,000.00.

10 (6) THE INVESTMENT FUND SHALL BE USED ONLY AS PROVIDED IN THIS
11 CHAPTER FOR THE BENEFIT OF THE PEOPLE OF THIS STATE.

12 (7) THE INVESTMENT FUND SHALL CONSIST OF ALL OF THE FOLLOWING:

13 (A) ANY FUNDS APPROPRIATED TO THE INVESTMENT FUND FROM THE
14 21ST CENTURY JOBS TRUST FUND UNDER THE MICHIGAN TRUST FUND ACT,
15 2000 PA 489, MCL 12.251 TO 12.256.

16 (B) EARNINGS, ROYALTIES, RETURN ON INVESTMENTS, RETURN OF
17 PRINCIPAL, PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO
18 THE FUND UNDER AGREEMENTS RELATED TO GRANTS, LOANS, INVESTMENTS, OR
19 EXPENDITURES BY THE FUND UNDER THIS CHAPTER.

20 (C) ASSETS, PROPERTY, MONEY, EARNINGS, ROYALTIES, RETURN ON
21 INVESTMENTS, RETURN OF PRINCIPAL, PAYMENTS MADE, OR OTHER MONEY
22 OWED, RECEIVED BY, OR PAYABLE TO THE FUND OR THE MICHIGAN ECONOMIC
23 DEVELOPMENT CORPORATION UNDER AGREEMENTS RELATED TO GRANTS, LOANS,
24 INVESTMENTS, OR OTHER PAYMENTS FUNDED BY APPROPRIATIONS FROM THE
25 STATE GENERAL FUND OR TOBACCO SETTLEMENT REVENUE UNDER 1 OR MORE OF
26 THE FOLLOWING:

27 (i) SECTION 418 OF 1999 PA 120, 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 (ii) SECTION 410 OF 2000 PA 292, COMMONLY KNOWN AS THE HEALTH
4 AND AGING RESEARCH AND DEVELOPMENT INITIATIVE OR THE MICHIGAN LIFE
5 SCIENCES CORRIDOR INITIATIVE, OR ANY SUCCESSOR PROGRAM.

6 (iii) SECTION 410 OF 2001 PA 80, COMMONLY KNOWN AS THE HEALTH
7 AND AGING RESEARCH AND DEVELOPMENT INITIATIVE OR THE MICHIGAN LIFE
8 SCIENCES CORRIDOR INITIATIVE, OR ANY SUCCESSOR PROGRAM.

9 (iv) SECTION 410 OF 2002 PA 517, COMMONLY KNOWN AS THE MICHIGAN
10 LIFE SCIENCES CORRIDOR INITIATIVE, OR ANY SUCCESSOR PROGRAM.

11 (v) SECTION 410 OF 2003 PA 169, COMMONLY KNOWN AS THE MICHIGAN
12 LIFE SCIENCES AND TECHNOLOGY TRI-CORRIDOR INITIATIVE, OR ANY
13 SUCCESSOR PROGRAM.

14 (vi) SECTION 510 OF 2004 PA 354, COMMONLY KNOWN AS THE MICHIGAN
15 TECHNOLOGY TRI-CORRIDOR AND LIFE SCIENCES INITIATIVE, OR ANY
16 SUCCESSOR PROGRAM.

17 (vii) SECTION 801 OF 2005 PA 11, COMMONLY KNOWN AS THE
18 TECHNOLOGY TRI-CORRIDOR AND LIFE SCIENCES INITIATIVE, OR ANY
19 SUCCESSOR PROGRAM.

20 (viii) SECTION 381(1)(C) OF 2003 PA 173, PROVIDING FOR PAYMENTS
21 TO THE LIFE SCIENCES COMMERCIAL DEVELOPMENT FUND.

22 (D) MONEY OR ASSETS RECEIVED BY THE STATE TREASURER OR THE
23 FUND FROM ANY SOURCE FOR DEPOSIT IN THE INVESTMENT FUND.

24 (E) INTEREST AND EARNINGS ON ANY FUNDS OR OTHER ASSETS
25 DEPOSITED IN THE INVESTMENT FUND OR OTHER NET INCOME OF THE
26 INVESTMENT FUND.

27 (8) THE NET INCOME OF THE INVESTMENT FUND MAY BE EXPENDED BY

1 THE FUND ONLY FOR PURPOSES AUTHORIZED UNDER THIS CHAPTER PURSUANT
2 TO AN APPROPRIATION AUTHORIZED BY LAW. AS USED IN THIS SECTION, THE
3 NET INCOME OF THE INVESTMENT FUND SHALL BE COMPUTED ANNUALLY AS OF
4 THE LAST DAY OF THE STATE FISCAL YEAR IN ACCORDANCE WITH GENERALLY
5 ACCEPTED ACCOUNTING PRINCIPLES, EXCLUDING ANY UNREALIZED GAINS OR
6 LOSSES.

7 (9) THE BOARD MAY ESTABLISH RESTRICTED SUBACCOUNTS WITHIN THE
8 INVESTMENT FUND AS NECESSARY TO ADMINISTER THE INVESTMENT FUND. THE
9 BOARD MAY CONTRACT WITH THE STATE TREASURER TO ASSIST THE BOARD IN
10 ADMINISTERING THE INVESTMENT FUND. THE BOARD MAY AUTHORIZE MONEY IN
11 THE INVESTMENT FUND NOT INVESTED AS AUTHORIZED UNDER SECTIONS 88C,
12 88D, AND 88E TO BE MANAGED BY THE STATE TREASURER AS PART OF THE
13 COMMON CASH FUND OF THIS STATE UNDER 1967 PA 55, MCL 12.51 TO
14 12.53. MONEY MANAGED BY THE STATE TREASURER UNDER THIS SUBSECTION
15 SHALL BE SEPARATELY ACCOUNTED FOR BY THE STATE TREASURER. WHEN
16 AUTHORIZED UNDER THIS SUBSECTION, THE STATE TREASURER MAY INVEST
17 THE FUNDS OR ASSETS OF THE INVESTMENT FUND IN ANY INVESTMENT
18 AUTHORIZED UNDER 1855 PA 105, MCL 21.141 TO 21.147, FOR SURPLUS
19 FUNDS OF THIS STATE, IN OBLIGATIONS ISSUED BY ANY STATE OR
20 POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE UNITED STATES, OR
21 IN ANY OBLIGATION ISSUED, ASSUMED, OR GUARANTEED BY A SOLVENT
22 ENTITY CREATED OR EXISTING UNDER THE LAWS OF THE UNITED STATES OR
23 OF ANY STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES, WHICH
24 ARE NOT IN DEFAULT AS TO PRINCIPAL OR INTEREST.

25 (10) A MEMBER OF THE BOARD OR OFFICER OF THE FUND SHALL NOT
26 GAIN FROM ANY INVESTMENT OF FUNDS OR ASSETS OF THE INVESTMENT FUND.
27 A MEMBER OF THE BOARD OR OFFICER OF THE FUND SHALL NOT HAVE ANY

1 DIRECT OR INDIRECT INTEREST IN AN INVESTMENT OF FUNDS OR ASSETS OF
2 THE INVESTMENT FUND. A MEMBER OF THE BOARD OR PERSON CONNECTED WITH
3 THE INVESTMENT FUND DIRECTLY OR INDIRECTLY, FOR HIMSELF OR HERSELF,
4 OR AS AN AGENT OR PARTNER OF OTHERS, SHALL NOT BORROW ANY OF THE
5 FUNDS OR ASSETS OF THE INVESTMENT FUND OR IN ANY MANNER USE FUNDS
6 OR ASSETS OF THE INVESTMENT FUND EXCEPT AS AUTHORIZED UNDER THIS
7 CHAPTER. A MEMBER OF THE BOARD OR OFFICER OF THE FUND SHALL NOT
8 BECOME AN ENDORSER OR SURETY OR BECOME IN ANY MANNER AN OBLIGOR FOR
9 MONEY LOANED BY OR BORROWED FROM THE INVESTMENT FUND. FAILURE TO
10 COMPLY WITH THIS SUBSECTION CONSTITUTES MISCONDUCT IN OFFICE.

11 SEC. 94. (1) THE GOVERNOR SHALL INQUIRE INTO THE
12 ADMINISTRATION OF THIS ACT.

13 (2) THE GOVERNOR MAY REMOVE OR SUSPEND ANY APPOINTIVE PUBLIC
14 OFFICER FOR VIOLATIONS OF THIS ACT. THE GOVERNOR MAY REQUEST THE
15 MEDC TO REMOVE OR SUSPEND ANY MEDC CORPORATE EMPLOYEE FOR
16 VIOLATIONS OF THIS ACT.

17 (3) THE GOVERNOR MAY REMOVE OR SUSPEND ANY ELECTIVE PUBLIC
18 OFFICER FOR VIOLATION OF THIS ACT THAT CONSTITUTES GROSS NEGLECT OF
19 DUTY, CORRUPT CONDUCT IN OFFICE, MISFEASANCE, OR MALFEASANCE.

20 (4) THIS SECTION DOES NOT APPLY TO ANY PUBLIC OFFICER OF THE
21 LEGISLATIVE BRANCH OR THE JUDICIAL BRANCH OF STATE GOVERNMENT.

22 (5) THE GOVERNOR SHALL REPORT THE REASONS FOR ANY REMOVAL OR
23 SUSPENSION UNDER THIS SECTION TO THE CLERK OF THE HOUSE OF
24 REPRESENTATIVES AND THE SECRETARY OF THE SENATE.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 93rd Legislature are
27 enacted into law:

- 1 (a) Senate Bill No. 298.
- 2 (b) Senate Bill No. 359.
- 3 (c) Senate Bill No. 521.
- 4 (d) Senate Bill No. 533.
- 5 (e) House Bill No. 4972.
- 6 (f) House Bill No. 4973.
- 7 (g) House Bill No. 5048.
- 8 (h) House Bill No. 5108.
- 9 (i) House Bill No. 5109.