

SUBSTITUTE FOR
SENATE BILL NO. 533

(As amended, June 9, 2005)

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending the title and sections 3, 4, and 13 (MCL 125.2003, 125.2004,
and 125.2013), sections 4 and 13 as amended by 1987 PA 278, and by
adding sections 94 and 95 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 fund~~ **JOBS FOR MICHIGAN FUND>>** and to
prescribe its powers and
4 duties; to transfer and provide for the acquisition and succession
5 to the rights, properties, obligations, and duties of the job
6 development authority and the Michigan economic development
7 authority to the ~~<<Michigan strategic fund~~ **JOBS FOR MICHIGAN FUND>>**; to
provide for the
8 expenditure of proceeds in certain funds to which the ~~<<Michigan~~
9 ~~strategic fund~~ **JOBS FOR MICHIGAN FUND>>** succeeds in ownership; to
provide for the issuance

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of, and terms and conditions for, notes and bonds of the ~~<<Michigan strategic fund>~~ **JOBS FOR MICHIGAN FUND>>**; TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION

BONDS OF THIS STATE AND TO PLEDGE THE FULL FAITH AND CREDIT OF THIS STATE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS; TO IMPLEMENT SECTION 15(2) OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963; TO CREATE THE STRATEGIC ECONOMIC INVESTMENT BOARD AND THE

JOBS FOR MICHIGAN BOND FUND; 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 fund>~~ **JOBS FOR MICHIGAN 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 provide penalties; and to repeal ~~certain~~ acts and parts of acts.

~~<<Sec. 3. This act shall be known and may be cited as the "Michigan strategic fund act" "JOBS FOR MICHIGAN FUND ACT".>>~~

Sec. 4. As used in this act:

(a) "Board" means the board of directors of the ~~<<Michigan strategic fund>~~ **JOBS FOR MICHIGAN 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 portion of an endeavor devoted to the sale of goods at retail, except that, as used in relation to the fund insuring a transaction

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

(c) "Fund" means the ~~<<Michigan strategic fund~~ **JOBS FOR MICHIGAN FUND>>** created under

section 5, except where the context clearly requires a different definition.

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

(e) "Person" means an individual, sole proprietorship, partnership, **LIMITED LIABILITY COMPANY**, joint venture, profit or nonprofit corporation including a public or private college or university, public utility, local industrial development corporation, economic development corporation, or other association of persons organized for agricultural, commercial, or industrial purposes.

(f) "Project" means an economic development project and, in addition, means the acquisition, construction, reconstruction, conversion, or leasing of an industrial, commercial, retail, agricultural, or forestry enterprise, or any part ~~thereof~~ **OF THESE**, to carry out the purposes and objectives of this act and of the fund, including, but not limited to, acquisition of land or

1 interest in land, buildings, structures, or other planned or
 2 existing planned improvements to land including leasehold
 3 improvements, machinery, equipment, or furnishings which include,
 4 but are not limited to, the following: research parks; office
 5 facilities; engineering facilities; research and development
 6 laboratories; warehousing facilities; parts distribution
 7 facilities; depots or storage facilities; port facilities; railroad
 8 facilities, including trackage, right of way, and appurtenances;
 9 airports; water and air pollution control equipment or waste
 10 disposal facilities; theme or recreational parks; equipment or
 11 facilities designed to produce energy from renewable resources;
 12 farms, ranches, forests, and other agricultural or forestry
 13 commodity producers; agricultural harvesting, storage,
 14 transportation, or processing facilities or equipment; grain
 15 elevators; shipping heads and livestock pens; livestock;
 16 warehouses; wharves and dock facilities; water, electricity, hydro
 17 electric, coal, petroleum, or natural gas provision facilities;
 18 dams and irrigation facilities; sewage, liquid, and solid waste
 19 collection, disposal treatment, and drainage services and
 20 facilities. **PROJECT DOES NOT INCLUDE A PROGRAM OR ACTIVITY**
 21 **AUTHORIZED UNDER CHAPTER 8A.**

22 (g) "Private sector" means other than the fund, a state or
 23 federal source, or an agency ~~thereof~~ **OF A STATE OR THE FEDERAL**
 24 **GOVERNMENT.**

25 Sec. 13. The total debt owed to the fund, excluding rights and
 26 royalties under a venture capital agreement or obligations to the
 27 fund resulting from an industrial development revenue bond or note,

1 in relation to any 1 project shall at no time exceed 5% of the
2 total assets of the fund, except that upon approval by a 2/3 vote
3 of the board this amount may be increased to not to exceed 10% of
4 the assets of the fund. THIS SECTION DOES NOT APPLY TO A PROGRAM OR
5 ACTIVITY AUTHORIZED UNDER CHAPTER 8A.

6 CHAPTER 8A

7 SEC. 88. (1) THIS CHAPTER SHALL IMPLEMENT THE PROVISIONS OF
8 SECTION 15(2) OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963.

9 (2) THE LEGISLATURE FINDS AND DECLARES THAT THE ACTIVITIES
10 AUTHORIZED UNDER THIS CHAPTER TO ENCOURAGE ECONOMIC DIVERSITY BY
11 THE DEVELOPMENT OF COMPETITIVE EDGE TECHNOLOGY WITH HIGH
12 PROBABILITY TO CREATE JOBS IN THIS STATE ARE A PUBLIC PURPOSE AND
13 OF PARAMOUNT CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND
14 GENERAL WELFARE OF THE CITIZENS OF THIS STATE. IT IS THE INTENT OF
15 THE LEGISLATURE THAT THE ECONOMIC BENEFITS OF THE DEVELOPMENT OF
16 COMPETITIVE EDGE TECHNOLOGY AND THE CREATION OF JOBS RESULTING FROM
17 THE ACTIVITIES AUTHORIZED UNDER THIS CHAPTER SHALL ACCRUE WITHIN
18 THIS STATE.

19 (3) ACTIVITIES AUTHORIZED UNDER THIS CHAPTER SHALL NOT BE
20 CONSIDERED A PROJECT, ECONOMIC DEVELOPMENT PROJECT, OR A PRODUCT
21 ASSISTED BY THE MICHIGAN STRATEGIC FUND FOR PURPOSES OF CHAPTER 1
22 OR 2.

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

24 (A) "ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS
25 TECHNOLOGY" MEANS ANY TECHNOLOGY THAT INVOLVES 1 OR MORE OF THE
26 FOLLOWING:

27 (i) MATERIALS WITH ENGINEERED PROPERTIES CREATED THROUGH THE

1 DEVELOPMENT OF SPECIALIZED PROCESS AND SYNTHESIS TECHNOLOGY.

2 (ii) NANOTECHNOLOGY, INCLUDING MATERIALS, DEVICES, OR SYSTEMS
3 AT THE ATOMIC, MOLECULAR, OR MACROMOLECULAR LEVEL, WITH A SCALE
4 MEASURED IN NANOMETERS.

5 (iii) MICROELECTROMECHANICAL SYSTEMS, INCLUDING DEVICES OR
6 SYSTEMS INTEGRATING MICROELECTRONICS WITH MECHANICAL PARTS AND A
7 SCALE MEASURED IN MICROMETERS.

8 (iv) IMPROVEMENTS TO VEHICLE SAFETY, VEHICLE PERFORMANCE,
9 VEHICLE PRODUCTION, OR ENVIRONMENTAL IMPACT, INCLUDING, BUT NOT
10 LIMITED TO, VEHICLE EQUIPMENT AND COMPONENT PARTS.

11 (v) ANY TECHNOLOGY THAT INVOLVES AN ALTERNATIVE ENERGY VEHICLE
12 OR ITS COMPONENTS, AS ALTERNATIVE ENERGY VEHICLE IS DEFINED UNDER
13 SECTION 2 OF THE MICHIGAN NEXT ENERGY AUTHORITY ACT, 2002 PA 593,
14 MCL 207.822.

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

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

19 (viii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
20 DESCRIBED UNDER THIS SUBDIVISION.

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

23 (i) COMPUTER HARDWARE AND SOFTWARE.

24 (ii) DATA COMMUNICATIONS.

25 (iii) INFORMATION TECHNOLOGIES.

26 (C) "ALTERNATIVE ENERGY TECHNOLOGY" MEANS APPLIED RESEARCH OR
27 COMMERCIALIZATION OF NEW OR NEXT GENERATION TECHNOLOGY IN 1 OR MORE

1 OF THE FOLLOWING:

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

5 (ii) DEVICES OR SYSTEMS DESIGNED AND USED SOLELY FOR THE
6 PURPOSE OF GENERATING ENERGY FROM AGRICULTURAL CROPS, RESIDUE AND
7 WASTE GENERATED FROM THE PRODUCTION AND PROCESSING OF AGRICULTURAL
8 PRODUCTS, ANIMAL WASTES, OR FOOD PROCESSING WASTES, NOT INCLUDING A
9 CONVENTIONAL GASOLINE OR DIESEL FUEL ENGINE OR RETROFITTED
10 CONVENTIONAL GASOLINE OR DIESEL FUEL ENGINE.

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

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

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

17 (D) "APPLIED RESEARCH" MEANS TRANSLATIONAL RESEARCH CONDUCTED
18 WITH THE OBJECTIVE OF ATTAINING A SPECIFIC BENEFIT OR TO SOLVE A
19 PRACTICAL PROBLEM, OR OTHER RESEARCH ACTIVITY THAT SEEKS TO
20 UTILIZE, SYNTHESIZE, OR APPLY EXISTING KNOWLEDGE, INFORMATION, OR
21 RESOURCES TO THE RESOLUTION OF A SPECIFIED PROBLEM, QUESTION, OR
22 ISSUE, WITH HIGH PROBABILITY OF COMMERCIAL APPLICATION TO CREATE
23 JOBS IN THIS STATE.

24 (E) "BASIC RESEARCH" MEANS ANY ORIGINAL INVESTIGATION FOR THE
25 ADVANCEMENT OF SCIENTIFIC OR TECHNOLOGICAL KNOWLEDGE THAT WILL
26 ENHANCE THE RESEARCH CAPACITY OF THIS STATE IN A WAY THAT INCREASES
27 THE ABILITY TO ATTRACT TO OR DEVELOP COMPANIES, JOBS, RESEARCHERS,

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OR STUDENTS IN THIS STATE.

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

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

(i) LIFE SCIENCES TECHNOLOGY.

(ii) ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS TECHNOLOGY.

(iii) HOMELAND SECURITY AND DEFENSE TECHNOLOGY.

(iv) ALTERNATIVE ENERGY TECHNOLOGY.

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

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

(i) SENSORS, SYSTEMS, PROCESSES, OR EQUIPMENT FOR COMMUNICATIONS, IDENTIFICATION AND AUTHENTICATION, SCREENING,

1 SURVEILLANCE, TRACKING, AND DATA ANALYSIS.

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

4 (iii) AVIATION TECHNOLOGY, INCLUDING, BUT NOT LIMITED TO,
5 AVIONICS, AIRFRAME DESIGN, SENSORS, EARLY WARNING SYSTEMS, AND
6 SERVICES RELATED TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

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

9 (v) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
10 DESCRIBED UNDER THIS SUBDIVISION.

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

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

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

23 (iii) PROVIDE RECOMMENDATIONS TO OR ASSIST THE BOARD IN
24 IDENTIFYING HIGH-QUALITY ACTIVITIES FOR FUNDING THAT ARE LIKELY TO
25 RESULT IN THE DEVELOPMENT AND COMMERCIALIZATION OF COMPETITIVE EDGE
26 TECHNOLOGY AND JOB CREATION IN THIS STATE. THE RECOMMENDATIONS
27 SHALL INCLUDE ALL MATERIALS USED BY THE INDEPENDENT PEER REVIEW

1 EXPERT IN MAKING THE RECOMMENDATION.

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

4 (K) "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF
5 HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN
6 SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
7 1963.

8 (I) "JOBS FOR MICHIGAN BOND FUND" OR "BOND FUND" MEANS THE JOBS
9 FOR MICHIGAN BOND FUND CREATED UNDER SECTION 88F.

10 (M) "JOBS FOR MICHIGAN BOND REPAYMENT SUBACCOUNT" OR
11 "REPAYMENT SUBACCOUNT" MEANS THE JOBS FOR MICHIGAN BOND REPAYMENT
12 SUBACCOUNT CREATED IN SECTION 88F.

13 (N) "LIFE SCIENCES" MEANS SCIENCE FOR THE EXAMINATION OR
14 UNDERSTANDING OF LIFE OR LIFE PROCESSES, INCLUDING, BUT NOT LIMITED
15 TO, ALL OF THE FOLLOWING:

16 (i) BIOENGINEERING.

17 (ii) BIOMEDICAL ENGINEERING.

18 (iii) GENOMICS.

19 (iv) PROTEOMICS.

20 (v) MOLECULAR AND CHEMICAL ECOLOGY.

21 (vi) BIOTECHNOLOGY, INCLUDING ANY TECHNOLOGY THAT USES LIVING
22 ORGANISMS, CELLS, MACROMOLECULES, MICROORGANISMS, OR SUBSTANCES
23 FROM LIVING ORGANISMS TO MAKE OR MODIFY A PRODUCT FOR USEFUL
24 PURPOSES. BIOTECHNOLOGY OR LIFE SCIENCES DOES NOT INCLUDE ANY OF
25 THE FOLLOWING:

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

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

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

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

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

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

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

20 (ii) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
21 TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

22 (iii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
23 DESCRIBED UNDER THIS SUBDIVISION.

24 (P) "MICHIGAN ECONOMIC DEVELOPMENT CORPORATION" OR "MEDC"
25 MEANS THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, THE PUBLIC
26 BODY CORPORATE CREATED UNDER SECTION 28 OF ARTICLE VII OF THE STATE
27 CONSTITUTION OF 1963 AND THE URBAN COOPERATION ACT OF 1967, 1967

1 (EX SESS) PA 7, MCL 124.501 TO 124.512, BY A CONTRACTUAL INTERLOCAL
2 AGREEMENT EFFECTIVE APRIL 5, 1999, AND SUBSEQUENTLY AMENDED,
3 BETWEEN LOCAL PARTICIPATING ECONOMIC DEVELOPMENT CORPORATIONS
4 FORMED UNDER THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA
5 338, MCL 125.1601 TO 125.1636, AND THE FUND.

6 (Q) "QUALIFIED BUSINESS" MEANS A MICHIGAN BUSINESS ENTITY THAT
7 RESEARCHES, DEVELOPS, MARKETS, OR COMMERCIALIZES COMPETITIVE EDGE
8 TECHNOLOGY PRODUCTS OR SERVICES.

9 (R) "STATE ADMINISTRATIVE BOARD" MEANS THE BODY CREATED UNDER
10 1921 PA 2, MCL 17.1 TO 17.3, THAT EXERCISES GENERAL SUPERVISORY
11 CONTROL OVER THE FUNCTIONS AND ACTIVITIES OF ALL ADMINISTRATIVE
12 DEPARTMENTS, BOARDS, COMMISSIONERS, AND OFFICERS OF THIS STATE AND
13 OF ALL STATE INSTITUTIONS.

14 (S) "STRATEGIC ECONOMIC INVESTMENT BOARD" OR "BOARD" MEANS THE
15 STRATEGIC ECONOMIC INVESTMENT BOARD CREATED IN SECTION 88J.

16 (T) "UNIVERSITY TECHNOLOGY TRANSFER" MEANS INNOVATIVE METHODS
17 TO ACCELERATE THE CREATION OF START-UP COMPANIES AFFILIATED WITH
18 INSTITUTIONS OF HIGHER EDUCATION OR THE TRANSFER OF COMPETITIVE
19 EDGE TECHNOLOGY RESEARCH FROM AN INSTITUTION OF HIGHER EDUCATION TO
20 A QUALIFIED BUSINESS IN MICHIGAN.

21 SEC. 88B. NOTWITHSTANDING SECTION 23, THIS STATE SHALL BORROW
22 A SUM NOT TO EXCEED \$1,000,000,000.00 AND ISSUE THE GENERAL
23 OBLIGATION BONDS OF THIS STATE, PLEDGING THE FULL FAITH AND CREDIT
24 OF THIS STATE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THOSE
25 BONDS. PROCEEDS OF THE BONDS SHALL FINANCE THE ACTIVITIES AND
26 PROGRAMS AUTHORIZED UNDER THIS CHAPTER.

27 SEC. 88C. (1) BONDS AUTHORIZED UNDER THIS CHAPTER SHALL BE

1 ISSUED IN 1 OR MORE SERIES, EACH SERIES TO BE IN A PRINCIPAL
2 AMOUNT, TO BE DATED, TO HAVE THE MATURITIES THAT MAY BE EITHER
3 SERIAL, TERM, OR BOTH, TO BEAR INTEREST AT A RATE OR RATES, TO BE
4 SUBJECT OR NOT SUBJECT TO PRIOR REDEMPTION, AND IF SUBJECT TO PRIOR
5 REDEMPTION WITH OR WITHOUT CALL PREMIUMS, TO BE PAYABLE AT A PLACE
6 OR PLACES, TO HAVE OR NOT HAVE PROVISIONS FOR REGISTRATION AS TO
7 PRINCIPAL ONLY OR AS TO BOTH PRINCIPAL AND INTEREST, TO BE IN A
8 FORM AND TO BE EXECUTED IN A MANNER AS SHALL BE DETERMINED BY
9 RESOLUTION TO BE ADOPTED BY THE STATE ADMINISTRATIVE BOARD AND
10 SUBJECT TO COVENANTS, DIRECTIONS, RESTRICTIONS, OR RIGHTS SPECIFIED
11 BY RESOLUTION TO BE ADOPTED BY THE STATE ADMINISTRATIVE BOARD AS
12 NECESSARY TO ENSURE THE MARKETABILITY, INSURABILITY, OR TAX-EXEMPT
13 STATUS OF THE BONDS. THE STATE ADMINISTRATIVE BOARD SHALL ROTATE
14 THE SERVICES OF LEGAL COUNSEL WHEN ISSUING BONDS.

15 (2) THE STATE ADMINISTRATIVE BOARD MAY REFUND BONDS ISSUED
16 UNDER THIS CHAPTER BY THE ISSUANCE OF NEW BONDS, WHETHER OR NOT THE
17 BONDS TO BE REFUNDED HAVE MATURED OR ARE SUBJECT TO PRIOR
18 REDEMPTION. THE STATE ADMINISTRATIVE BOARD MAY ISSUE BONDS PARTLY
19 TO REFUND BONDS ISSUED UNDER THIS CHAPTER AND PARTLY FOR ANY OTHER
20 PURPOSE PROVIDED BY THIS CHAPTER. THE PRINCIPAL AMOUNT OF ANY
21 REFUNDING BONDS ISSUED UNDER THIS SECTION SHALL NOT BE COUNTED
22 AGAINST THE LIMITATION ON PRINCIPAL AMOUNT PROVIDED UNDER SECTION
23 88B.

24 (3) THE STATE ADMINISTRATIVE BOARD MAY AUTHORIZE AND APPROVE
25 INSURANCE CONTRACTS, AGREEMENTS FOR LINES OF CREDIT, LETTERS OF
26 CREDIT, COMMITMENTS TO PURCHASE BONDS, AND ANY OTHER TRANSACTIONS
27 TO PROVIDE SECURITY TO ASSURE TIMELY PAYMENT OR PURCHASE OF ANY

1 BOND ISSUED UNDER THIS CHAPTER. THE STATE ADMINISTRATIVE BOARD,
2 UPON RECOMMENDATION OF THE STATE TREASURER, MAY AUTHORIZE AND
3 APPROVE AN INTEREST RATE EXCHANGE OR SWAP, HEDGE, OR SIMILAR
4 AGREEMENT IN CONNECTION WITH THE ISSUANCE OF BONDS UNDER THIS
5 CHAPTER, PAYABLE FROM THE SAME SOURCE AS THE BONDS.

6 (4) THE STATE ADMINISTRATIVE BOARD MAY AUTHORIZE THE STATE
7 TREASURER, BUT ONLY WITHIN LIMITATIONS CONTAINED IN THE AUTHORIZING
8 RESOLUTION OF THE STATE ADMINISTRATIVE BOARD, TO DO 1 OR MORE OF
9 THE FOLLOWING:

10 (A) SELL AND DELIVER AND RECEIVE PAYMENT FOR THE BONDS.

11 (B) DELIVER BONDS PARTLY TO REFUND BONDS AND PARTLY FOR OTHER
12 AUTHORIZED PURPOSES.

13 (C) SELECT WHICH OUTSTANDING BONDS WILL BE REFUNDED, IF ANY,
14 BY THE NEW ISSUE OF BONDS.

15 (D) BUY ISSUED BONDS.

16 (E) APPROVE INTEREST RATES OR METHODS FOR FIXING INTEREST
17 RATES, INCLUDING FIXED OR VARIABLE RATES, PRICES, DISCOUNTS,
18 MATURITIES, PRINCIPAL AMOUNTS, PURCHASE PRICES, PURCHASE DATES,
19 REMARKETING DATES, DENOMINATIONS, DATES OF ISSUANCE, INTEREST
20 PAYMENT DATES, REDEMPTION RIGHTS AT THE OPTION OF THIS STATE OR THE
21 OWNER, THE PLACE AND TIME OF DELIVERY AND PAYMENT, AND OTHER
22 MATTERS AND PROCEDURES NECESSARY TO COMPLETE THE AUTHORIZED
23 TRANSACTIONS.

24 (F) EXECUTE, DELIVER, AND PAY THE COST OF REMARKETING
25 AGREEMENTS, INSURANCE CONTRACTS, AGREEMENTS FOR LINES OF CREDIT,
26 LETTERS OF CREDIT, COMMITMENTS TO PURCHASE BONDS OR NOTES, AND ANY
27 OTHER TRANSACTION TO PROVIDE SECURITY TO ASSURE TIMELY PAYMENTS OR

1 PURCHASE OF ANY BOND ISSUED UNDER THIS CHAPTER.

2 (G) DETERMINE THE DETAILS OF, EXECUTE, DELIVER, AND PAY THE
3 COST OF ANY INTEREST RATE EXCHANGE OR SWAP, HEDGE, OR SIMILAR
4 AGREEMENT.

5 (5) BONDS ISSUED UNDER THIS CHAPTER ARE NOT SUBJECT TO THE
6 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
7 141.2821. BONDS ISSUED UNDER THIS CHAPTER ARE SUBJECT TO THE AGENCY
8 FINANCING REPORTING ACT, 2002 PA 470, MCL 129.171 TO 129.177.

9 (6) BONDS ISSUED UNDER THIS CHAPTER OR ANY SERIES OF BONDS
10 ISSUED UNDER THIS CHAPTER MAY BE SOLD AT PUBLIC OR PRIVATE SALE OR
11 MAY BE ISSUED AND DELIVERED TO ANY PERSON IN WHICH BOND PROCEEDS
12 MAY BE INVESTED OR DEPOSITED UNDER THIS CHAPTER AS DETERMINED BY OR
13 PURSUANT TO A RESOLUTION OF THE STATE ADMINISTRATIVE BOARD.

14 (7) BONDS ISSUED UNDER THIS CHAPTER SHALL BE ISSUED IN A
15 MANNER THAT PROVIDES THAT DEBT PAYMENTS DO NOT BEGIN BEFORE OCTOBER
16 1, 2006.

17 SEC. 88D. (1) BONDS ISSUED UNDER THIS CHAPTER SHALL BE FULLY
18 NEGOTIABLE UNDER THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL
19 440.1101 TO 440.11102.

20 (2) BONDS AND THE INTEREST ON THE BONDS ISSUED UNDER THIS
21 CHAPTER ARE EXEMPT FROM ALL TAXATION BY THIS STATE OR ANY POLITICAL
22 SUBDIVISION OF THIS STATE.

23 SEC. 88E. BONDS ISSUED UNDER THIS CHAPTER ARE SECURITIES IN
24 WHICH BANKS, SAVINGS AND LOAN ASSOCIATIONS, STATE AUTHORITIES,
25 INVESTMENT COMPANIES, CREDIT UNIONS, AND OTHER PERSONS CARRYING ON
26 A BANKING BUSINESS; ALL INSURANCE COMPANIES, INSURANCE
27 ASSOCIATIONS, AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS;

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1 AND ALL ADMINISTRATORS, EXECUTORS, GUARDIANS, TRUSTEES, AND OTHER
2 FIDUCIARIES MAY PROPERLY AND LEGALLY INVEST FUNDS, INCLUDING
3 CAPITAL, BELONGING TO THEM OR WITHIN THEIR CONTROL.

4 SEC. 88F. (1) THE JOBS FOR MICHIGAN BOND FUND IS CREATED IN
5 THE STATE TREASURY.

6 (2) THE BOND FUND SHALL CONSIST OF ALL OF THE FOLLOWING:

7 (A) THE PROCEEDS OF THE SALE OF ANY SERIES OF THE BONDS
8 AUTHORIZED UNDER THIS CHAPTER.

9 (B) ANY PREMIUM AND ACCRUED INTEREST RECEIVED ON THE DELIVERY
10 OF THE BONDS.

11 (C) ANY INTEREST OR EARNINGS GENERATED BY THE PROCEEDS
12 DESCRIBED IN SUBDIVISION (A).

13 (D) ANY OTHER FUNDS REQUIRED TO BE DEPOSITED IN THE BOND FUND
14 OR A SUBACCOUNT OF THE BOND FUND UNDER THIS CHAPTER.

15 (3) THE DEPARTMENT OF TREASURY SHALL ESTABLISH WITHIN THE BOND
16 FUND A JOBS FOR MICHIGAN BOND REPAYMENT SUBACCOUNT. MONEY IN THE
17 REPAYMENT SUBACCOUNT SHALL BE USED TO REPAY PRINCIPAL OR INTEREST
18 ON BONDS ISSUED UNDER THIS CHAPTER AND ANY REDEMPTION PREMIUMS ON
19 BONDS ISSUED UNDER THIS CHAPTER. THE REPAYMENT SUBACCOUNT SHALL
20 CONSIST OF ALL OF THE FOLLOWING, WHICH SHALL BE DEPOSITED BY THE
21 <<FUND>> OR THE MEDC IN THE REPAYMENT SUBACCOUNT:

22 (A) ROYALTIES, RETURN ON INVESTMENTS, RETURN OF PRINCIPAL,
23 PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO THE BOARD
24 OR THE MEDC UNDER AGREEMENTS RELATED TO GRANTS OR LOANS BY THE
25 <<FUND>> UNDER THIS CHAPTER.

26 (B) ROYALTIES, RETURN ON INVESTMENTS, RETURN OF PRINCIPAL,
27 PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO THE <<FUND>>

1 OR THE MEDC UNDER AGREEMENTS RELATED TO GRANTS, LOANS, OR OTHER
2 PAYMENTS FUNDED BY APPROPRIATIONS FROM THE STATE GENERAL FUND OR
3 TOBACCO SETTLEMENT REVENUE UNDER 1 OR MORE OF THE FOLLOWING:

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

7 (ii) SECTION 410 OF 2000 PA 292, COMMONLY KNOWN AS THE HEALTH
8 AND AGING RESEARCH AND DEVELOPMENT INITIATIVE OR THE MICHIGAN LIFE
9 SCIENCES CORRIDOR INITIATIVE, OR ANY SUCCESSOR PROGRAM.

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

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

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

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

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

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

26 (4) IN ADDITION TO THE REPAYMENT SUBACCOUNT CREATED UNDER
27 SUBSECTION (3), THE DEPARTMENT OF TREASURY MAY ESTABLISH OTHER

1 RESTRICTED SUBACCOUNTS WITHIN THE BOND FUND AS NECESSARY TO
2 ADMINISTER THE BOND FUND.

3 (5) MONEY IN THE BOND FUND SHALL BE DISBURSED ONLY FOR THE
4 PURPOSES FOR WHICH THE BONDS ISSUED UNDER THIS CHAPTER HAVE BEEN
5 AUTHORIZED, INCLUDING, BUT NOT LIMITED TO, THE EXPENSE OF ISSUING
6 THE BONDS, THE PROCEEDS OF SALE OF ANY SERIES OF THE BONDS, ANY
7 PREMIUM AND ACCRUED INTEREST RECEIVED ON THE DELIVERY OF THE BONDS,
8 AND ANY INTEREST EARNED ON THE PROCEEDS OF THE BONDS.

9 SEC. 88G. (1) THE STATE TREASURER SHALL DIRECT THE INVESTMENT
10 OF THE BOND FUND.

11 (2) ANY REMAINING BALANCE IN THE BOND FUND, THE REPAYMENT
12 SUBACCOUNT, OR A SUBACCOUNT OF THE BOND FUND AT THE CLOSE OF A
13 FISCAL YEAR SHALL REMAIN IN THE BOND FUND AND SHALL NOT LAPSE OR
14 REVERT TO THE GENERAL FUND.

15 SEC. 88H. (1) AFTER THE ISSUANCE OF THE BONDS AUTHORIZED BY
16 THIS CHAPTER, THERE SHALL BE EXPENDED FROM THE REPAYMENT SUBACCOUNT
17 OF THE BOND FUND CREATED UNDER SECTION 88F A SUFFICIENT AMOUNT TO
18 PAY PROMPTLY, WHEN DUE, THE PRINCIPAL OF AND INTEREST ON ALL
19 OUTSTANDING BONDS AUTHORIZED BY THIS CHAPTER AND THE COSTS
20 INCIDENTAL TO THE PAYMENT OF THE BONDS.

21 (2) IF THE AMOUNT AVAILABLE IN THE REPAYMENT SUBACCOUNT FOR A
22 FISCAL YEAR IS NOT A SUFFICIENT AMOUNT UNDER SUBSECTION (1), OR A
23 SUFFICIENT EXPENDITURE UNDER SUBSECTION (1) IS NOT AUTHORIZED, THE
24 REMAINING AMOUNT NECESSARY TO PAY PROMPTLY, WHEN DUE, THE PRINCIPAL
25 OF AND INTEREST ON ALL OUTSTANDING BONDS AUTHORIZED BY THIS CHAPTER
26 AND THE COSTS INCIDENTAL TO THE PAYMENT OF THE BONDS SHALL BE PAID
27 AS PROVIDED BY LAW.

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(3) THE GOVERNOR SHALL INCLUDE THE EXPENDITURES PROVIDED FOR IN SUBSECTION (2), IF NECESSARY, IN HIS OR HER ANNUAL EXECUTIVE BUDGET RECOMMENDATIONS TO THE LEGISLATURE.

SEC. 88I. (1) THE PROCEEDS OF BONDS ISSUED UNDER THIS CHAPTER SHALL BE DEPOSITED INTO THE BOND FUND AND APPROPRIATED AS PROVIDED BY LAW FOR PURPOSES AUTHORIZED UNDER THIS CHAPTER. THE PROCEEDS OF THE BONDS ISSUED UNDER THIS CHAPTER SHALL BE EXPENDED BY THE <<FUND ONLY AS DETERMINED BY THE>> BOARD

TO ENCOURAGE THE DEVELOPMENT OF COMPETITIVE EDGE TECHNOLOGY WITH HIGH PROBABILITY TO CREATE JOBS IN THIS STATE.

(2) THE BOARD SHALL NOT <<AUTHORIZE THE FUND TO>> EXPEND MORE THAN 10% OF THE TOTAL

PROCEEDS OF BONDS AUTHORIZED UNDER THIS CHAPTER IN ANY CALENDAR YEAR. THE LIMITS ON EXPENDITURES ESTABLISHED UNDER THIS SUBSECTION ARE CUMULATIVE AND MAY CARRY FORWARD TO A FUTURE CALENDAR YEAR IF THE FUNDS ARE NOT PREVIOUSLY EXPENDED.

(3) THE TOTAL PROCEEDS OF BONDS AUTHORIZED UNDER THIS CHAPTER SHALL BE EXPENDED AS FOLLOWS:

(A) NOT LESS THAN \$60,000,000.00 SHALL BE USED TO CAPITALIZE THE FOREST FINANCE AUTHORITY FOREST DEVELOPMENT FUND AS DESCRIBED IN PART 505 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.50501 TO 324.50522.

(B) AFTER DEDUCTING THE AMOUNT DESCRIBED IN SUBDIVISION (A), NOT LESS THAN 50% FOR LIFE SCIENCES TECHNOLOGY.

(C) THE BALANCE FOR ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS TECHNOLOGY, ALTERNATIVE ENERGY TECHNOLOGY, AND HOMELAND SECURITY AND DEFENSE TECHNOLOGY.

(4) NOT MORE THAN 10% OF THE EXPENDITURE DESCRIBED IN SUBSECTION (3)(B) AND NOT MORE THAN 10% OF THE EXPENDITURE

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DESCRIBED IN SUBSECTION (3) (C) MAY BE EXPENDED BY THE <<FUND AS DETERMINED BY THE>> BOARD TO

SUPPORT BASIC RESEARCH IN COMPETITIVE EDGE TECHNOLOGIES.

(5) BOND PROCEEDS DEPOSITED INTO THE BOND FUND MAY BE USED BY THE DEPARTMENT OF TREASURY TO PAY FOR THE COST OF ISSUING BONDS UNDER THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, COSTS INCURRED UNDER SECTION 88C(3).

(6) NOT MORE THAN 3% OF THE TOTAL AMOUNT OF THE BONDS AUTHORIZED UNDER THIS CHAPTER SHALL BE AVAILABLE FOR APPROPRIATION TO THE <<FUND TO PAY THE COSTS OF THE MEDC AND THE BOARD>> DIRECTLY ASSOCIATED WITH THE ADMINISTRATION OF THIS CHAPTER INCLUDING, BUT NOT LIMITED TO, PEER REVIEW COSTS. THE 3% LIMITATION UNDER THIS SUBSECTION DOES NOT APPLY TO COSTS UNDER SUBSECTION (5).

(7) NOT MORE THAN 2.5% OF THE TOTAL EXPENDITURES AUTHORIZED UNDER THIS CHAPTER CAN GO TO ANY 1 QUALIFIED BUSINESS, INCLUDING ITS AFFILIATES AND SUBSIDIARIES.

<<(8) THE FUND SHALL PROVIDE ALL STAFFING, SUPPORT, AND ADMINISTRATIVE SERVICES NECESSARY TO IMPLEMENT THIS SECTION AND SUFFICIENT TO ALLOW THE BOARD TO PERFORM ITS DUTIES UNDER THIS CHAPTER. THE POWERS AND DUTIES GRANTED TO THE FUND UNDER THIS CHAPTER SHALL BE CONSIDERED TRANSFERRED TO AND VESTED IN THE MEDC AND SHALL BE PERFORMED BY THE MEDC AS A JOINT EXERCISE OF POWER AUTHORIZED UNDER THE URBAN COOPERATION ACT OF 1967, 1967(EX SESS) PA 7, MCL 124.501 TO 124.512.>>

SEC. 88J. (1) THE STRATEGIC ECONOMIC INVESTMENT BOARD IS

CREATED << >> WITHIN THE FUND. THE BOARD SHALL EXERCISE ITS POWERS, DUTIES, AND DECISION-MAKING AUTHORITY AS AN AUTONOMOUS ENTITY INDEPENDENT OF THE FUND AND THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH. <<

>>
(2) MONEY IN THE BOND FUND THAT IS AVAILABLE FOR EXPENDITURE << >> UNDER SECTION 88I SHALL BE EXPENDED ANNUALLY BY THE <<FUND AS DETERMINED BY THE>>

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1 BOARD ONLY FOR BASIC RESEARCH, APPLIED RESEARCH, UNIVERSITY
2 TECHNOLOGY TRANSFER, AND COMMERCIALIZATION OF PRODUCTS, PROCESSES,
3 AND SERVICES TO ENCOURAGE THE DEVELOPMENT OF COMPETITIVE EDGE
4 TECHNOLOGIES WITH HIGH PROBABILITY TO CREATE JOBS IN THIS STATE.

5 (3) SUBJECT TO SUBSECTION (2), THE <<FUND AS DETERMINED BY THE>>
6 BOARD SHALL DO ALL OF THE

7 FOLLOWING:

8 (A) ESTABLISH A COMPETITIVE PROCESS TO AWARD GRANTS AND MAKE
9 LOANS FOR COMPETITIVE EDGE TECHNOLOGIES. THE COMPETITIVE PROCESS
10 SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

11 (i) A PROVISION THAT THE APPLICATIONS MUST BE PEER-REVIEWED BY
12 INDEPENDENT PEER REVIEW EXPERTS BASED ON THE SCIENTIFIC, TECHNICAL,
13 AND COMMERCIAL MERIT OF THE APPLICATION. SCIENTIFIC, TECHNICAL, AND
14 COMMERCIAL MERIT SHALL BE GIVEN EQUAL WEIGHT IN THE REVIEW AND
15 SCORING PROCESS.

16 (ii) A PREFERENCE FOR MICHIGAN-BASED APPLICANTS.

17 (iii) A PROVISION THAT OUT-OF-STATE BUSINESS MUST HAVE A
18 SIGNIFICANT EXISTING OR PROPOSED BUSINESS ACTIVITY IN THIS STATE.

19 (iv) A PREFERENCE FOR PROPOSALS THAT CAN CONTRIBUTE DIRECTLY TO
20 THE DEVELOPMENT OF EMPLOYMENT OPPORTUNITIES IN THIS STATE.

21 (v) A PROVISION THAT THE PROGRAM WILL UTILIZE CONTRACTS WITH
22 MEASURABLE MILESTONES, CLEAR OBJECTIVES, PROVISIONS TO REVOKE
23 AWARDS FOR BREACH OF CONTRACT, AND REPAYMENT PROVISIONS FOR LOANS
24 GIVEN TO QUALIFIED BUSINESSES THAT LEAVE MICHIGAN WITHIN 7 YEARS OF
25 THE EXECUTION OF THE CONTRACT OR OTHERWISE BREACH THE TERMS OF THE
26 CONTRACT.

27 (vi) A PROVISION THAT THE APPLICANT LEVERAGE OTHER RESOURCES AS
A CONDITION OF THE GRANT OR LOAN. IF THE APPLICANT RECEIVES NEW

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COMPETITIVELY AWARDED FEDERAL FUNDS FOR A PROGRAM, THE BOARD <<SHALL NOT AUTHORIZE AND THE FUND>> SHALL

NOT MAKE A GRANT OR LOAN IN AN AMOUNT THAT EXCEEDS 10% OF THE AMOUNT OF FEDERAL FUNDS. IF AN APPLICANT IS SEEKING A GRANT OR A LOAN UNDER THIS CHAPTER TO MATCH FEDERAL FUNDS FOR SMALL BUSINESS INNOVATION RESEARCH OR SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS, THE GRANT OR LOAN UNDER THIS CHAPTER SHALL NOT EXCEED 25% OF THE FEDERAL FUNDS AND MUST LEVERAGE THIRD PARTY COMMERCIALIZATION FUNDING AT BOTH THE PHASE I AND PHASE II LEVELS.

(vii) OVERHEAD RATES FOR GRANTS AND LOANS THAT REFLECT ACTUAL OVERHEAD BUT NOT GREATER THAN 15% OF TOTAL DIRECT COSTS.

(viii) <<EXCEPT AS PROVIDED IN SUBPARAGRAPH (vi) , >> A PROVISION THAT GRANTS CAN ONLY BE AWARDED TO MICHIGAN INSTITUTIONS OF HIGHER EDUCATION AND MICHIGAN NONPROFIT RESEARCH INSTITUTIONS.

(ix) A PREFERENCE FOR COLLABORATIONS BETWEEN INSTITUTIONS OF HIGHER EDUCATION, MICHIGAN NONPROFIT RESEARCH INSTITUTIONS, AND QUALIFIED BUSINESSES.

(B) THE <<FUND>> SHALL CONTRACT WITH INDEPENDENT PEER REVIEW EXPERTS <<SELECTED BY THE BOARD>> TO ASSIST THE BOARD WITH ITS RESPONSIBILITIES UNDER THIS CHAPTER.

(4) THE BOARD SHALL ESTABLISH STANDARDS TO ENSURE THAT MONEY EXPENDED UNDER THIS CHAPTER WILL RESULT IN ECONOMIC BENEFIT TO THIS STATE AND ENSURE THAT A MAJOR SHARE OF THE BUSINESS ACTIVITY RESULTING FROM THE EXPENDITURES OCCURS IN THIS STATE.

(5) THE BOARD SHALL ESTABLISH STANDARDS OR PROCEDURES REQUIRING A RECIPIENT OF MONEY ALLOCATED UNDER THIS CHAPTER TO AGREE AS A CONDITION OF RECEIVING THE MONEY NOT TO USE THE MONEY FOR 1 OR MORE OF THE FOLLOWING:

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

3 (B) THE DEVELOPMENT OF A CASINO REGULATED BY THIS STATE UNDER
4 THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF
5 1996, MCL 432.201 TO 432.226, A CASINO AT WHICH GAMING IS CONDUCTED
6 UNDER THE INDIAN GAMING REGULATORY ACT, PUBLIC LAW 100-497, 102
7 STAT. 2467, OR PROPERTY ASSOCIATED OR AFFILIATED WITH THE OPERATION
8 OF EITHER TYPE OF CASINO DESCRIBED IN THIS SUBDIVISION, INCLUDING,
9 BUT NOT LIMITED TO, A PARKING LOT, HOTEL, MOTEL, OR RETAIL STORE.

10 (6) THE BOARD SHALL ESTABLISH STANDARDS TO PREVENT MONEY
11 EXPENDED UNDER THIS SECTION FROM BEING USED FOR 1 OR MORE OF THE
12 FOLLOWING:

13 (A) GRANTS OR LOANS TO A PERSON WHO HAS BEEN CONVICTED OF A
14 CRIMINAL OFFENSE INCIDENT TO THE APPLICATION FOR OR PERFORMANCE OF
15 A STATE CONTRACT OR SUBCONTRACT. AS USED IN THIS SUBDIVISION, IF A
16 PERSON IS A BUSINESS ENTITY, THEN PERSON INCLUDES AFFILIATES,
17 SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL EMPLOYEES, AND ANY
18 PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A PECUNIARY INTEREST IN
19 THAT BUSINESS ENTITY OF 20% OR MORE.

20 (B) GRANTS OR LOANS TO A PERSON WHO HAS BEEN CONVICTED OF A
21 CRIMINAL OFFENSE, OR HELD LIABLE IN A CIVIL PROCEEDING, THAT
22 NEGATIVELY REFLECTS ON THE PERSON'S BUSINESS INTEGRITY, BASED ON A
23 FINDING OF EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR
24 DESTRUCTION OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF
25 STATE OR FEDERAL ANTITRUST STATUTES. AS USED IN THIS SUBDIVISION,
26 IF A PERSON IS A BUSINESS ENTITY, THEN PERSON INCLUDES AFFILIATES,
27 SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL EMPLOYEES, AND ANY

1 PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A PECUNIARY INTEREST IN
2 THAT BUSINESS ENTITY OF 20% OR MORE.

3 (C) GRANTS OR LOANS TO A BUSINESS ENTERPRISE CURRENTLY LOCATED
4 IN THE UNITED STATES FOR THE PURPOSE OF INDUCING THE ENTERPRISE TO
5 RELOCATE OUTSIDE THE UNITED STATES IF THE INCENTIVE OR INDUCEMENT
6 IS LIKELY TO REDUCE THE NUMBER OF EMPLOYEES OF THE BUSINESS
7 ENTERPRISE IN THE UNITED STATES BECAUSE UNITED STATES PRODUCTION IS
8 BEING REPLACED BY THE ENTERPRISE OUTSIDE THE UNITED STATES.

9 (D) GRANTS OR LOANS TO A BUSINESS ENTERPRISE CURRENTLY LOCATED
10 IN THIS STATE FOR THE PURPOSE OF INDUCING THE ENTERPRISE TO
11 RELOCATE OUTSIDE THIS STATE IF THE INCENTIVE OR INDUCEMENT IS
12 LIKELY TO REDUCE THE NUMBER OF EMPLOYEES OF THE BUSINESS ENTERPRISE
13 IN THIS STATE BECAUSE PRODUCTION IN THIS STATE IS BEING REPLACED BY
14 THE ENTERPRISE OUTSIDE THIS STATE.

15 (E) GRANTS OR LOANS THAT WOULD CONTRIBUTE TO THE VIOLATION OF
16 INTERNATIONALLY RECOGNIZED WORKERS RIGHTS, AS DEFINED IN SECTION
17 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
18 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
19 OR AREA IN THAT COUNTRY.

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

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1 ISLANDS, COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF
2 MAN, THE PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO,
3 AND THE REPUBLIC OF THE SEYCHELLES.

4 (7) IN ADDITION TO ANY AUDIT REQUIREMENTS UNDER SECTION 9, NOT
5 LATER THAN MAY 15, 2007 AND EACH SUBSEQUENT MAY 15, THE AUDITOR
6 GENERAL SHALL CONDUCT A PERFORMANCE POST AUDIT OF THE BOARD AND THE
7 BOND FUND AND A POST AUDIT OF FINANCIAL TRANSACTIONS AND ACCOUNTS
8 OF THE BOARD AND THE BOND FUND, WHICH AUDITS SHALL BE FUNDED WITH
9 THE PROCEEDS OF THE BONDS AUTHORIZED UNDER THIS CHAPTER. THE
10 RESULTS OF THE PERFORMANCE POST AUDIT AND THE POST AUDIT OF
11 FINANCIAL TRANSACTIONS AND ACCOUNTS SHALL BE PUBLISHED ON THE
12 INTERNET AND DISSEMINATED BY OTHER MEANS IN A MANNER DETERMINED BY
13 THE BOARD TO ADVISE THE CITIZENS OF THIS STATE OF THE RESULT OF THE
14 AUDITS. COPIES OF THE AUDITS SHALL BE PROVIDED TO THE GOVERNOR, THE
15 CLERK OF THE HOUSE OF REPRESENTATIVES, AND THE SECRETARY OF THE
16 SENATE.

17 (8) IN ADDITION TO ANY REPORTING REQUIREMENTS UNDER SECTION 9,
18 NOT LATER THAN DECEMBER 31 OF EACH YEAR, THE BOARD <<AND THE FUND>> SHALL
REPORT TO
19 THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES, AND THE
20 SECRETARY OF THE SENATE. THE REPORT SHALL CONTAIN ALL OF THE
21 FOLLOWING FOR THE IMMEDIATELY PRECEDING FISCAL YEAR THAT ARE
22 RELATED TO A GRANT OR LOAN MADE BY THE <<FUND AS DETERMINED BY THE>>
BOARD:

23 (A) A LIST OF ENTITIES THAT RECEIVED FUNDING, THE AMOUNT
24 RECEIVED, AND THE TYPE OF FUNDING.

25 (B) THE NUMBER OF NEW PATENTS, COPYRIGHTS, OR TRADEMARKS
26 APPLIED FOR AND ISSUED.

27 (C) THE NUMBER OF NEW START-UP BUSINESSES.

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(D) THE NUMBER OF NEW JOBS AND PROJECTED NEW JOB GROWTH.

(E) AMOUNTS OF OTHER FUNDS LEVERAGED.

(F) MONEY OR OTHER REVENUE OR PROPERTY RETURNED TO THE BOND
FUND.

(G) THE TOTAL NUMBER OF NEW LICENSING AGREEMENTS BY
INSTITUTION AND THE NUMBER OF NEW LICENSING AGREEMENTS ENTERED INTO
WITH MICHIGAN BASED FIRMS.

(H) PRODUCTS COMMERCIALIZED.

(9) THE <<FUND>> SHALL PUBLISH THE STANDARDS DESCRIBED IN THIS
SECTION ON THE INTERNET AND DISSEMINATE THEM BY ANY OTHER MEANS
DETERMINED BY THE BOARD.

<<

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<<(10)>> THE BOARD SHALL NOT MAKE A LOAN OR A GRANT <<AN
APPLICANT WHO HAS

>>

MADE A CONTRIBUTION OR EXPENDITURE, AS DEFINED UNDER THE MICHIGAN
CAMPAIGN FINANCE ACT, 1976 PA 388, MCL 169.201 TO 169.282, TO ANY
BALLOT QUESTION COMMITTEE ESTABLISHED FOR THE PASSAGE OR DEFEAT OF
SENATE JOINT RESOLUTION C OF THE 93RD LEGISLATURE <<IN THE IMMEDIATELY
PRECEDING 2-YEAR PERIOD>>.

<<(11) WHEN THE BOARD APPROVES A GRANT OR A LOAN UNDER THIS
CHAPTER, THE BOARD SHALL STATE THE SPECIFIC OBJECTIVE REASONS THE
APPLICANT WAS SELECTED OVER OTHER APPLICANTS FOR A GRANT OR LOAN UNDER
THIS CHAPTER.

(12) THE BOARD AND INDEPENDENT PEER REVIEW EXPERTS SHALL NOT
CONSIDER IF AN APPLICANT FOR A GRANT OR LOAN MADE A CONTRIBUTION OR
EXPENDITURE, AS DEFINED UNDER THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA
388, MCL 169.201 TO 169.282, OR DID NOT MAKE A CONTRIBUTION OR
EXPENDITURE, TO ANY BALLOT QUESTION COMMITTEE ESTABLISHED FOR THE PASSAGE
OR DEFEAT OF SENATE JOINT RESOLUTION C OF THE 93RD LEGISLATURE.>>

SEC. 88K. (1) THE BOARD SHALL CONSIST OF 19 MEMBERS, AS
PROVIDED UNDER SUBSECTIONS (2) AND (3).

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(2) THE BOARD SHALL INCLUDE EACH OF THE 2 FOLLOWING VOTING EX
OFFICIO MEMBERS:

(A) THE DIRECTOR OF THE DEPARTMENT OF LABOR AND ECONOMIC
GROWTH OR HIS OR HER DESIGNEE FROM WITHIN THE DEPARTMENT OF LABOR
AND ECONOMIC GROWTH.

(B) THE STATE TREASURER OR HIS OR HER DESIGNEE FROM WITHIN THE
DEPARTMENT OF TREASURY.

(3) THE BOARD SHALL INCLUDE THE FOLLOWING 17 MEMBERS APPOINTED
BY THE GOVERNOR WITH, EXCEPT FOR THE INDIVIDUALS DESCRIBED IN
SUBDIVISIONS (C) AND (D), THE ADVICE AND CONSENT OF THE SENATE:

<<(A) EIGHT MEMBERS REPRESENTING BUSINESS WITH EXPERTISE,
KNOWLEDGE, SKILL, OR EXPERIENCE IN VENTURE CAPITAL INVESTMENTS, BUSINESS
FINANCE, BRINGING COMPETITIVE EDGE TECHNOLOGY PRODUCTS TO MARKET, OR
REPRESENTING A QUALIFIED BUSINESS.

(B) A MEMBER REPRESENTING THE VAN ANDEL INSTITUTE OR A SUCCESSOR
ORGANIZATION.>>

(C) ONE MEMBER APPOINTED FROM A LIST OF 2 OR MORE INDIVIDUALS
SELECTED BY THE MAJORITY LEADER OF THE SENATE REPRESENTING
QUALIFIED BUSINESSES OR PERSONS WITH BUSINESS, TECHNOLOGICAL, OR
FINANCIAL EXPERIENCE RELATED TO COMPETITIVE EDGE TECHNOLOGY.

(D) ONE MEMBER APPOINTED FROM A LIST OF 2 OR MORE INDIVIDUALS
SELECTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
REPRESENTING QUALIFIED BUSINESSES OR PERSONS WITH BUSINESS,
TECHNOLOGICAL, OR FINANCIAL EXPERIENCE RELATED TO COMPETITIVE EDGE
TECHNOLOGY.

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<<(E) ~~(F)~~>> A MEMBER REPRESENTING MICHIGAN STATE UNIVERSITY.

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<<(F) ~~(G)~~>> A MEMBER REPRESENTING THE UNIVERSITY OF MICHIGAN.

<<(G) ~~(H)~~>> A MEMBER REPRESENTING WAYNE STATE UNIVERSITY.

<<(H) ~~(I)~~>> A MEMBER REPRESENTING WESTERN MICHIGAN UNIVERSITY.

<<(I) ~~(J)~~>>A MEMBER REPRESENTING MICHIGAN TECHNOLOGICAL UNIVERSITY.

<<(J) ~~(K)~~>>A MEMBER REPRESENTING A PUBLIC UNIVERSITY IN MICHIGAN

OTHER THAN MICHIGAN STATE UNIVERSITY, THE UNIVERSITY OF MICHIGAN, WAYNE STATE UNIVERSITY, WESTERN MICHIGAN UNIVERSITY, OR MICHIGAN TECHNOLOGICAL UNIVERSITY.

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(4) OF THE MEMBERS OF THE BOARD INITIALLY APPOINTED UNDER SUBSECTION (3), 5 MEMBERS SHALL BE APPOINTED FOR TERMS EXPIRING ON DECEMBER 31, 2006, 5 MEMBERS SHALL BE APPOINTED FOR TERMS EXPIRING ON DECEMBER 31, 2007, 5 MEMBERS SHALL BE APPOINTED FOR TERMS EXPIRING ON DECEMBER 31, 2008, AND 2 MEMBERS SHALL BE APPOINTED FOR TERMS EXPIRING ON DECEMBER 31, 2009. AFTER THE EXPIRATION OF THE INITIAL APPOINTMENT TERMS PROVIDED FOR BY THIS SUBSECTION, MEMBERS OF THE BOARD SHALL BE APPOINTED FOR TERMS OF 4 YEARS.

(5) FOR MEMBERS OF THE BOARD APPOINTED UNDER SUBSECTION (3), A VACANCY ON THE BOARD OCCURRING OTHER THAN BY EXPIRATION OF A TERM SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT FOR THE BALANCE OF THE UNEXPIRED TERM. A MEMBER OF THE BOARD SHALL HOLD OFFICE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIED. A MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT. STATE EMPLOYEES ARE NOT ELIGIBLE TO SERVE AS MEMBERS APPOINTED UNDER SUBSECTION (3).

(6) THE GOVERNOR SHALL DESIGNATE 1 OF THE MEMBERS OF THE BOARD TO SERVE AS ITS CHAIRPERSON AT THE PLEASURE OF THE GOVERNOR. THE

1 BOARD SHALL SELECT FROM AMONG ITS MEMBERS A MEMBER TO SERVE AS
2 VICE-CHAIRPERSON AND A MEMBER TO SERVE AS SECRETARY. STAFF FROM THE
3 DEPARTMENT OF LABOR AND ECONOMIC GROWTH OR THE MEDC SHALL ASSIST
4 THE SECRETARY WITH RECORD-KEEPING RESPONSIBILITIES.

5 (7) UPON APPOINTMENT TO THE BOARD UNDER THIS SECTION AND UPON
6 THE TAKING AND FILING OF THE CONSTITUTIONAL OATH OF OFFICE
7 PRESCRIBED IN SECTION 1 OF ARTICLE XI OF THE STATE CONSTITUTION OF
8 1963, A MEMBER SHALL ENTER THE OFFICE AND EXERCISE THE DUTIES OF
9 THE OFFICE.

10 (8) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT
11 MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES.

12 (9) UPON THE INITIAL APPOINTMENT OF MEMBERS UNDER THIS
13 SECTION, THE BOARD SHALL ORGANIZE AND ADOPT ITS OWN POLICIES,
14 PROCEDURES, SCHEDULE OF REGULAR MEETINGS, AND A REGULAR MEETING
15 DATE, PLACE, AND TIME.

16 (10) THE BOARD MAY ACT ONLY BY RESOLUTION APPROVED BY A
17 MAJORITY OF BOARD MEMBERS APPOINTED AND SERVING. A MAJORITY OF THE
18 MEMBERS OF THE BOARD THEN IN OFFICE SHALL CONSTITUTE A QUORUM FOR
19 THE TRANSACTION OF BUSINESS. THE BOARD SHALL MEET IN PERSON OR BY
20 MEANS OF ELECTRONIC COMMUNICATION DEVICES THAT ENABLE ALL
21 PARTICIPANTS IN THE MEETING TO COMMUNICATE WITH EACH OTHER.

22 (11) THE BOARD SHALL CONDUCT ALL BUSINESS AT PUBLIC MEETINGS
23 HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL
24 15.261 TO 15.275. PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF
25 EACH MEETING SHALL BE GIVEN IN THE MANNER REQUIRED BY THE OPEN
26 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, AND SHALL BE
27 PUBLISHED ON THE INTERNET.

1 SEC. 88I. (1) NOTWITHSTANDING SECTION 3(1) OF 1968 PA 317, MCL
2 15.323, MEMBERS OF THE BOARD ARE CONSIDERED PUBLIC SERVANTS SUBJECT
3 TO 1968 PA 317, MCL 15.321 TO 15.330, AND PUBLIC OFFICERS SUBJECT
4 TO 1973 PA 196, MCL 15.341 TO 15.348. A MEMBER OF THE BOARD SHALL
5 DISCHARGE THE DUTIES OF THE POSITION IN A NONPARTISAN MANNER, IN
6 GOOD FAITH, IN THE BEST INTERESTS OF THIS STATE, AND WITH THE
7 DEGREE OF DILIGENCE, CARE, AND SKILL THAT AN ORDINARILY PRUDENT
8 PERSON WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES IN A LIKE
9 POSITION. IN DISCHARGING DUTIES OF THE OFFICE, A MEMBER OF THE
10 BOARD WHEN ACTING IN GOOD FAITH MAY RELY UPON THE REPORT OF AN
11 INDEPENDENT EXPERT OR INDEPENDENT PEER REVIEW EXPERT OR UPON
12 FINANCIAL STATEMENTS OF THE BOARD REPRESENTED TO THE MEMBER OF THE
13 BOARD BY THE OFFICER OF THE BOARD HAVING CHARGE OF ITS BOOKS OR
14 ACCOUNTS OR STATED IN A WRITTEN REPORT BY THE AUDITOR GENERAL.

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

20 (3) AN INDEPENDENT PEER REVIEW EXPERT SHALL NOT HAVE ANY
21 FINANCIAL INTEREST IN A RECIPIENT OF BOND PROCEEDS UNDER THIS
22 CHAPTER.

23 SEC. 88M. (1) A RECORD PREPARED, OWNED, USED, IN THE
24 POSSESSION OF, OR RETAINED BY THE BOARD OR THE MEDC IN THE
25 PERFORMANCE OF AN OFFICIAL FUNCTION UNDER THIS CHAPTER SHALL BE
26 AVAILABLE TO THE PUBLIC IN COMPLIANCE WITH THE FREEDOM OF
27 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, UNLESS

1 OTHERWISE PROVIDED BY LAW.

2 (2) A RECORD OR PORTION OF A RECORD, MATERIAL, OR OTHER DATA
3 RECEIVED, PREPARED, USED, OR RETAINED BY THE BOARD IN CONNECTION
4 WITH AN APPLICATION FOR A GRANT OR LOAN UNDER THIS CHAPTER THAT
5 RELATES TO FINANCIAL OR PROPRIETARY INFORMATION SUBMITTED BY THE
6 APPLICANT THAT IS CONSIDERED BY THE APPLICANT AND ACKNOWLEDGED BY
7 THE BOARD AS CONFIDENTIAL SHALL NOT BE SUBJECT TO THE DISCLOSURE
8 REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
9 15.231 TO 15.246. A DESIGNEE OF THE BOARD SHALL MAKE THE
10 DETERMINATION AS TO WHETHER THE BOARD ACKNOWLEDGES AS CONFIDENTIAL
11 ANY FINANCIAL OR PROPRIETARY INFORMATION SUBMITTED BY THE APPLICANT
12 AND CONSIDERED BY THE APPLICANT AS CONFIDENTIAL. UNLESS CONSIDERED
13 PROPRIETARY INFORMATION, THE BOARD SHALL NOT ACKNOWLEDGE ROUTINE
14 FINANCIAL INFORMATION AS CONFIDENTIAL. IF THE DESIGNEE OF THE BOARD
15 DETERMINES THAT INFORMATION SUBMITTED TO THE BOARD IS FINANCIAL OR
16 PROPRIETARY INFORMATION AND IS CONFIDENTIAL, THE DESIGNEE OF THE
17 BOARD SHALL RELEASE A WRITTEN STATEMENT, SUBJECT TO DISCLOSURE
18 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, 15.231 TO
19 15.246, WHICH STATES ALL OF THE FOLLOWING:

20 (A) THE NAME AND BUSINESS LOCATION OF THE PERSON REQUESTING
21 THAT THE INFORMATION SUBMITTED BE CONFIDENTIAL AS FINANCIAL OR
22 PROPRIETARY INFORMATION.

23 (B) THAT THE INFORMATION SUBMITTED WAS DETERMINED BY THE
24 DESIGNEE OF THE BOARD TO BE CONFIDENTIAL AS FINANCIAL OR
25 PROPRIETARY INFORMATION.

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

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(3) UNLESS OTHERWISE REQUIRED BY LAW, THE BOARD AND THE MEDC SHALL NOT DISCLOSE FINANCIAL OR PROPRIETARY INFORMATION EXEMPT FROM DISCLOSURE AS PROVIDED BY LAW WITHOUT THE CONSENT OF THE PERSON SUBMITTING THE INFORMATION.

(4) AS USED IN THIS SECTION, "FINANCIAL OR PROPRIETARY INFORMATION" MEANS INFORMATION THAT HAS NOT BEEN PUBLICLY DISSEMINATED OR IS UNAVAILABLE FROM OTHER SOURCES, THE RELEASE OF WHICH MIGHT CAUSE THE PERSON SIGNIFICANT COMPETITIVE HARM.

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

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

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

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

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

<<SEC. 95. BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, ALL STATUTORY AND OTHER REFERENCES TO THE MICHIGAN STRATEGIC FUND SHALL BE CONSIDERED REFERENCES TO THE JOBS FOR MICHIGAN FUND AND STATUTORY AND OTHER REFERENCES TO THE MICHIGAN STRATEGIC FUND ACT SHALL BE CONSIDERED REFERENCES TO THIS ACT. NOTHING IN THE AMENDATORY ACT THAT ADDED THIS SECTION SHALL BE CONSTRUED TO ALTER ANY RIGHTS, RESPONSIBILITIES, OR OBLIGATIONS OF THE MICHIGAN STRATEGIC FUND, WHICH SHALL REMAIN THE RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF THE JOBS FOR MICHIGAN FUND.>>

Enacting section 1. This amendatory act takes effect December 26, 2005.

Enacting section 2. This amendatory act does not take effect unless Senate Joint Resolution C of the 93rd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of

1 article XII of the state constitution of 1963.

2 Enacting section 3. This amendatory act does not take effect
3 unless all of the following bills of the 93rd Legislature are
4 enacted into law:

5 (a) Senate Bill No. 358.

6 (b) Senate Bill No. 359.