

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 533

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
(MCL 125.2001 to 125.2093) by adding sections 88g, 88h, 88i, 88j,
and 88k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 88G. (1) THE STRATEGIC ECONOMIC INVESTMENT BOARD IS
2 CREATED WITHIN THE FUND. THE BOARD SHALL EXERCISE ITS POWERS,
3 DUTIES, AND DECISION-MAKING AUTHORITY AS AN AUTONOMOUS ENTITY
4 INDEPENDENT OF THE FUND AND THE DEPARTMENT OF TREASURY.

5 (2) THE BOARD SHALL AWARD GRANTS AND LOANS FROM THE
6 COMPETITIVE EDGE TECHNOLOGIES FUND ONLY FOR BASIC RESEARCH, APPLIED
7 RESEARCH, UNIVERSITY TECHNOLOGY TRANSFER, AND COMMERCIALIZATION OF
8 PRODUCTS, PROCESSES, AND SERVICES TO ENCOURAGE THE DEVELOPMENT OF

1 COMPETITIVE EDGE TECHNOLOGIES WITH HIGH PROBABILITY TO CREATE JOBS
2 IN THIS STATE.

3 (3) SUBJECT TO SUBSECTION (2), THE FUND AS DETERMINED BY THE
4 BOARD SHALL DO ALL OF THE FOLLOWING:

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

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

13 (ii) A PREFERENCE FOR PROPOSALS THAT CAN CONTRIBUTE TO THE
14 DEVELOPMENT OF ECONOMIC DIVERSIFICATION OR THE CREATION OF
15 EMPLOYMENT OPPORTUNITIES IN THIS STATE.

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

18 (iv) A PROVISION THAT THE PROGRAM WILL UTILIZE CONTRACTS WITH
19 MEASURABLE MILESTONES, CLEAR OBJECTIVES, PROVISIONS TO REVOKE
20 AWARDS FOR BREACH OF CONTRACT, AND REPAYMENT PROVISIONS FOR LOANS
21 GIVEN TO QUALIFIED BUSINESSES THAT LEAVE MICHIGAN WITHIN 3 YEARS OF
22 THE EXECUTION OF THE CONTRACT OR OTHERWISE BREACH THE TERMS OF THE
23 CONTRACT.

24 (v) A PROVISION THAT THE APPLICANT LEVERAGE OTHER RESOURCES AS
25 A CONDITION OF THE GRANT OR LOAN. IF AN APPLICANT IS SEEKING A
26 GRANT OR A LOAN UNDER THIS CHAPTER TO MATCH FEDERAL FUNDS FOR SMALL
27 BUSINESS INNOVATION RESEARCH OR SMALL BUSINESS TECHNOLOGY TRANSFER

1 PROGRAMS, THE GRANT OR LOAN UNDER THIS CHAPTER SHALL NOT EXCEED 25%
2 OF THE FEDERAL FUNDS AND MUST LEVERAGE THIRD PARTY
3 COMMERCIALIZATION FUNDING AT BOTH THE PHASE I AND PHASE II LEVELS.

4 (vi) OVERHEAD RATES FOR RECIPIENTS OF GRANTS AND LOANS THAT
5 REFLECT ACTUAL OVERHEAD BUT NOT GREATER THAN 15% OF THE GRANT OR
6 LOAN.

7 (vii) EXCEPT AS PROVIDED IN SUBPARAGRAPH (v), A PROVISION THAT
8 GRANTS CAN ONLY BE AWARDED TO MICHIGAN INSTITUTIONS OF HIGHER
9 EDUCATION AND MICHIGAN RESEARCH INSTITUTIONS.

10 (viii) A PREFERENCE FOR COLLABORATIONS BETWEEN INSTITUTIONS OF
11 HIGHER EDUCATION, MICHIGAN NONPROFIT INSTITUTIONS, AND QUALIFIED
12 BUSINESSES.

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

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

20 (5) THE BOARD SHALL ENSURE THAT A RECIPIENT OF MONEY EXPENDED
21 UNDER THIS CHAPTER AGREES AS A CONDITION OF RECEIVING THE MONEY NOT
22 TO USE THE MONEY FOR 1 OR MORE OF THE FOLLOWING:

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

25 (B) THE DEVELOPMENT OF A CASINO REGULATED BY THIS STATE UNDER
26 THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF
27 1996, MCL 432.201 TO 432.226, A CASINO AT WHICH GAMING IS CONDUCTED

1 UNDER THE INDIAN GAMING REGULATORY ACT, PUBLIC LAW 100-497, 102
2 STAT. 2467, OR PROPERTY ASSOCIATED OR AFFILIATED WITH THE OPERATION
3 OF EITHER TYPE OF CASINO DESCRIBED IN THIS SUBDIVISION, INCLUDING,
4 BUT NOT LIMITED TO, A PARKING LOT, HOTEL, MOTEL, OR RETAIL STORE.

5 (6) THE BOARD SHALL ENSURE THAT MONEY EXPENDED UNDER THIS
6 SECTION SHALL NOT BE USED FOR 1 OR MORE OF THE FOLLOWING:

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

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

24 (C) GRANTS OR LOANS TO A BUSINESS ENTERPRISE CURRENTLY LOCATED
25 IN THE UNITED STATES FOR THE PURPOSE OF INDUCING THE ENTERPRISE TO
26 RELOCATE OUTSIDE THE UNITED STATES.

27 (D) GRANTS OR LOANS TO A BUSINESS ENTERPRISE CURRENTLY LOCATED

1 IN THIS STATE FOR THE PURPOSE OF INDUCING THE ENTERPRISE TO
2 RELOCATE OUTSIDE THIS STATE IF THE INCENTIVE OR INDUCEMENT IS
3 LIKELY TO REDUCE THE NUMBER OF EMPLOYEES OF THE BUSINESS ENTERPRISE
4 IN THIS STATE.

5 (E) GRANTS OR LOANS THAT WOULD CONTRIBUTE TO THE VIOLATION OF
6 INTERNATIONALLY RECOGNIZED WORKERS RIGHTS, AS DEFINED IN SECTION
7 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
8 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
9 OR AREA IN THAT COUNTRY.

10 (F) GRANTS OR LOANS IN A CORPORATION OR AN AFFILIATE OF THE
11 CORPORATION INCORPORATED IN A TAX HAVEN COUNTRY AFTER SEPTEMBER 11,
12 2001, BUT WITH THE UNITED STATES AS THE PRINCIPAL MARKET FOR THE
13 PUBLIC TRADING OF THE CORPORATION'S STOCK, AS DETERMINED BY THE
14 BOARD. AS USED IN THIS SECTION, "TAX HAVEN COUNTRY" INCLUDES A
15 COUNTRY WITH TAX LAWS THAT FACILITATE AVOIDANCE BY A CORPORATION OR
16 AN AFFILIATE OF THE CORPORATION OF UNITED STATES TAX OBLIGATIONS,
17 INCLUDING BARBADOS, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN
18 ISLANDS, COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF
19 MAN, THE PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO,
20 AND THE REPUBLIC OF THE SEYCHELLES.

21 (7) WHEN THE BOARD APPROVES A GRANT OR A LOAN UNDER THIS
22 CHAPTER, THE BOARD SHALL STATE THE SPECIFIC OBJECTIVE REASONS THE
23 APPLICANT WAS SELECTED OVER OTHER APPLICANTS FOR A GRANT OR LOAN
24 UNDER THIS CHAPTER.

25 (8) THE BOARD SHALL NOT AWARD MORE THAN 10% OF THE MONEY
26 DESCRIBED IN SECTION 88B(1) FOR BASIC RESEARCH OF COMPETITIVE EDGE
27 TECHNOLOGIES.

1 (9) THE FUND SHALL CREATE AND IMPLEMENT A PROGRAM TO ASSIST
2 INSTITUTIONS OF HIGHER EDUCATION TO TRANSFER COMPETITIVE EDGE
3 TECHNOLOGY RESEARCH TO THE PRIVATE SECTOR.

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

1 MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
2 REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF THE RESOLUTION
3 AND SHALL BE PUBLISHED ON THE FUND'S INTERNET WEBSITE.

4 (11) THE NOTICE DESCRIBED IN SUBSECTION (10) SHALL INCLUDE ALL
5 OF THE FOLLOWING:

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

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

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

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

14 (12) THE BOARD SHALL ALLOCATE NOT LESS THAN \$50,000,000.00
15 EACH YEAR FOR 5 YEARS FOR GRANTS AND LOANS FOR LIFE SCIENCES AS
16 PROVIDED IN THIS CHAPTER.

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

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

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

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

26 (3) THE BOARD SHALL INCLUDE THE FOLLOWING 17 MEMBERS APPOINTED
27 BY THE GOVERNOR WITH, EXCEPT FOR THE INDIVIDUALS DESCRIBED IN

1 SUBDIVISIONS (C) AND (D), THE ADVICE AND CONSENT OF THE SENATE:

2 (A) SEVEN MEMBERS REPRESENTING BUSINESS WITH EXPERTISE,
3 KNOWLEDGE, SKILL, OR EXPERIENCE IN VENTURE CAPITAL INVESTMENTS,
4 BUSINESS FINANCE, BRINGING COMPETITIVE EDGE TECHNOLOGY PRODUCTS TO
5 MARKET, OR REPRESENTING A QUALIFIED BUSINESS.

6 (B) A MEMBER REPRESENTING THE VAN ANDEL INSTITUTE, A MICHIGAN
7 CHARITABLE TRUST, MICS 13607, OR A SUCCESSOR ORGANIZATION.

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

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

17 (E) A MEMBER REPRESENTING MICHIGAN STATE UNIVERSITY.

18 (F) A MEMBER REPRESENTING THE UNIVERSITY OF MICHIGAN.

19 (G) A MEMBER REPRESENTING WAYNE STATE UNIVERSITY.

20 (H) A MEMBER REPRESENTING WESTERN MICHIGAN UNIVERSITY.

21 (I) A MEMBER REPRESENTING MICHIGAN TECHNOLOGICAL UNIVERSITY.

22 (J) A MEMBER REPRESENTING A PUBLIC UNIVERSITY IN MICHIGAN
23 OTHER THAN MICHIGAN STATE UNIVERSITY, THE UNIVERSITY OF MICHIGAN,
24 WAYNE STATE UNIVERSITY, WESTERN MICHIGAN UNIVERSITY, OR MICHIGAN
25 TECHNOLOGICAL UNIVERSITY.

26 (K) A MEMBER REPRESENTING AUTOMATION ALLEY, A MICHIGAN
27 NONPROFIT CORPORATION INCORPORATED ON MAY 21, 1998, OR A SUCCESSOR

1 ORGANIZATION.

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

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

17 (6) THE GOVERNOR SHALL DESIGNATE 1 OF THE MEMBERS OF THE BOARD
18 TO SERVE AS ITS CHAIRPERSON AT THE PLEASURE OF THE GOVERNOR. THE
19 BOARD SHALL SELECT FROM AMONG ITS MEMBERS A MEMBER TO SERVE AS
20 VICE-CHAIRPERSON AND A MEMBER TO SERVE AS SECRETARY.

21 (7) UPON APPOINTMENT TO THE BOARD UNDER THIS SECTION AND UPON
22 THE TAKING AND FILING OF THE CONSTITUTIONAL OATH OF OFFICE
23 PRESCRIBED IN SECTION 1 OF ARTICLE XI OF THE STATE CONSTITUTION OF
24 1963, A MEMBER SHALL ENTER THE OFFICE AND EXERCISE THE DUTIES OF
25 THE OFFICE.

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

1 (9) UPON THE INITIAL APPOINTMENT OF MEMBERS UNDER THIS
2 SECTION, THE BOARD SHALL ORGANIZE AND ADOPT ITS OWN POLICIES,
3 PROCEDURES, SCHEDULE OF REGULAR MEETINGS, AND A REGULAR MEETING
4 DATE, PLACE, AND TIME.

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

11 (11) THE BOARD SHALL CONDUCT ALL BUSINESS AT PUBLIC MEETINGS
12 HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL
13 15.261 TO 15.275. PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF
14 EACH MEETING SHALL BE GIVEN IN THE MANNER REQUIRED BY THE OPEN
15 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, AND SHALL BE
16 PUBLISHED ON THE FUND'S INTERNET WEBSITE.

17 SEC. 88I. (1) THE COMPETITIVE EDGE TECHNOLOGIES GRANT FUND IS
18 CREATED WITHIN THE STATE TREASURY.

19 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
20 ANY SOURCE FOR DEPOSIT INTO THE GRANT FUND. THE STATE TREASURER
21 SHALL DIRECT THE INVESTMENT OF THE GRANT FUND. THE STATE TREASURER
22 SHALL CREDIT TO THE GRANT FUND INTEREST AND EARNINGS FROM GRANT
23 FUND INVESTMENTS AND LOAN REPAYMENTS.

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

27 (4) ALL EXPENDITURES BY THE GRANT FUND SHALL BE MADE PURSUANT

1 TO AN APPROPRIATION AS PROVIDED BY LAW.

2 (5) THE BOARD SHALL EXPEND MONEY FROM THE GRANT FUND ONLY FOR
3 COMPETITIVE EDGE TECHNOLOGIES AS PROVIDED IN THIS CHAPTER.

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

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

23 (3) AN INDEPENDENT PEER REVIEW EXPERT SHALL NOT HAVE ANY
24 FINANCIAL INTEREST IN A RECIPIENT OF INVESTMENT FUND PROCEEDS UNDER
25 THIS CHAPTER.

26 (4) A MEMBER, EMPLOYEE, OR AGENT OF THE BOARD SHALL NOT ENGAGE
27 IN ANY CONDUCT THAT CONSTITUTES A CONFLICT OF INTEREST AND SHALL

Senate Bill No. 533 (H-4) as amended September 28, 2005

1 IMMEDIATELY ADVISE THE BOARD IN WRITING OF THE DETAILS OF ANY
2 INCIDENT OR CIRCUMSTANCES THAT MAY PRESENT THE EXISTENCE OF A
3 CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE BOARD-
4 RELATED WORK OR DUTY OF THE MEMBER, EMPLOYEE, OR AGENT OF THE
5 BOARD.

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

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

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

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

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

19 (6) FAILURE OF A MEMBER TO COMPLY WITH SUBSECTION (5)
20 CONSTITUTES MISCONDUCT IN OFFICE.

[(7) THE BOARD AND THE FUND BOARD SHALL COOPERATE WITH THE
COMPLIANCE OFFICER EMPLOYED BY THE OFFICE OF THE AUDITOR GENERAL TO
ENSURE THAT ALL 21ST CENTURY INVESTMENTS AND ALL GRANTS AND LOANS
DESCRIBED IN THIS CHAPTER ARE IN COMPLIANCE WITH THIS CHAPTER AND STATE
LAW.]

21 SEC. 88K. (1) IN ADDITION TO ANY AUDIT REQUIREMENTS UNDER
22 SECTION 9, NOT LATER THAN APRIL 1, 2007 AND EACH SUBSEQUENT APRIL
23 1, THE AUDITOR GENERAL SHALL CONDUCT AND REPORT A FINANCIAL AUDIT
24 OF THE BOARD, THE FUND, THE INVESTMENT FUND, AND THE GRANT FUND FOR
25 THE IMMEDIATELY PRECEDING FISCAL YEAR. NOT LESS THAN ONCE EVERY 3
26 YEARS BEGINNING NOT LATER THAN APRIL 1, 2007, THE AUDITOR GENERAL
27 SHALL CONDUCT AND REPORT A PERFORMANCE POST AUDIT OF THE BOARD, THE

FUND, THE INVESTMENT FUND, AND THE GRANT FUND. THE RESULTS OF THE PERFORMANCE POST AUDIT AND THE POST AUDIT OF FINANCIAL TRANSACTIONS AND ACCOUNTS SHALL BE PUBLISHED ON THE INTERNET AND DISSEMINATED BY OTHER MEANS IN A MANNER DETERMINED BY THE FUND TO ADVISE THE CITIZENS OF THIS STATE OF THE RESULT OF THE AUDITS. COPIES OF THE AUDITS SHALL BE PROVIDED TO THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES, THE SECRETARY OF THE SENATE, AND THE CHAIRPERSONS OF THE SENATE AND HOUSE OF REPRESENTATIVE STANDING COMMITTEES ON APPROPRIATIONS. THE AUDITOR GENERAL MAY EMPLOY AN INDEPENDENT PUBLIC ACCOUNTING FIRM TO CONDUCT THE AUDITS DESCRIBED IN THIS SUBSECTION. THE COSTS OF THE AUDITOR GENERAL OR OF THE INDEPENDENT PUBLIC ACCOUNTING FIRM IN CONDUCTING THE AUDITS DESCRIBED IN THIS CHAPTER SHALL BE FUNDED BY MONEY IN THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256. ALL CONTRACTS APPROVED BY THE FUND FOR 21ST CENTURY INVESTMENTS AND ALL CONTRACTS APPROVED BY THE BOARD FOR GRANTS OR LOANS UNDER THIS CHAPTER SHALL CONTAIN A PROVISION TO ENSURE THAT THE RECIPIENT PROVIDES AN ANNUAL FINANCIAL STATEMENT AS DETERMINED BY THE BOARD. IF THE BOARD HAS A REASONABLE BELIEF THAT A BREACH OF CONTRACT HAS OCCURRED, THE FUND HAS THE RIGHT TO HAVE THE RECIPIENT'S ANNUAL FINANCIAL STATEMENTS SEPARATELY AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AT ITS SOLE COST AND EXPENSE. IF THE AUDIT REVEALS THAT A BREACH OF CONTRACT HAS OCCURRED, THE RECIPIENT SHALL REIMBURSE THE FUND FOR THE FEES AND EXPENSES INCURRED TO PERFORM THE AUDIT.

(2) IN ADDITION TO ANY REPORTING REQUIREMENTS UNDER SECTION 9, NOT LATER THAN MARCH 31 OF EACH YEAR, THE BOARD AND THE FUND SHALL

1 REPORT TO THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES,
2 THE SECRETARY OF THE SENATE, AND THE CHAIRPERSONS OF THE SENATE AND
3 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON APPROPRIATIONS. THE
4 REPORT SHALL CONTAIN ALL OF THE FOLLOWING FOR THE IMMEDIATELY
5 PRECEDING FISCAL YEAR THAT ARE RELATED TO A GRANT OR LOAN MADE BY
6 THE FUND AS DETERMINED BY THE BOARD:

7 (A) A LIST OF ENTITIES THAT RECEIVED FUNDING, THE AMOUNT
8 RECEIVED, AND THE TYPE OF FUNDING.

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

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

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

13 (E) AMOUNTS OF OTHER FUNDS LEVERAGED.

14 (F) MONEY OR OTHER REVENUE OR PROPERTY RETURNED TO THE
15 INVESTMENT FUND.

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

19 (H) PRODUCTS COMMERCIALIZED.

20 (3) NOT LATER THAN MARCH 31 OF EACH YEAR, THE FUND SHALL
21 REPORT TO THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES,
22 THE SECRETARY OF THE SENATE, AND THE CHAIRPERSONS OF THE SENATE AND
23 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON APPROPRIATIONS. THE
24 REPORT SHALL CONTAIN ALL OF THE FOLLOWING FOR THE IMMEDIATELY
25 PRECEDING FISCAL YEAR THAT ARE RELATED TO A 21ST CENTURY INVESTMENT
26 MADE BY THE FUND BOARD:

27 (A) A LIST OF ENTITIES THAT RECEIVED FUNDING, THE AMOUNT

1 RECEIVED, AND THE TYPE OF FUNDING.

2 (B) THE AMOUNT OF QUALIFIED VENTURE CAPITAL FUND INVESTMENTS
3 AND QUALIFIED PRIVATE EQUITY FUND INVESTMENTS UNDER MANAGEMENT IN
4 THIS STATE, INCLUDING YEAR-TO-YEAR GROWTH.

5 (C) THE VALUE OF LOAN ENHANCEMENT PROGRAM INVESTMENTS,
6 QUALIFIED PRIVATE EQUITY FUND INVESTMENTS, AND QUALIFIED VENTURE
7 CAPITAL INVESTMENTS IN QUALIFIED BUSINESSES, INCLUDING YEAR-TO-YEAR
8 GROWTH.

9 (D) A STATEMENT OF THE AMOUNT OF MONEY RECEIVED BY THE
10 INVESTMENT FUND UNDER THIS CHAPTER FROM EACH LOAN GUARANTEE.

11 (E) A STATEMENT OF THE LOAN GUARANTEES ACTIVITY OF THE FUND
12 BOARD UNDER THIS CHAPTER.

13 (F) A STATEMENT OF THE AMOUNT OF MONEY IN EACH LOAN RESERVE
14 FUND ESTABLISHED UNDER THE SMALL BUSINESS CAPITAL ACCESS PROGRAM
15 REQUIRED UNDER THIS CHAPTER.

16 (G) ANY RECOMMENDATIONS FOR NEEDED CHANGES AND ANY OTHER
17 INFORMATION THE BOARD BELIEVES WOULD BE OF INTEREST TO THE
18 GOVERNOR, THE LEGISLATURE, AND THE PUBLIC.

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

22 (a) Senate Bill No. 298.

23 (b) Senate Bill No. 359.

24 (c) Senate Bill No. 521.

25 (d) Senate Bill No. 533.

26 (e) House Bill No. 4972.

27 (f) House Bill No. 4973.

- 1 (g) House Bill No. 5048.
- 2 (h) House Bill No. 5108.
- 3 (i) House Bill No. 5109.