

SENATE BILL No. 533

May 24, 2005, Introduced by Senators GARCIA, SIKKEMA, KUIPERS, CROPSEY, BIRKHOLZ, GEORGE and HARDIMAN and referred to the Committee on Appropriations.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending the title and sections 4 and 13 (MCL 125.2004 and
125.2013), sections 4 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 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; to provide for the
8 expenditure of proceeds in certain funds to which the Michigan
9 strategic fund succeeds in ownership; to provide for the issuance

1 of, and terms and conditions for, notes and bonds of the Michigan
2 strategic fund; **TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION**
3 **BONDS OF THIS STATE AND TO PLEDGE THE FULL FAITH AND CREDIT OF THIS**
4 **STATE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS; TO**
5 **IMPLEMENT SECTION 15(2) OF ARTICLE IX OF THE STATE CONSTITUTION OF**
6 **1963; TO CREATE THE STRATEGIC ECONOMIC INVESTMENT BOARD AND THE**
7 **STRATEGIC ECONOMIC INVESTMENT BOND FUND;** to exempt the property,
8 income, and operation of the fund and its bonds and notes, and the
9 interest thereon, from certain taxes; to provide for the creation
10 of certain centers within and for the purposes of the Michigan
11 strategic fund; to provide for the creation and funding of certain
12 accounts for certain purposes; to impose certain powers and duties
13 upon certain officials, departments, and authorities of ~~the~~ **THIS**
14 state; to provide penalties; and to repeal ~~certain~~ acts and parts
15 of acts.

16 Sec. 4. As used in this act:

17 (a) "Board" means the board of directors of the Michigan
18 strategic fund, except **AS USED IN CHAPTER 8A OR** where the context
19 clearly requires a different definition.

20 (b) "Economic development project" means an endeavor related
21 to industrial, commercial, or agricultural enterprise. Economic
22 development project includes, but is not limited to, a theme or
23 recreation park; agricultural or forestry production, harvesting,
24 storage, or processing facilities or equipment; and the use of
25 equipment or facilities designed to produce energy from renewable
26 resources. Economic development project does not include that
27 portion of an endeavor devoted to the sale of goods at retail,

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

8 (c) "Fund" means the Michigan strategic fund created under
9 section 5, except where the context clearly requires a different
10 definition.

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

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

23 (f) "Project" means an economic development project and, in
24 addition, means the acquisition, construction, reconstruction,
25 conversion, or leasing of an industrial, commercial, retail,
26 agricultural, or forestry enterprise, or any part ~~thereof~~ **OF**
27 **THESE**, to carry out the purposes and objectives of this act and of

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

22 **AUTHORIZED UNDER CHAPTER 8A.**

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

26 Sec. 13. The total debt owed to the fund, excluding rights and
27 royalties under a venture capital agreement or obligations to the

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

7 **CHAPTER 8A**

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

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) ADVANCED COMPUTING OR ELECTRONIC DEVICE TECHNOLOGY RELATED**
26 **TO TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.**

27 **(vi) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO**

1 TECHNOLOGY DESCRIBED UNDER THIS SUBDIVISION.

2 (vii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
3 DESCRIBED UNDER THIS SUBDIVISION.

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

6 (i) COMPUTER HARDWARE AND SOFTWARE.

7 (ii) DATA COMMUNICATIONS.

8 (iii) INFORMATION TECHNOLOGIES.

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

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

21 (E) "COMMERCIALIZATION" MEANS THE TRANSITION FROM RESEARCH TO
22 THE ACTIONS NECESSARY TO ACHIEVE MARKET ENTRY AND GENERAL MARKET
23 COMPETITIVENESS OF NEW INNOVATIVE TECHNOLOGIES, PROCESSES, AND
24 PRODUCTS AND THE SERVICES THAT SUPPORT THAT TRANSITION.

25 (F) "COMPETITIVE EDGE TECHNOLOGY" MEANS 1 OR MORE OF THE
26 FOLLOWING:

27 (i) LIFE SCIENCES TECHNOLOGY.

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

3 (iii) HOMELAND SECURITY AND DEFENSE TECHNOLOGY.

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

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

16 (i) SENSORS, SYSTEMS, PROCESSES, OR EQUIPMENT FOR
17 COMMUNICATIONS, IDENTIFICATION AND AUTHENTICATION, SCREENING,
18 SURVEILLANCE, TRACKING, AND DATA ANALYSIS.

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

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

23 (iv) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
24 DESCRIBED UNDER THIS SUBDIVISION.

25 (I) "INDEPENDENT PEER REVIEW EXPERT" MEANS A PERSON OR PERSONS
26 APPROVED BY THE BOARD WITH APPROPRIATE EXPERTISE TO CONDUCT AN
27 INDEPENDENT, UNBIASED, OBJECTIVE, AND COMPETITIVE EVALUATION OF

1 ACTIVITIES FUNDED UNDER THIS CHAPTER. THE PERSON OR PERSONS SHALL
2 DEMONSTRATE THE CAPABILITY AND EXPERIENCE, AS APPROPRIATE OR
3 NECESSARY FOR THE PARTICULAR ACTIVITY FUNDED, TO DO ALL OF THE
4 FOLLOWING:

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

7 (ii) EMPLOY PERSONNEL WITH APPROPRIATE BUSINESS, SCIENTIFIC,
8 TECHNICAL, OR OTHER SPECIALIZED EXPERTISE TO CARRY OUT EACH ASPECT
9 OF THE EVALUATION PROCESS.

10 (iii) PROVIDE RECOMMENDATIONS TO OR ASSIST THE BOARD IN
11 IDENTIFYING HIGH-QUALITY ACTIVITIES FOR FUNDING THAT ARE LIKELY TO
12 RESULT IN THE DEVELOPMENT AND COMMERCIALIZATION OF COMPETITIVE EDGE
13 TECHNOLOGY AND JOB CREATION IN THIS STATE. THE RECOMMENDATIONS
14 SHALL INCLUDE ALL MATERIALS USED BY THE INDEPENDENT PEER REVIEW
15 EXPERT IN MAKING THE RECOMMENDATION.

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

18 (J) "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF
19 HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN
20 SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
21 1963.

22 (K) "LIFE SCIENCES" MEANS SCIENCE FOR THE EXAMINATION OR
23 UNDERSTANDING OF LIFE OR LIFE PROCESSES, INCLUDING, BUT NOT LIMITED
24 TO, ALL OF THE FOLLOWING:

25 (i) BIOENGINEERING.

26 (ii) BIOMEDICAL ENGINEERING.

27 (iii) BIOGEOCHEMISTRY.

(iv) GENOMICS.

(v) PROTEOMICS.

(vi) MOLECULAR AND CHEMICAL ECOLOGY.

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

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

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

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

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

(E) STEM CELL RESEARCH WITH HUMAN EMBRYONIC TISSUE.

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

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

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

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

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

16 (N) "QUALIFIED BUSINESS" MEANS A MICHIGAN BUSINESS ENTITY THAT
17 DEVELOPS, MARKETS, OR COMMERCIALIZES COMPETITIVE EDGE TECHNOLOGY
18 PRODUCTS OR SERVICES.

19 (O) "STATE ADMINISTRATIVE BOARD" MEANS THE BODY CREATED UNDER
20 1921 PA 2, MCL 17.1 TO 17.3, THAT EXERCISES GENERAL SUPERVISORY
21 CONTROL OVER THE FUNCTIONS AND ACTIVITIES OF ALL ADMINISTRATIVE
22 DEPARTMENTS, BOARDS, COMMISSIONERS, AND OFFICERS OF THIS STATE AND
23 OF ALL STATE INSTITUTIONS.

24 (P) "STRATEGIC ECONOMIC INVESTMENT BOARD" OR "BOARD" MEANS THE
25 STRATEGIC ECONOMIC INVESTMENT BOARD CREATED IN SECTION 88J.

26 (Q) "STRATEGIC ECONOMIC INVESTMENT BOND FUND" OR "BOND FUND"
27 MEANS THE STRATEGIC ECONOMIC INVESTMENT BOND FUND CREATED UNDER

1 SECTION 88F.

2 (R) "STRATEGIC ECONOMIC INVESTMENT BOND REPAYMENT SUBACCOUNT"
3 OR "REPAYMENT SUBACCOUNT" MEANS THE STRATEGIC ECONOMIC INVESTMENT
4 BOND REPAYMENT SUBACCOUNT CREATED IN SECTION 88F.

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

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

16 SEC. 88C. (1) BONDS AUTHORIZED UNDER THIS CHAPTER SHALL BE
17 ISSUED IN 1 OR MORE SERIES, EACH SERIES TO BE IN A PRINCIPAL
18 AMOUNT, TO BE DATED, TO HAVE THE MATURITIES THAT MAY BE EITHER
19 SERIAL, TERM, OR BOTH, TO BEAR INTEREST AT A RATE OR RATES, TO BE
20 SUBJECT OR NOT SUBJECT TO PRIOR REDEMPTION, AND IF SUBJECT TO PRIOR
21 REDEMPTION WITH OR WITHOUT CALL PREMIUMS, TO BE PAYABLE AT A PLACE
22 OR PLACES, TO HAVE OR NOT HAVE PROVISIONS FOR REGISTRATION AS TO
23 PRINCIPAL ONLY OR AS TO BOTH PRINCIPAL AND INTEREST, TO BE IN A
24 FORM AND TO BE EXECUTED IN A MANNER AS SHALL BE DETERMINED BY
25 RESOLUTION TO BE ADOPTED BY THE STATE ADMINISTRATIVE BOARD AND
26 SUBJECT TO COVENANTS, DIRECTIONS, RESTRICTIONS, OR RIGHTS SPECIFIED
27 BY RESOLUTION TO BE ADOPTED BY THE STATE ADMINISTRATIVE BOARD AS

1 NECESSARY TO ENSURE THE MARKETABILITY, INSURABILITY, OR TAX-EXEMPT
2 STATUS OF THE BONDS. THE STATE ADMINISTRATIVE BOARD SHALL ROTATE
3 THE SERVICES OF LEGAL COUNSEL WHEN ISSUING BONDS.

4 (2) THE STATE ADMINISTRATIVE BOARD MAY REFUND BONDS ISSUED
5 UNDER THIS CHAPTER BY THE ISSUANCE OF NEW BONDS, WHETHER OR NOT THE
6 BONDS TO BE REFUNDED HAVE MATURED OR ARE SUBJECT TO PRIOR
7 REDEMPTION. THE STATE ADMINISTRATIVE BOARD MAY ISSUE BONDS PARTLY
8 TO REFUND BONDS ISSUED UNDER THIS CHAPTER AND PARTLY FOR ANY OTHER
9 PURPOSE PROVIDED BY THIS CHAPTER. THE PRINCIPAL AMOUNT OF ANY
10 REFUNDING BONDS ISSUED UNDER THIS SECTION SHALL NOT BE COUNTED
11 AGAINST THE LIMITATION ON PRINCIPAL AMOUNT PROVIDED UNDER SECTION
12 88B.

13 (3) THE STATE ADMINISTRATIVE BOARD MAY AUTHORIZE AND APPROVE
14 INSURANCE CONTRACTS, AGREEMENTS FOR LINES OF CREDIT, LETTERS OF
15 CREDIT, COMMITMENTS TO PURCHASE BONDS, AND ANY OTHER TRANSACTIONS
16 TO PROVIDE SECURITY TO ASSURE TIMELY PAYMENT OR PURCHASE OF ANY
17 BOND ISSUED UNDER THIS CHAPTER. THE STATE ADMINISTRATIVE BOARD,
18 UPON RECOMMENDATION OF THE STATE TREASURER, MAY AUTHORIZE AND
19 APPROVE AN INTEREST RATE EXCHANGE OR SWAP, HEDGE, OR SIMILAR
20 AGREEMENT IN CONNECTION WITH THE ISSUANCE OF BONDS UNDER THIS
21 CHAPTER, PAYABLE FROM THE SAME SOURCE AS THE BONDS.

22 (4) THE STATE ADMINISTRATIVE BOARD MAY AUTHORIZE THE STATE
23 TREASURER, BUT ONLY WITHIN LIMITATIONS CONTAINED IN THE AUTHORIZING
24 RESOLUTION OF THE STATE ADMINISTRATIVE BOARD, TO DO 1 OR MORE OF
25 THE FOLLOWING:

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

27 (B) DELIVER BONDS PARTLY TO REFUND BONDS AND PARTLY FOR OTHER

1 AUTHORIZED PURPOSES.

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

4 (D) BUY ISSUED BONDS.

5 (E) APPROVE INTEREST RATES OR METHODS FOR FIXING INTEREST
6 RATES, INCLUDING FIXED OR VARIABLE RATES, PRICES, DISCOUNTS,
7 MATURITIES, PRINCIPAL AMOUNTS, PURCHASE PRICES, PURCHASE DATES,
8 REMARKETING DATES, DENOMINATIONS, DATES OF ISSUANCE, INTEREST
9 PAYMENT DATES, REDEMPTION RIGHTS AT THE OPTION OF THIS STATE OR THE
10 OWNER, THE PLACE AND TIME OF DELIVERY AND PAYMENT, AND OTHER
11 MATTERS AND PROCEDURES NECESSARY TO COMPLETE THE AUTHORIZED
12 TRANSACTIONS.

13 (F) EXECUTE, DELIVER, AND PAY THE COST OF REMARKETING
14 AGREEMENTS, INSURANCE CONTRACTS, AGREEMENTS FOR LINES OF CREDIT,
15 LETTERS OF CREDIT, COMMITMENTS TO PURCHASE BONDS OR NOTES, AND ANY
16 OTHER TRANSACTION TO PROVIDE SECURITY TO ASSURE TIMELY PAYMENTS OR
17 PURCHASE OF ANY BOND ISSUED UNDER THIS CHAPTER.

18 (G) DETERMINE THE DETAILS OF, EXECUTE, DELIVER, AND PAY THE
19 COST OF ANY INTEREST RATE EXCHANGE OR SWAP, HEDGE, OR SIMILAR
20 AGREEMENT.

21 (5) BONDS ISSUED UNDER THIS CHAPTER ARE NOT SUBJECT TO THE
22 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
23 141.2821. BONDS ISSUED UNDER THIS CHAPTER ARE SUBJECT TO THE AGENCY
24 FINANCING REPORTING ACT, 2002 PA 470, MCL 129.171 TO 129.177.

25 (6) BONDS ISSUED UNDER THIS CHAPTER OR ANY SERIES OF BONDS
26 ISSUED UNDER THIS CHAPTER MAY BE SOLD AT PUBLIC OR PRIVATE SALE OR
27 MAY BE ISSUED AND DELIVERED TO ANY PERSON IN WHICH BOND PROCEEDS

1 MAY BE INVESTED OR DEPOSITED UNDER THIS CHAPTER AS DETERMINED BY OR
2 PURSUANT TO A RESOLUTION OF THE STATE ADMINISTRATIVE BOARD.

3 (7) BONDS ISSUED UNDER THIS CHAPTER SHALL BE ISSUED IN A
4 MANNER THAT PROVIDES THAT DEBT PAYMENTS DO NOT BEGIN BEFORE OCTOBER
5 1, 2007.

6 SEC. 88D. (1) BONDS ISSUED UNDER THIS CHAPTER SHALL BE FULLY
7 NEGOTIABLE UNDER THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL
8 440.1101 TO 440.11102.

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

12 SEC. 88E. BONDS ISSUED UNDER THIS CHAPTER ARE SECURITIES IN
13 WHICH BANKS, SAVINGS AND LOAN ASSOCIATIONS, STATE AUTHORITIES,
14 INVESTMENT COMPANIES, CREDIT UNIONS, AND OTHER PERSONS CARRYING ON
15 A BANKING BUSINESS; ALL INSURANCE COMPANIES, INSURANCE
16 ASSOCIATIONS, AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS;
17 AND ALL ADMINISTRATORS, EXECUTORS, GUARDIANS, TRUSTEES, AND OTHER
18 FIDUCIARIES MAY PROPERLY AND LEGALLY INVEST FUNDS, INCLUDING
19 CAPITAL, BELONGING TO THEM OR WITHIN THEIR CONTROL.

20 SEC. 88F. (1) THE STRATEGIC ECONOMIC INVESTMENT BOND FUND IS
21 CREATED IN THE STATE TREASURY.

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

23 (A) THE PROCEEDS OF THE SALE OF ANY SERIES OF THE BONDS
24 AUTHORIZED UNDER THIS CHAPTER.

25 (B) ANY PREMIUM AND ACCRUED INTEREST RECEIVED ON THE DELIVERY
26 OF THE BONDS.

27 (C) ANY INTEREST OR EARNINGS GENERATED BY THE PROCEEDS

1 DESCRIBED IN SUBDIVISION (A) .

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

4 (3) THE DEPARTMENT OF TREASURY SHALL ESTABLISH WITHIN THE BOND
5 FUND A STRATEGIC ECONOMIC INVESTMENT BOND REPAYMENT SUBACCOUNT.
6 MONEY IN THE REPAYMENT SUBACCOUNT SHALL BE USED TO REPAY PRINCIPAL
7 OR INTEREST ON BONDS ISSUED UNDER THIS CHAPTER AND ANY REDEMPTION
8 PREMIUMS ON BONDS ISSUED UNDER THIS CHAPTER. THE REPAYMENT
9 SUBACCOUNT SHALL CONSIST OF ALL OF THE FOLLOWING, WHICH SHALL BE
10 DEPOSITED BY THE BOARD OR THE MEDC IN THE REPAYMENT SUBACCOUNT:

11 (A) ROYALTIES, RETURN ON INVESTMENTS, RETURN OF PRINCIPAL,
12 PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO THE BOARD
13 OR THE MEDC UNDER AGREEMENTS RELATED TO GRANTS OR LOANS BY THE
14 BOARD UNDER THIS CHAPTER.

15 (B) ROYALTIES, RETURN ON INVESTMENTS, RETURN OF PRINCIPAL,
16 PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO THE BOARD
17 OR THE MEDC UNDER AGREEMENTS RELATED TO GRANTS, LOANS, OR OTHER
18 PAYMENTS FUNDED BY APPROPRIATIONS FROM THE STATE GENERAL FUND OR
19 TOBACCO SETTLEMENT REVENUE UNDER 1 OR MORE OF THE FOLLOWING:

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

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

26 (iii) SECTION 410 OF 2001 PA 80, COMMONLY KNOWN AS THE HEALTH
27 AND AGING RESEARCH AND DEVELOPMENT INITIATIVE OR THE MICHIGAN LIFE

1 SCIENCES CORRIDOR INITIATIVE, OR ANY SUCCESSOR PROGRAM.

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

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

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

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

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

15 (4) IN ADDITION TO THE REPAYMENT SUBACCOUNT CREATED UNDER
16 SUBSECTION (3), THE DEPARTMENT OF TREASURY MAY ESTABLISH OTHER
17 RESTRICTED SUBACCOUNTS WITHIN THE BOND FUND AS NECESSARY TO
18 ADMINISTER THE BOND FUND.

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

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

27 (2) ANY REMAINING BALANCE IN THE BOND FUND, THE REPAYMENT

1 SUBACCOUNT, OR A SUBACCOUNT OF THE BOND FUND AT THE CLOSE OF A
2 FISCAL YEAR SHALL REMAIN IN THE BOND FUND AND SHALL NOT LAPSE OR
3 REVERT TO THE GENERAL FUND.

4 SEC. 88H. (1) AFTER THE ISSUANCE OF THE BONDS AUTHORIZED BY
5 THIS CHAPTER, THERE SHALL BE EXPENDED FROM THE REPAYMENT SUBACCOUNT
6 OF THE BOND FUND CREATED UNDER SECTION 88F A SUFFICIENT AMOUNT TO
7 PAY PROMPTLY, WHEN DUE, THE PRINCIPAL OF AND INTEREST ON ALL
8 OUTSTANDING BONDS AUTHORIZED BY THIS CHAPTER AND THE COSTS
9 INCIDENTAL TO THE PAYMENT OF THE BONDS.

10 (2) IF THE AMOUNT AVAILABLE IN THE REPAYMENT SUBACCOUNT FOR A
11 FISCAL YEAR IS NOT A SUFFICIENT AMOUNT UNDER SUBSECTION (1), OR A
12 SUFFICIENT EXPENDITURE UNDER SUBSECTION (1) IS NOT AUTHORIZED, THE
13 REMAINING AMOUNT NECESSARY TO PAY PROMPTLY, WHEN DUE, THE PRINCIPAL
14 OF AND INTEREST ON ALL OUTSTANDING BONDS AUTHORIZED BY THIS CHAPTER
15 AND THE COSTS INCIDENTAL TO THE PAYMENT OF THE BONDS SHALL BE PAID
16 AS PROVIDED BY LAW.

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

20 SEC. 88I. (1) THE PROCEEDS OF BONDS ISSUED UNDER THIS CHAPTER
21 SHALL BE DEPOSITED INTO THE BOND FUND AND APPROPRIATED AS PROVIDED
22 BY LAW FOR PURPOSES AUTHORIZED UNDER THIS CHAPTER. THE PROCEEDS OF
23 THE BONDS ISSUED UNDER THIS CHAPTER SHALL BE EXPENDED BY THE BOARD
24 TO ENCOURAGE THE DEVELOPMENT OF COMPETITIVE EDGE TECHNOLOGY WITH
25 STRONG POTENTIAL TO PROVIDE JOBS IN THIS STATE.

26 (2) THE BOARD SHALL NOT EXPEND MORE THAN 10% OF THE TOTAL
27 PROCEEDS OF BONDS AUTHORIZED UNDER THIS CHAPTER IN ANY CALENDAR

1 YEAR. THE LIMITS ON EXPENDITURES ESTABLISHED UNDER THIS SUBSECTION
2 ARE CUMULATIVE AND MAY CARRY FORWARD TO A FUTURE CALENDAR YEAR IF
3 THE FUNDS ARE NOT PREVIOUSLY EXPENDED.

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

6 (A) NOT LESS THAN 50% FOR LIFE SCIENCES TECHNOLOGY.

7 (B) NOT LESS THAN 20% FOR ADVANCED AUTOMOTIVE, MANUFACTURING,
8 AND MATERIALS TECHNOLOGY.

9 (C) NOT LESS THAN 20% FOR HOMELAND SECURITY AND DEFENSE
10 TECHNOLOGY.

11 (4) NOT MORE THAN 10% OF EACH EXPENDITURE CATEGORY DESCRIBED
12 IN SUBSECTION (3) (A), (B), AND (C), RESPECTIVELY, MAY BE EXPENDED
13 BY THE BOARD TO SUPPORT BASIC RESEARCH IN COMPETITIVE EDGE
14 TECHNOLOGIES.

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

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

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

1 SEC. 88J. (1) THE STRATEGIC ECONOMIC INVESTMENT BOARD IS
2 CREATED AS A PUBLIC BODY CORPORATE WITHIN THE FUND. THE BOARD SHALL
3 EXERCISE ITS POWERS AND DUTIES AS AN AUTONOMOUS ENTITY INDEPENDENT
4 OF THE STRATEGIC FUND AND THE DEPARTMENT OF LABOR AND ECONOMIC
5 GROWTH.

6 (2) MONEY IN THE BOND FUND THAT IS AVAILABLE FOR EXPENDITURE
7 BY THE BOARD UNDER SECTION 88I SHALL BE EXPENDED ANNUALLY BY THE
8 BOARD ONLY FOR BASIC RESEARCH, APPLIED RESEARCH, UNIVERSITY
9 TECHNOLOGY TRANSFER, AND COMMERCIALIZATION OF PRODUCTS, PROCESSES,
10 AND SERVICES TO ENCOURAGE THE DEVELOPMENT OF COMPETITIVE EDGE
11 TECHNOLOGIES WITH STRONG POTENTIAL TO PROVIDE JOBS IN THIS STATE.

12 (3) SUBJECT TO SUBSECTION (2), THE BOARD SHALL DO ALL OF THE
13 FOLLOWING:

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

17 (i) A PROVISION THAT THE APPLICATIONS MUST BE PEER-REVIEWED BY
18 INDEPENDENT PEER REVIEW EXPERTS.

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

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

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

24 (v) A PROVISION THAT THE PROGRAM WILL UTILIZE CONTRACTS WITH
25 MEASURABLE MILESTONES, CLEAR OBJECTIVES, PROVISIONS TO REVOKE
26 AWARDS FOR BREACH OF CONTRACT, AND REPAYMENT PROVISIONS FOR FUNDS
27 GIVEN TO QUALIFIED BUSINESSES THAT LEAVE MICHIGAN WITHIN 5 YEARS OF

1 RECEIVING FUNDING OR OTHERWISE BREACH THE TERMS OF THE CONTRACT.

2 (vi) A PROVISION THAT THE APPLICANT LEVERAGE OTHER RESOURCES AS
3 A CONDITION OF THE GRANT OR LOAN.

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

6 (viii) A PROVISION THAT GRANTS CAN ONLY BE AWARDED TO MICHIGAN
7 INSTITUTIONS OF HIGHER EDUCATION AND MICHIGAN NONPROFIT RESEARCH
8 INSTITUTIONS.

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

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

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

19 (5) ALL PROGRAMS ESTABLISHED BY THE BOARD UNDER THIS CHAPTER
20 MAY BE ADMINISTERED BY THE MEDC.

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

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

27 (B) THE DEVELOPMENT OF A CASINO REGULATED BY THIS STATE UNDER

1 THE MICHIGAN GAMING CONTROL AND REVENUE ACT, THE INITIATED LAW OF
2 1996, MCL 432.201 TO 432.226, A CASINO AT WHICH GAMING IS CONDUCTED
3 UNDER THE INDIAN GAMING REGULATORY ACT, PUBLIC LAW 100-497, 102
4 STAT. 2467, OR PROPERTY ASSOCIATED OR AFFILIATED WITH THE OPERATION
5 OF EITHER TYPE OF CASINO DESCRIBED IN THIS SUBDIVISION, INCLUDING,
6 BUT NOT LIMITED TO, A PARKING LOT, HOTEL, MOTEL, OR RETAIL STORE.

7 (7) THE BOARD SHALL ESTABLISH STANDARDS TO PREVENT MONEY
8 EXPENDED UNDER THIS SECTION FROM BEING USED FOR 1 OR MORE OF THE
9 FOLLOWING:

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

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

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

1 IN THE UNITED STATES FOR THE PURPOSE OF INDUCING THE ENTERPRISE TO
2 RELOCATE OUTSIDE THE UNITED STATES IF THE INCENTIVE OR INDUCEMENT
3 IS LIKELY TO REDUCE THE NUMBER OF EMPLOYEES OF THE BUSINESS
4 ENTERPRISE IN THE UNITED STATES BECAUSE UNITED STATES PRODUCTION IS
5 BEING REPLACED BY THE ENTERPRISE OUTSIDE THE UNITED STATES.

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

12 (E) GRANTS OR LOANS THAT WOULD CONTRIBUTE TO THE VIOLATION OF
13 INTERNATIONALLY RECOGNIZED WORKERS RIGHTS, AS DEFINED IN SECTION
14 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
15 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
16 OR AREA IN THAT COUNTRY.

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

1 (8) IN ADDITION TO ANY AUDIT REQUIREMENTS UNDER SECTION 9, NOT
2 LATER THAN MAY 15 OF EACH YEAR THE AUDITOR GENERAL SHALL CONDUCT A
3 PERFORMANCE AUDIT OF BOARD ACTIVITIES FUNDED WITH THE PROCEEDS OF
4 BONDS AUTHORIZED UNDER THIS CHAPTER. THE RESULTS OF THE PERFORMANCE
5 AUDIT SHALL BE PUBLISHED ON THE INTERNET AND DISSEMINATED BY OTHER
6 MEANS DETERMINED BY THE BOARD IN A MANNER DESIGNED TO ADVISE THE
7 CITIZENS OF THIS STATE OF THE RESULTS OF THE AUDIT. A COPY OF THE
8 AUDIT SHALL BE PROVIDED TO THE GOVERNOR, THE CLERK OF THE HOUSE OF
9 REPRESENTATIVES, AND THE SECRETARY OF THE SENATE.

10 (9) IN ADDITION TO ANY REPORTING REQUIREMENTS UNDER SECTION 9,
11 NOT LATER THAN DECEMBER 31 OF EACH YEAR, THE BOARD SHALL REPORT TO
12 THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES, AND THE
13 SECRETARY OF THE SENATE. THE REPORT SHALL CONTAIN ALL OF THE
14 FOLLOWING FOR THE IMMEDIATELY PRECEDING FISCAL YEAR THAT ARE
15 RELATED TO A GRANT OR LOAN MADE BY THE BOARD:

16 (A) A LIST OF ENTITIES THAT RECEIVED FUNDING, THE AMOUNT
17 RECEIVED, AND THE TYPE OF FUNDING.

18 (B) THE NUMBER OF NEW PATENTS APPLIED FOR AND ISSUED.

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

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

21 (E) AMOUNTS OF OTHER FUNDS LEVERAGED.

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

24 (10) THE BOARD SHALL PUBLISH THE STANDARDS DESCRIBED IN THIS
25 SECTION ON THE INTERNET AND DISSEMINATE THEM BY ANY OTHER MEANS
26 DETERMINED BY THE BOARD.

27 SEC. 88K. (1) THE BOARD SHALL CONSIST OF 13 MEMBERS, AS

1 PROVIDED UNDER SUBSECTIONS (2) AND (3).

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

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

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

9 (3) THE BOARD SHALL INCLUDE THE FOLLOWING 11 MEMBERS APPOINTED
10 BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

11 (A) ONE MEMBER WITH KNOWLEDGE, SKILL, OR EXPERIENCE IN
12 SCIENCE, ENGINEERING, OR TECHNOLOGY.

13 (B) ONE MEMBER WITH KNOWLEDGE, SKILL, OR EXPERIENCE IN VENTURE
14 CAPITAL INVESTMENTS.

15 (C) TWO MEMBERS WITH KNOWLEDGE, SKILL, OR EXPERIENCE IN
16 BRINGING COMPETITIVE EDGE TECHNOLOGY PRODUCTS TO MARKET.

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

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

26 (F) ONE MEMBER REPRESENTING QUALIFIED BUSINESSES OR PERSONS
27 WITH BUSINESS, TECHNOLOGICAL, OR FINANCIAL EXPERIENCE RELATED TO

1 COMPETITIVE EDGE TECHNOLOGY.

2 (G) ONE MEMBER REPRESENTING A MICHIGAN NONPROFIT RESEARCH
3 INSTITUTION.

4 (H) TWO MEMBERS REPRESENTING AN INSTITUTION OF HIGHER
5 EDUCATION THAT HAS 24,000 OR MORE FISCAL YEAR EQUATED STUDENTS AS
6 REPORTED TO THE HIGHER EDUCATION INSTITUTIONAL DATA INVENTORY
7 DATABASE AT THE TIME OF THE APPOINTMENT.

8 (I) ONE MEMBER REPRESENTING AN INSTITUTION OF HIGHER EDUCATION
9 THAT HAS FEWER THAN 24,000 FISCAL YEAR EQUATED STUDENTS AS REPORTED
10 TO THE HIGHER EDUCATION INSTITUTIONAL DATA INVENTORY DATABASE AT
11 THE TIME OF THE APPOINTMENT.

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

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

27 (6) THE GOVERNOR SHALL DESIGNATE 1 OF THE MEMBERS OF THE BOARD

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

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

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

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

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

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

1 PUBLISHED ON THE INTERNET.

2 (12) NOT MORE THAN 7 MEMBERS OF THE BOARD SHALL BE MEMBERS OF
3 THE SAME POLITICAL PARTY.

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

23 (3) AN INDEPENDENT PEER REVIEW EXPERT, OTHER THAN AN
24 INVESTMENT MANAGEMENT COMPANY UTILIZED BY THE BOARD, SHALL NOT HAVE
25 ANY FINANCIAL INTEREST IN A RECIPIENT OF BOND PROCEEDS UNDER THIS
26 CHAPTER.

27 SEC. 88M. (1) A RECORD PREPARED, OWNED, USED, IN THE

1 POSSESSION OF, OR RETAINED BY THE BOARD OR THE MEDC IN THE
2 PERFORMANCE OF AN OFFICIAL FUNCTION UNDER THIS CHAPTER SHALL BE
3 AVAILABLE TO THE PUBLIC IN COMPLIANCE WITH THE FREEDOM OF
4 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, UNLESS
5 OTHERWISE PROVIDED BY LAW.

6 (2) A RECORD OR PORTION OF A RECORD, MATERIAL, OR OTHER DATA
7 RECEIVED, PREPARED, USED, OR RETAINED BY THE BOARD IN CONNECTION
8 WITH AN APPLICATION FOR A GRANT, LOAN, OR QUALIFIED INVESTMENT
9 UNDER THIS CHAPTER THAT RELATES TO FINANCIAL OR PROPRIETARY
10 INFORMATION SUBMITTED BY THE APPLICANT THAT IS CONSIDERED BY THE
11 APPLICANT AND ACKNOWLEDGED BY THE BOARD AS CONFIDENTIAL SHALL NOT
12 BE SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF
13 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. A DESIGNEE OF
14 THE BOARD SHALL MAKE THE DETERMINATION AS TO WHETHER THE BOARD
15 ACKNOWLEDGES AS CONFIDENTIAL ANY FINANCIAL OR PROPRIETARY
16 INFORMATION SUBMITTED BY THE APPLICANT AND CONSIDERED BY THE
17 APPLICANT AS CONFIDENTIAL. UNLESS CONSIDERED PROPRIETARY
18 INFORMATION, THE BOARD SHALL NOT ACKNOWLEDGE ROUTINE FINANCIAL
19 INFORMATION AS CONFIDENTIAL. IF THE DESIGNEE OF THE BOARD
20 DETERMINES THAT INFORMATION SUBMITTED TO THE BOARD IS FINANCIAL OR
21 PROPRIETARY INFORMATION AND IS CONFIDENTIAL, THE DESIGNEE OF THE
22 BOARD SHALL RELEASE A WRITTEN STATEMENT, SUBJECT TO DISCLOSURE
23 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, 15.231 TO
24 15.246, WHICH STATES ALL OF THE 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
2 DESIGNEE OF THE BOARD TO BE CONFIDENTIAL AS FINANCIAL OR
3 PROPRIETARY INFORMATION.

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

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

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

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

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

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

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

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

1 Enacting section 1. This amendatory act takes effect December
2 26, 2005.

3 Enacting section 2. This amendatory act does not take effect
4 unless Senate Joint Resolution ____ or House Joint Resolution ____
5 (request no. 03091'05) of the 93rd Legislature becomes a part of
6 the state constitution of 1963 as provided in section 1 of article
7 XII of the state constitution of 1963.