

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 834**

A bill to promote investment in certain businesses; to promote economic development in this state; to provide for a Michigan early stage venture investment corporation; to prescribe the powers and duties of a Michigan early stage venture investment corporation; to prescribe the powers and duties of certain public officers and departments; to establish the Michigan early stage venture investment fund and other funds; to provide for tax credits and incentives; to authorize certain investments; to provide for the expiration of the fund; to provide or allow for appropriations; and to provide penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan early stage venture investment act of 2003".

3 Sec. 2. (1) The legislature finds all of the following:

1 (a) There exists a need to promote the economic health of
2 this state by assisting in the creation of new jobs, new
3 businesses, and new industries within this state and through the
4 investment in certain businesses that focus on areas including,
5 but not limited to, alternative energy technology,
6 high-technology, and health care.

7 (b) Investing in businesses that are early stage growth
8 companies and promoting economic growth in the state assist the
9 state in carrying out its essential governmental functions and as
10 such are essential public purposes.

11 (c) Investments in certain businesses promote the retention
12 of businesses and jobs that would be likely to leave the state
13 absent the investment, revitalize and diversify the economic base
14 of this state, generate and retain jobs and investment in this
15 state, and help to effectuate legislative and governmental
16 programs to promote economic growth in this state.

17 (d) Agreements with private corporations such as Michigan
18 early stage venture investment corporations can assist the state
19 by raising capital and investing that capital in venture capital
20 firms with the intent to benefit this state's early stage growth
21 companies thus facilitating economic growth and development and
22 other government programs and supporting essential public
23 purposes.

24 (2) It is hereby declared that the purposes of this act are
25 as follows:

26 (a) To promote a healthy economic climate in this state by
27 fostering job creation, retention, and expansion through the

1 promotion of investment in certain businesses.

2 (b) To allow the state to enter into agreements with Michigan
3 early stage venture investment corporations to promote a healthy
4 economic climate in this state.

5 Sec. 3. As used in this act:

6 (a) "Alternative energy technology" means that term as
7 defined in section 2(d) of the Michigan next energy authority
8 act, 2002 PA 593, MCL 207.822.

9 (b) "Board" means the Michigan early stage venture investment
10 corporation board of directors.

11 (c) "Conflict of interest" means a situation in which the
12 private interest of a director, employee, or agent of the board
13 may influence the judgment of the director, employee, or agent in
14 the performance of his or her duties or responsibilities under
15 this act. A conflict of interest includes, but is not limited
16 to, the following:

17 (i) Any conduct that would lead a reasonable person, knowing
18 all of the circumstances, to conclude that the director,
19 employee, or agent of the board has an interest related to an
20 action that the board is taking under this act.

21 (ii) Acceptance of compensation other than from the board for
22 services rendered as part of the official duties as a director,
23 employee, or agent of the board.

24 (iii) Participation in any business being transacted with or
25 before the board in which the director, employee, or agent of the
26 board or his or her spouse, child, parent, stepparent,
27 grandparent, grandchild, brother, sister, parent-in-law,

1 brother-in-law, sister-in-law, aunt, uncle, nephew, niece, first
2 cousin, or second cousin or the spouse of any of the persons
3 described in this subparagraph has a financial interest.

4 (d) "Equity capital" means capital invested in common or
5 preferred stock, royalty rights, limited partnership interests,
6 limited liability company interests, or any other security or
7 rights that evidence ownership in a private business.

8 (e) "Fund" or "Michigan early stage venture investment fund"
9 means the fund created in section 19.

10 (f) "High-technology activity" means that term as defined in
11 section 3(g) of the Michigan economic growth authority act, 1995
12 PA 24, MCL 207.803.

13 (g) "Investor" means an individual, firm, bank, financial
14 institution, limited partnership, co-partnership, partnership,
15 joint venture, association, corporation, receiver, estate, trust,
16 or any other entity that invests in the fund.

17 (h) "Michigan economic development corporation" means the
18 public body corporate created under section 28 of article VII of
19 the state constitution of 1963 and the urban cooperation act of
20 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a
21 contractual interlocal agreement effective April 5, 1999 between
22 local participating economic development corporations formed
23 under the economic development corporations act, 1974 PA 338, MCL
24 125.1601 to 125.1636, and the Michigan strategic fund. If it is
25 determined that the Michigan economic development corporation is
26 unable to perform its duties under this act, those duties shall
27 be exercised by the Michigan strategic fund.

1 (i) "Michigan strategic fund" means the Michigan strategic
2 fund as described in the Michigan strategic fund act, 1984 PA
3 270, MCL 125.2001 to 125.2093.

4 (j) "Near-equity capital" means capital invested in
5 unsecured, undersecured, or debt securities or subordinated or
6 convertible loans.

7 (k) "Negotiated return on qualified investment" means the
8 rate of return agreed upon for investments made by investors in
9 the fund.

10 (l) "Qualified business" means a seed or early stage business
11 that is domiciled in this state, that has its corporate
12 headquarters in this state, or the majority of whose employees
13 work a majority of their time at a site located in this state.

14 (m) "Qualified investment" means the amount of capital
15 invested by an investor in the fund.

16 (n) "Seed or early stage business" means a business that is
17 either of the following:

18 (i) A business that has not fully established commercial
19 operations and may also be engaged in continued research and
20 product development.

21 (ii) A business engaged in product, service, or technology
22 development and initial manufacturing, marketing, or sales
23 activities.

24 (o) "Venture capital company" means a corporation,
25 partnership, limited liability company, or other legal entity the
26 primary business activity of which is the investment of equity
27 capital in businesses that focus on areas, including, but not

1 limited to, alternative energy technology, high-technology
2 activity, or health care.

3 Sec. 5. (1) A Michigan early stage venture investment
4 corporation is a nonprofit corporation incorporated under the
5 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192,
6 that meets the registration requirements of this act.

7 (2) A Michigan early stage venture investment corporation
8 shall be incorporated as a nonprofit corporation that has
9 received, on or before September 1, 2004, a favorable
10 determination from the internal revenue service that the
11 corporation is exempt from taxation under section 501(c)(3) of
12 the internal revenue code. The department of treasury may allow
13 up to 3, 30-day extensions of the date under this section for
14 purposes reviewing and approving an application for registration
15 under section 11.

16 (3) Except as otherwise provided in this act to the contrary,
17 a Michigan early stage venture investment corporation is subject
18 to the laws of this state that are applicable to nonprofit
19 corporations.

20 (4) A Michigan early stage venture investment corporation is
21 a charitable and benevolent institution, and its funds, income,
22 and property are exempt from taxation by this state or any
23 political subdivision of this state.

24 (5) A corporation shall not act as a Michigan early stage
25 venture investment corporation except as authorized under this
26 act.

27 Sec. 7. The articles of incorporation of a Michigan early

1 stage venture investment corporation shall contain all of the
2 following:

3 (a) The purposes of the corporation, which shall include, but
4 are not limited to, all of the following:

5 (i) To operate and act exclusively for charitable purposes
6 with the intent to lessen the financial burdens of the government
7 of this state.

8 (ii) To receive and administer funds for the charitable
9 purposes under subparagraph (i).

10 (iii) To raise capital and invest that capital in venture
11 capital firms with the intent of benefiting Michigan's seed or
12 early stage businesses.

13 (iv) To promote the economic health of this state by
14 assisting in the creation of new jobs, new businesses, and new
15 industries within this state and through the investment in
16 certain businesses.

17 (v) To enter into an agreement with this state to promote the
18 economic health of this state.

19 (b) A provision that the Michigan early stage venture
20 investment corporation shall be governed by a board of directors
21 that complies with the requirements in section 13.

22 (c) A provision that provides that, upon dissolution of the
23 Michigan early stage venture investment corporation, the property
24 remaining after providing for debts and obligations of the
25 Michigan early stage venture investment corporation shall be
26 distributed to an organization that qualifies either as a
27 governmental unit under section 170(c) of the internal revenue

1 code or is exempt from tax under section 501(c)(3) of the
2 internal revenue code, as designated by the board. If the board
3 fails to designate an organization as provided in this
4 subdivision, the property remaining shall pass to the state of
5 Michigan. For purposes of this subdivision, property remaining
6 after providing for debts and obligations does not include
7 grants, appropriations, or other restricted funds that must be
8 distributed as required by the source of those funds.

9 Sec. 9. (1) Prior to applying for registration as a
10 Michigan early stage venture investment corporation under section
11 11, a nonprofit corporation shall submit its articles of
12 incorporation and any amendments to those articles of
13 incorporation to the attorney general for review and
14 certification.

15 (2) The attorney general shall review the information
16 submitted pursuant to subsection (1) and, if that information
17 complies with the requirements of this act, and upon payment of a
18 fee of \$100.00, the attorney general shall issue a certificate of
19 compliance to the Michigan early stage venture investment
20 corporation not later than 60 days after the initial receipt of
21 the information.

22 Sec. 11. (1) To apply for registration as a Michigan early
23 stage venture investment corporation, a nonprofit corporation
24 shall file all of the following with the state treasurer:

25 (a) A copy of the articles of incorporation of the nonprofit
26 corporation and any amendments to those articles of
27 incorporation.

1 (b) The certificate of compliance issued under section 9.
2 This subdivision does not apply if the attorney general does not
3 issue the certificate within the time provided in section 9(2).

4 (c) A general plan of the proposed activities of the
5 nonprofit corporation, including, but not limited to, evidence of
6 the establishment by the nonprofit corporation of a restricted
7 fund that shall be known as a Michigan early stage venture
8 investment fund.

9 (d) A copy of the financial statements of the nonprofit
10 corporation for the first fiscal year of the nonprofit
11 corporation.

12 (e) A copy of the bylaws of the nonprofit corporation.

13 (f) Payment of a fee to the state treasurer of \$500.00.

14 (2) The state treasurer shall examine the documents filed
15 under subsection (1), may conduct any investigation he or she
16 considers necessary, may request additional oral and written
17 information from the nonprofit corporation, and may examine under
18 oath any persons interested in or connected with the nonprofit
19 corporation seeking to be registered as a Michigan early stage
20 venture investment corporation.

21 (3) The state treasurer shall register a nonprofit
22 corporation as a Michigan early stage venture investment
23 corporation if all of the following conditions are met:

24 (a) The documents filed under subsection (1) are in proper
25 form.

26 (b) The articles of incorporation of the nonprofit
27 corporation or any amendments to those articles of incorporation

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1 meet the requirements of section 7.

2 (c) The internal revenue service has determined that the
3 nonprofit corporation is exempt from taxation under section
4 501(c)(3) of the internal revenue code.

5 (4) If the state treasurer registers the nonprofit
6 corporation as a Michigan early stage venture investment
7 corporation under this section, the state treasurer shall return
8 to the nonprofit corporation 1 copy of its articles of
9 incorporation and any amendments to those articles of
10 incorporation, with a notation indicating that the nonprofit
11 corporation is registered as a Michigan early stage venture
12 investment corporation.

13 Sec. 13. (1) A Michigan early stage venture investment
14 corporation shall be governed by a [7-member board of directors
15 consisting of the following members

16

17]:

18 (a) The state treasurer or his or her designee [from within the
19 department of treasury].

20 (b) The chief executive officer of the Michigan economic
21 development corporation or his or her designee [from within the Michigan
22 economic development corporation].

23 (c) [Five additional members appointed by the governor by and with
24 the advice and consent of the senate including each of the following:

25 (i) One individual appointed from a list of not fewer than 3 names
26 recommended by the speaker of the house of representatives.

27 (ii) One individual appointed from a list of not fewer than 3 names
recommended by the majority leader of the senate.

(iii) One individual appointed from a list of 1 or more names

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1 recommended by a statewide organization exempt from taxation under
2 section 501(c)(3) of the internal revenue code, the members of which
3 represent more than 50% of the venture capital companies in this state
4 and that has a common interest in stimulating an entrepreneurial
5 environment in this state, encouraging investments in new and emerging
companies in this state, and promoting venture capital investing.

(iv) Two people representing the general public.]

6 (2) Each director appointed under subsection (1)(c) []
7 shall serve for a term of 3 years, except that of those directors
8 first appointed, the director first appointed under subsection
9 [(1)(c)(i)] and 1 of the directors first appointed under subsection
10 [(1)(c)(iv) shall each be appointed for an initial] term of 1 year, the
director first

11 appointed under subsection [(1)(c)(ii)] and 1 of the directors first
12 appointed under subsection [(1)(c)(iv) shall each be appointed for an
initial] term of
13 2 years, and the director first appointed under subsection [(1)(c)(iii)]
14 shall be appointed for an initial] term of 3 years. A vacancy on the
board at the

15 end of or during a director's term shall be filled in the same
16 manner as the original appointment for the remainder of the
17 unexpired term or for the new term and until a successor is
18 appointed.

19 (3) A majority of the directors appointed and serving
20 constitute a quorum for the transaction of business at a meeting
21 of the board. A majority vote of the directors present and
22 serving is required for official action of the board.

23 (4) Each director shall prepare and file with the board
24 annually on or before October 1 a disclosure form in which the
25 director discloses any potential conflict of interest under this

26 act.

27 (5) A director, employee, or agent of the board shall not

1 engage in any conduct that constitutes a conflict of interest and
2 shall immediately advise the board in writing of the details of
3 any incident or circumstances that may present the existence of a
4 conflict of interest with respect to the performance of the
5 board-related work or duty of the director, employee, or agent of
6 the board.

7 (6) A director who has a conflict of interest related to any
8 matter before the board shall disclose the conflict of interest
9 before the board takes any action with respect to the matter,
10 which disclosure shall become a part of the record of the board's
11 official proceedings. The director with the conflict of interest
12 shall refrain from doing all of the following with respect to the
13 matter that is the basis of the conflict of interest:

14 (a) Voting in the board's proceedings related to the matter.

15 (b) Participating in the board's discussion of and
16 deliberation on the matter.

17 (c) Being present at the meeting when the discussion,
18 deliberation, and voting on the matter take place.

19 (d) Discussing the matter with any other board member.

20 (7) Failure of a director to comply with subsection (6)
21 constitutes misconduct in office. A director may be removed from
22 the board for misconduct by a vote of a majority of the directors
23 not subject to the vote under this subsection appointed and
24 serving on the board.

25 (8) With respect to management of the affairs and property of
26 the corporation, each director shall exercise the duties of a
27 fiduciary toward the corporation and shall discharge his or her

1 duties with the degree of diligence, care, and skill that an
2 ordinarily prudent person would exercise under the same or
3 similar circumstances in a like position. In discharging his or
4 her duties, a director, when acting in good faith, may rely upon
5 the opinion of counsel. A director may be removed from the board
6 for a breach of fiduciary duty by a vote of a majority of the
7 directors not subject to the vote under this subsection appointed
8 and serving on the board.

9 (9) A director of the board or an officer or employee of the
10 board or Michigan early stage venture investment corporation is
11 not subject to personal liability when acting in good faith
12 within the scope of his or her authority or on account of
13 liability of the Michigan early stage venture investment
14 corporation, and the board may defend and indemnify a director of
15 the board or an officer or employee of the board or Michigan
16 early stage venture investment corporation against liability
17 arising out of the discharge of his or her official duties. The
18 Michigan early stage venture investment corporation may indemnify
19 and procure insurance indemnifying directors of the board and
20 other officers and employees of the board or Michigan early stage
21 venture investment corporation from personal loss or
22 accountability for liability asserted by a person with regard to
23 actions of the board or the failure to act by the board or
24 Michigan early stage venture investment corporation. The
25 Michigan early stage venture investment corporation may also
26 purchase and maintain insurance on behalf of any person against
27 any liability asserted against the person and incurred by the

1 person in any capacity or arising out of the status of the person
2 as a director of the board or an officer or employee of the board
3 or Michigan early stage venture investment corporation, whether
4 or not the Michigan early stage venture investment corporation
5 would have the power to indemnify the person against that
6 liability under this subsection. The board or the Michigan early
7 stage venture investment corporation may by a majority vote of
8 the board obligate itself in advance to defend and indemnify
9 persons.

10 Sec. 15. (1) Except as otherwise provided in this act, in
11 the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
12 450.3192, by law, or in its articles of incorporation, a Michigan
13 early stage venture investment corporation may do or delegate any
14 act consistent with this act and the purposes of the nonprofit
15 corporation, including, but not limited to, the following:

16 (a) Enter into contracts and all necessary activities in the
17 regular course of business of the Michigan early stage venture
18 investment corporation.

19 (b) Charge reasonable fees for the implementation of this act
20 and the ongoing operation of the Michigan early stage venture
21 investment corporation.

22 (c) Perform acts or enter into financial or other
23 transactions necessary to carry out its powers and duties under
24 this act.

25 (d) Invest in venture capital funds through equity
26 securities.

27 (e) Employ a fund manager and other persons it considers

1 necessary to implement this act. The Michigan early stage
2 venture investment corporation shall employ only 1 fund manager
3 at any 1 time.

4 (2) The fund manager shall exercise the duties of a fiduciary
5 toward the corporation and shall discharge his or her duties with
6 the degree of diligence, care, and skill that an ordinarily
7 prudent person would exercise under the same or similar
8 circumstances in a like position.

9 (3) The fund manager shall solicit investors pursuant to
10 section 17.

11 (4) The Michigan early stage venture investment corporation
12 shall require the fund manager to develop procedures to evaluate
13 types of business and industry for investment purposes and to set
14 priorities as to which businesses are most likely to meet the
15 desired outcomes of the investment plan established under section
16 19 and which businesses conduct activities that are consistent
17 with the purposes of this act and of the fund. This evaluation
18 shall include, but not be limited to, the location of the firm
19 and the direct and indirect impact of the business on the
20 economic development of this state.

21 Sec. 17. (1) To secure investment in the fund, the Michigan
22 early stage venture investment corporation shall enter into
23 agreements with investors.

24 (2) Each agreement shall contain all of the following:

25 (a) An established and agreed-upon investment amount and
26 repayment schedule.

27 (b) A guaranteed negotiated amount or negotiated return on

1 qualified investment by the certified investor over the term of
2 the agreement.

3 (c) A maximum amount of credit that the investor may claim
4 under section 37e of the single business tax act, 1975 PA 228,
5 MCL 208.37e, a successor tax to the single business tax act, 1975
6 PA 228, MCL 208.1 to 208.145, or under section 270 of the income
7 tax act of 1967, 1967 PA 281, MCL 206.270, and the first year in
8 which that credit can be claimed.

9 (3) The Michigan early stage venture investment corporation
10 shall notify the department of treasury when agreements are
11 entered into under this section and send a copy of each agreement
12 to the department of treasury. The department of treasury shall
13 issue an approval letter to the investor that states that the
14 investor is entitled to a tax credit under section 37e of the
15 single business tax act, 1975 PA 228, MCL 208.37e, that is equal
16 to the difference between the amount actually repaid and the
17 amount set as the repayment due in the agreement entered into by
18 the investor and the fund manager.

19 (4) The fund shall repay any amounts due from proceeds from
20 the funds raised based on the agreements made under this
21 section.

22 (5) For tax years that begin after December 31, 2008,
23 investors that have certificates issued pursuant to section 23
24 may claim a credit under section 37e of the single business tax
25 act, 1975 PA 228, MCL 208.37e, or section 270 of the income tax
26 act of 1967, 1967 PA 281, MCL 206.270, as otherwise provided in
27 this act, equal to the difference between the amount actually

1 repaid and the amount set as the repayment due in the agreement
2 entered into by the taxpayer and the fund manager. The Michigan
3 early stage venture investment corporation shall notify the
4 department of treasury when credit certificates are issued under
5 section 23, and upon notification and approval by the department
6 of treasury under section 23, the amount of credit allowed
7 pursuant to the credit certificate becomes a debt of the fund to
8 the state subject to repayment pursuant to the agreement between
9 the Michigan early stage venture investment corporation and the
10 department of treasury. A debt under this section shall accrue
11 interest at the same rate as the interest paid to the investor.

12 (6) Repayment of a debt under this section may be restricted
13 to specific funds or assets of the Michigan early stage venture
14 investment corporation.

15 (7) The Michigan early stage venture investment corporation
16 may purchase securities and may manage, transfer, or dispose of
17 those securities.

18 (8) The Michigan early stage venture investment corporation
19 and its directors are not broker-dealers, agents, investment
20 advisors, or investment advisor representatives when carrying out
21 their duties and responsibilities under this act.

22 Sec. 19. (1) A Michigan early stage venture investment
23 corporation shall create a Michigan early stage venture
24 investment fund, which shall be a restricted fund.

25 (2) The fund manager shall establish an investment plan
26 approved by the board for the investment of the money in the fund
27 using the following criteria:

1 (a) Not more than 15% of the total capital and outstanding
2 commitments of the fund shall be invested in any single venture
3 capital company.

4 (b) The fund manager with the approval of the board shall
5 undertake to invest the fund in such a way as to promote that at
6 least \$2.00 will be invested in qualified businesses for every
7 \$1.00 of principal for which credits may be claimed under section
8 37e of the single business tax act, 1975 PA 228, MCL 208.37e, a
9 successor tax to the single business tax act, 1975 PA 228, MCL
10 208.1 to 208.145, or section 270 of the income tax act of 1967,
11 1967 PA 281, MCL 206.270.

12 (c) That investments facilitate the transfer of technologies
13 from the state's various universities and research institutions.

14 (d) Any other professional portfolio management criteria that
15 the fund manager and board consider appropriate.

16 (e) Priorities for investment in venture capital may be based
17 on an evaluation, which shall consider the following criteria:

18 (i) The retention of those businesses which would be likely
19 to leave this state absent the investment.

20 (ii) The revitalization and diversification of the economic
21 base of this state.

22 (iii) Generating and retaining jobs and investment in this
23 state.

24 (3) Consistent with the plan established under subsection
25 (2), the fund manager shall select venture capital companies from
26 among those venture capital companies that apply for money from
27 the fund considering the following criteria:

1 (a) The venture capital company's probability of success in
2 generating above-average returns through investing in qualified
3 businesses.

4 (b) The venture capital company's probability of success in
5 soliciting investments. The level of investment from the fund
6 committed to each venture capital company shall not be more than
7 25% of the venture capital company's total capital under
8 management.

9 (c) The venture capital company's probability of success as
10 it relates to the investment plan criteria under subsection
11 (2)(b).

12 (d) The venture capital company has a significant presence in
13 this state as determined by the Michigan early stage venture
14 investment corporation.

15 (e) The venture capital company will undertake to invest in
16 qualified businesses, as determined at the point of initial
17 investment, a percentage of invested capital equal to or greater
18 than the percentage of invested capital that the venture capital
19 company received from the fund.

20 (f) The venture capital company's consideration of minority
21 owned businesses in its investment activities.

22 Sec. 21. The fund manager shall file a report with the
23 Michigan early stage venture investment corporation that includes
24 an annual financial audit conducted by an independent auditor and
25 any other financial information and documentation required by the
26 Michigan early stage venture investment corporation to ensure the
27 proper administration and investment of the fund.

1 Sec. 23. (1) The Michigan early stage venture investment
2 corporation shall determine which investors are eligible for tax
3 credits under section 37e of the single business tax act, 1975 PA
4 228, MCL 208.37e, and section 270 of the income tax act of 1967,
5 1967 PA 281, MCL 206.270, and the amount of the tax credit under
6 those sections allowed to each investor.

7 (2) The Michigan early stage venture investment corporation
8 shall determine which investors are eligible for tax credits
9 under this section and submit proposed certificates that meet the
10 criteria under subsection (3) to the department of treasury for
11 approval. The department of treasury shall approve or deny
12 proposed certificates within 30 days after receipt of the
13 certificates. If the department of treasury denies a proposed
14 certificate, the department of treasury shall notify the Michigan
15 early stage venture investment corporation and the investor of
16 the denial and the reason for the denial. If a proposed
17 certificate is denied under this subsection, the Michigan early
18 stage venture investment corporation is not prohibited from
19 subsequently submitting a proposed certificate on behalf of that
20 same investor. If the department of treasury does not approve or
21 deny the certificates within 30 days, the certificates are
22 considered approved.

23 (3) The Michigan early stage venture investment corporation
24 shall issue a certificate approved under subsection (2) to each
25 investor that states all of the following:

26 (a) The taxpayer is an investor.

27 (b) The taxpayer's federal employer identification number or

1 the number assigned to the taxpayer by the department of treasury
2 for filing purposes under the single business tax act, 1975 PA
3 228, MCL 208.1 to 208.145.

4 (c) The amount of the tax credit that the taxpayer may claim
5 against its tax liability under section 37e of the single
6 business tax act, 1975 PA 228, MCL 208.37e, or section 270 of the
7 income tax act of 1967, 1967 PA 281, MCL 206.270.

8 (d) The tax years for which the credit under subdivision (c)
9 may be claimed and the maximum annual amount that may be claimed
10 each tax year.

11 (e) The tax credit is refundable.

12 (4) The fund manager shall invest, budget, and plan scheduled
13 payments and repayments so that no credits are claimed under
14 section 37e of the single business tax act, 1975 PA 228, MCL
15 208.37e, in any tax year before tax years that begin after
16 December 31, 2008.

17 (5) Certificates under this section shall be issued to an
18 investor at the time that the Michigan early stage venture
19 investment corporation determines that, for that investor,
20 capital is not sufficient to meet the guaranteed negotiated
21 amount or the negotiated return on qualified investment of that
22 investor. The total of all certificates issued under this
23 section shall not exceed the maximum amount allowed under section
24 37e(2) of the single business tax act, 1975 PA 228, MCL 208.37e.

25 (6) Certificates under this section shall not be issued until
26 December 31, 2008 or 5 years after all the requirements under
27 section 29 have been met, whichever occurs later.

1 Sec. 25. This act shall be construed liberally to
2 effectuate the legislative intent and its purposes. All powers
3 granted shall be cumulative and not exclusive and shall be
4 broadly interpreted to effectuate the intent and purposes and not
5 as a limitation of powers.

6 Sec. 27. The Michigan early stage venture investment
7 corporation shall publish an annual report not more than 3 months
8 after the close of the Michigan early stage venture investment
9 corporation's fiscal year that includes all of the following:

10 (a) An enumeration of all investment and related activities
11 for the fiscal year.

12 (b) Documentation and analysis of the implementation and
13 status of the Michigan early stage venture investment
14 corporation's investment plan and the economic impact of the plan
15 on this state, including, but not limited to, the following:

16 (i) The number of jobs represented by the investments made in
17 qualified businesses in this state.

18 (ii) Return on investment generated by investment, the types
19 of activities in which investment was made, and the impact of
20 that investment on the economic base of this state.

21 Sec. 29. Not later than 1 year after the effective date of
22 this act or 10 months after the Michigan early stage venture
23 investment corporation receives a determination from the internal
24 revenue service that it is exempt from taxation under section
25 501(c)(3) of the internal revenue code, whichever occurs later,
26 all of the following shall occur:

27 (a) The Michigan early stage venture investment corporation

1 shall be established and the board appointed.

2 (b) A fund manager shall be hired by the Michigan early stage
3 venture investment corporation.

4 (c) An investment plan shall be established.

5 (d) Funds shall have been solicited and available for
6 investment consistent with the investment plan.

7 Sec. 31. The fund created in section 19 shall expire on
8 January 1, 2054. Any money in the fund, subject to all
9 outstanding debts and obligation of the Michigan early stage
10 venture investment corporation being defeased and satisfied,
11 shall be distributed as provided in the Michigan early stage
12 venture investment corporation's articles of incorporation or
13 amendments to those articles of incorporation transferred to the
14 general fund of this state on that date.

15 Sec. 33. This act does not take effect unless all of the
16 following bills of the 92nd Legislature are enacted into law:

17 (a) Senate Bill No. 835.

18 (b) House Bill No. 5322.

19 Enacting section 1. The state of Michigan has engaged in
20 activities on a regular basis and for a significant amount of
21 time intended to promote the overall economic development of the
22 state. The cost of funding these activities is recognized as a
23 burden on this state that can be lessened through the
24 establishment and registration of Michigan early stage venture
25 investment corporations and Michigan early stage venture capital
26 investment funds. By working cooperatively with this state,
27 Michigan early stage venture investment corporations will benefit

1 the general public, thus assisting this state in carrying out its
2 essential functions, including the promotion of economic
3 development in this state. If this legislation does not become
4 law, the opportunity to help carry that burden will be lost to
5 this state and a greater burden will remain on the government and
6 the general public for future activities to promote economic
7 development in this state.