

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5047

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act relating to the economic development of this state; to
create the Michigan strategic fund and to prescribe its powers and
duties; to transfer and provide for the acquisition and succession
to the rights, properties, obligations, and duties of the job
development authority and the Michigan economic development

1 authority to the Michigan strategic fund; to provide for the
2 expenditure of proceeds in certain funds to which the Michigan
3 strategic fund succeeds in ownership; to provide for the issuance
4 of, and terms and conditions for, **CERTAIN** notes and bonds of the
5 Michigan strategic fund; **TO CREATE CERTAIN BOARDS AND FUNDS; TO**
6 **CREATE CERTAIN PERMANENT FUNDS;** to exempt the property, income, and
7 operation of the fund and its bonds and notes, and the interest
8 thereon, from certain taxes; to provide for the creation of certain
9 centers within and for the purposes of the Michigan strategic fund;
10 to provide for the creation and funding of certain accounts for
11 certain purposes; to impose certain powers and duties upon certain
12 officials, departments, and authorities of ~~the~~ **THIS** state; **TO**
13 **MAKE CERTAIN LOANS, GRANTS, AND INVESTMENTS;** to provide penalties;
14 **TO MAKE AN APPROPRIATION;** and to repeal ~~certain~~ acts and parts of
15 acts.

16 Sec. 4. As used in this act:

17 (a) "Board" means the board of directors of the Michigan
18 strategic fund, except where the context clearly requires a
19 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) "FINANCIAL INSTITUTION" MEANS A STATE OR NATIONALLY
9 CHARTERED BANK OR A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN
10 ASSOCIATION, SAVINGS BANK, OR CREDIT UNION WHOSE DEPOSITS ARE
11 INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT AND THAT
12 MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE IN THIS STATE UNDER
13 THE LAWS OF THIS STATE OR THE UNITED STATES.

14 (D) ~~—(e)—~~ "Fund" means the Michigan strategic fund created
15 under section 5, except where the context clearly requires a
16 different definition.

17 (E) "MICHIGAN ECONOMIC DEVELOPMENT CORPORATION" OR "MEDC"
18 MEANS THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, THE PUBLIC
19 BODY CORPORATE CREATED UNDER SECTION 28 OF ARTICLE VII OF THE STATE
20 CONSTITUTION OF 1963 AND THE URBAN COOPERATION ACT OF 1967, 1967
21 (EX SESS) PA 7, MCL 124.501 TO 124.512, BY A CONTRACTUAL INTERLOCAL
22 AGREEMENT EFFECTIVE APRIL 5, 1999, AND SUBSEQUENTLY AMENDED,
23 BETWEEN LOCAL PARTICIPATING ECONOMIC DEVELOPMENT CORPORATIONS
24 FORMED UNDER THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA
25 338, MCL 125.1601 TO 125.1636, AND THE FUND.

26 (F) ~~—(d)—~~ "Municipality" means a county, city, village,
27 township, port district, development organization, institution of

1 higher education, community or junior college, or subdivision or
2 instrumentality of any of the legal entities listed in this
3 subdivision.

4 (G) ~~—(e)—~~ "Person" means an individual, sole proprietorship,
5 partnership, **LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP,**
6 **LIMITED LIABILITY COMPANY,** joint venture, profit or nonprofit
7 corporation including a public or private college or university,
8 public utility, local industrial development corporation, economic
9 development corporation, or other association of persons organized
10 for agricultural, commercial, or industrial purposes.

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

1 farms, ranches, forests, and other agricultural or forestry
 2 commodity producers; agricultural harvesting, storage,
 3 transportation, or processing facilities or equipment; grain
 4 elevators; shipping heads and livestock pens; livestock;
 5 warehouses; wharves and dock facilities; water, electricity, hydro
 6 electric, coal, petroleum, or natural gas provision facilities;
 7 dams and irrigation facilities; sewage, liquid, and solid waste
 8 collection, disposal treatment, and drainage services and
 9 facilities. **PROJECT DOES NOT INCLUDE A PROGRAM OR ACTIVITY**
 10 **AUTHORIZED UNDER CHAPTER 8A.**

11 (I) ~~-(g)-~~ "Private sector" means other than the fund, a state
 12 or federal source, or an agency ~~thereof~~ **OF A STATE OR THE FEDERAL**
 13 **GOVERNMENT.**

14 Sec. 5. (1) There is created by this act a public body
 15 corporate and politic to be known as the Michigan strategic fund.
 16 The fund shall be within the department of ~~commerce~~ **TREASURY** and
 17 shall exercise its prescribed statutory powers, duties, and
 18 functions independently of the ~~director of commerce~~ **STATE**
 19 **TREASURER.** ~~However, the budgeting, procurement, and related~~
 20 ~~functions of the fund and administrative responsibilities for~~
 21 ~~employees of the fund shall be performed under the direction and~~
 22 ~~supervision of the director of commerce.~~ **THE STATUTORY AUTHORITY,**
 23 **POWERS, DUTIES, FUNCTIONS, RECORDS, PERSONNEL, PROPERTY, UNEXPENDED**
 24 **BALANCES OF APPROPRIATIONS, ALLOCATIONS, AND OTHER FUNDS OF THE**
 25 **FUND, INCLUDING THE FUNCTIONS OF BUDGETING, PROCUREMENT, PERSONNEL,**
 26 **AND MANAGEMENT-RELATED FUNCTIONS, SHALL BE RETAINED BY THE FUND,**
 27 **AND THE FUND SHALL BE AN AUTONOMOUS ENTITY WITHIN THE DEPARTMENT OF**

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1 TREASURY IN THE SAME MANNER AS THE MICHIGAN EMPLOYMENT SECURITY
2 COMMISSION WAS DESIGNATED AN AUTONOMOUS ENTITY WITHIN THE MICHIGAN
3 DEPARTMENT OF LABOR UNDER SECTION 379 OF THE EXECUTIVE ORGANIZATION
4 ACT OF 1965, 1965 PA 380, MCL 16.479.

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

8 (3) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE board
9 shall consist of the director of the department of ~~commerce~~ LABOR
10 AND ECONOMIC GROWTH OR HIS OR HER DESIGNEE FROM WITHIN THE
11 DEPARTMENT OF LABOR AND ECONOMIC GROWTH, the state treasurer OR HIS
12 OR HER DESIGNEE FROM WITHIN THE DEPARTMENT OF TREASURY, <<THE CHIEF
EXECUTIVE OFFICER OF THE MEDC,>> and <<7 6>> other

13 members with knowledge, skill, and experience in the academic,
14 business, or financial field, who shall be appointed by the
15 governor with the advice and consent of the senate. ~~Not more than~~

16 ~~2 of the 7 appointed members of the board shall be, during their~~
17 ~~term of office on the board, employees of the state of Michigan.~~

18 ~~The remainder of the appointed members of the board shall be~~

19 ~~representatives~~ NONE OF THE <<6>> MEMBERS APPOINTED UNDER THIS SECTION

20 SHALL BE EMPLOYEES OF THIS STATE. NOT LESS THAN 5 MEMBERS OF THE

21 BOARD APPOINTED UNDER THIS SUBSECTION SHALL BE MEMBERS of the

22 private sector. Five of the <<7 6>> ~~appointed~~ members APPOINTED UNDER

23 THIS SUBSECTION shall serve for fixed terms. ~~Of the 5 fixed term~~

24 ~~members first appointed, 2 shall be appointed for a term that~~

25 ~~expires December 31, 1986, and 3 shall be appointed for a term that~~

26 ~~expires December 31, 1987.~~ Upon completion of each fixed term

27 EXPIRING AFTER DECEMBER 30, 2005, a member shall be appointed for a

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1 term of ~~3~~ 4 years. Of the private sector members appointed by the
 2 governor for a fixed term, 1 shall be appointed from ~~1~~ A LIST OF
 3 3 or more nominees of the speaker of the house of representatives
 4 REPRESENTING PERSONS WITHIN THE PRIVATE SECTOR WITH EXPERIENCE IN
 5 PRIVATE EQUITY OR VENTURE CAPITAL INVESTMENTS, COMMERCIAL LENDING,
 6 OR COMMERCIALIZATION OF TECHNOLOGY and 1 shall be appointed from ~~1~~
 7 A LIST OF 3 or more nominees of the senate majority leader
 8 REPRESENTING PERSONS WITHIN THE PRIVATE SECTOR WITH EXPERIENCE IN
 9 PRIVATE EQUITY OR VENTURE CAPITAL INVESTMENTS, COMMERCIAL LENDING,
 10 OR COMMERCIALIZATION OF TECHNOLOGY. <<

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12 >> A member APPOINTED UNDER THIS
 13 SUBSECTION OR SUBSECTION (4) shall serve until a successor is
 14 appointed, and a vacancy shall be filled for the balance of the
 15 unexpired term in the same manner as the original appointment. The
 16 <<2 ~~appointed members~~ MEMBER>> APPOINTED UNDER THIS SUBSECTION
 AND serving

17 without a fixed term shall serve at the pleasure of the governor.
 18 Of the members appointed UNDER THIS SUBSECTION AND SUBSECTION (4),
 19 there shall be minority, female, and small business representation.
 20 ~~The chief executive officer or director of any state department,~~
 21 ~~who is a designated member of or an appointee to the board, may~~
 22 ~~appoint a representative from the department to serve as a voting~~
 23 ~~member of the fund in the absence of the chief executive officer or~~
 24 ~~director.~~ AFTER <<DECEMBER 31>>, 2005, AT LEAST 2 OF THE MEMBERS OF
 25 THE BOARD SHALL HAVE EXPERIENCE IN PRIVATE EQUITY OR VENTURE
 26 CAPITAL INVESTMENTS, AT LEAST 1 OF THE MEMBERS SHALL HAVE
 27 EXPERIENCE IN COMMERCIAL LENDING, AND AT LEAST 1 OF THE MEMBERS OF

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1 THE BOARD SHALL HAVE EXPERIENCE IN COMMERCIALIZATION OF TECHNOLOGY.

2 (4) IN ADDITION TO THE 9 MEMBERS OF THE BOARD UNDER SUBSECTION
3 (3), NOT LATER THAN DECEMBER 15, 2005, THE GOVERNOR SHALL APPOINT,
4 WITH THE ADVICE AND CONSENT OF THE SENATE, 2 ADDITIONAL MEMBERS TO
5 THE BOARD FOR TERMS EXPIRING DECEMBER 31, 2007. THE MEMBERS
6 APPOINTED UNDER THIS SUBSECTION SHALL BE FROM THE PRIVATE SECTOR
7 AND SHALL HAVE EXPERIENCE IN PRIVATE EQUITY OR VENTURE CAPITAL
8 INVESTMENTS, COMMERCIAL LENDING, OR COMMERCIALIZATION OF
9 TECHNOLOGY. FROM THE DATE OF THE APPOINTMENT OF THE MEMBERS UNDER
10 THIS SUBSECTION UNTIL DECEMBER 31, 2007, THE BOARD SHALL HAVE 11
11 MEMBERS. AFTER DECEMBER 31, 2007, THE BOARD SHALL HAVE 9 MEMBERS.

12 (5) ~~—(4)—~~ The governor shall designate 1 member of the board
13 to serve as its chairperson. <<THE GOVERNOR SHALL DESIGNATE 1 MEMBER
14 OF THE BOARD TO SERVE AS PRESIDENT OF THE FUND AND
15 ~~Of the 2 board members~~
16 ~~serving at the pleasure of the governor, the governor>>~~ ~~shall~~ MAY
17 designate 1 member to serve as ~~the board's president and shall~~
18 ~~designate the other member to serve as its vice-president if a~~
19 ~~vice president is designated~~ OF THE FUND. The chairperson,
20 <<president ,>> and vice-president, IF A VICE-PRESIDENT IS DESIGNATED,
21 shall serve as those officers at the pleasure of the governor.

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

1 (7) ~~—(6)—~~ The board may delegate to its president, vice-
 2 president, staff, or others those functions and authority that the
 3 board deems necessary or appropriate, which may include the
 4 oversight and supervision of employees of the fund. **HOWEVER,**
 5 **RESPONSIBILITIES SPECIFICALLY VESTED IN THE BOARD UNDER CHAPTER 8A**
 6 **SHALL BE PERFORMED BY THE BOARD AND SHALL NOT BE TRANSFERRED TO THE**
 7 **MEDC.**

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

22 (9) ~~—(8)—~~ The business ~~which~~ **OF** the board ~~may perform~~
 23 shall be conducted at a public meeting of the board held in
 24 compliance with the open meetings act, ~~Act No. 267 of the Public~~
 25 ~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~
 26 ~~Compiled Laws~~ **1976 PA 267, MCL 15.261 TO 15.275.** Public notice of
 27 the time, date, and place of the meeting shall be given in the

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manner required by ~~Act No. 267 of the Public Acts of 1976~~ **THE**
OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.267, AND SHALL
ALSO BE PROVIDED ON AN INTERNET WEBSITE OPERATED BY THE FUND. A
 record or portion of a record, material, or other data received,
 prepared, used, or retained by the fund or any of its centers in
 connection with an application to or with a project or product
 assisted by the fund or any of its centers ~~which~~ **OR WITH AN**
AWARD, GRANT, LOAN, OR INVESTMENT UNDER CHAPTER 8A <<

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THAT relates to financial or proprietary information submitted by
 the applicant that is considered by the applicant and acknowledged
 by the board as confidential shall not be subject to the disclosure
 requirements of the freedom of information act, ~~Act No. 442 of the~~
~~Public Acts of 1976, being sections 15.231 to 15.246 of the~~
~~Michigan Compiled Laws~~ **1976 PA 442, MCL 15.231 TO 15.246. <<THE**
DISCLOSURE OF A RECORD CONCERNING INVESTMENT INFORMATION DESCRIBED IN
SECTION 88C UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231
TO 15.246, IS SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION 88C.>> The

board may also meet in closed session pursuant to ~~Act No. 267 of~~
~~the Public Acts of 1976~~ **THE OPEN MEETINGS ACT, 1976 PA 267, MCL**
15.261 TO 15.267, to make a determination of whether it
 acknowledges as confidential any financial or proprietary
 information submitted by the applicant and considered by the
 applicant as confidential. Unless considered proprietary
 information, the board shall not acknowledge routine financial
 information as confidential. **IF THE BOARD DETERMINES THAT**
INFORMATION SUBMITTED TO THE FUND IS FINANCIAL OR PROPRIETARY
INFORMATION AND IS CONFIDENTIAL, THE BOARD SHALL RELEASE A WRITTEN
STATEMENT, SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION
ACT, 1976 PA 442, MCL 15.231 TO 15.246, THAT STATES ALL OF THE

1 FOLLOWING:

2 (A) THE NAME AND BUSINESS LOCATION OF THE PERSON REQUESTING
3 THAT THE INFORMATION SUBMITTED BE CONFIDENTIAL AS FINANCIAL OR
4 PROPRIETARY INFORMATION.

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

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

9 (10) ~~—(9)—~~ The fund shall not disclose financial or
10 proprietary information not subject to disclosure pursuant to
11 subsection ~~—(8)—~~ (9) without consent of the applicant submitting
12 the information.

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

18 (12) ~~—(11)—~~ For purposes of subsections ~~—(8)—~~ (9), (10), and
19 ~~—(10)—~~ (11), "financial or proprietary information" means
20 information ~~—which—~~ **THAT** has not been publicly disseminated or
21 which is unavailable from other sources, the release of which might
22 cause the applicant significant competitive harm.

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

1 ~~15.310 of the Michigan Compiled Laws~~ 1968 PA 317, MCL 15.321 TO
2 15.330, OR 1968 PA 318, MCL 15.301 TO 15.310, as applicable.

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

18 (3) 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 ACT TO HIS OR
22 HER EMPLOYER.

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

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

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

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

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

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

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

16 (6) FAILURE OF A MEMBER TO COMPLY WITH SUBSECTION (5)
17 CONSTITUTES MISCONDUCT IN OFFICE SUBJECT TO REMOVAL UNDER SECTION
18 94.

19 (7) WHEN AUTHORIZING EXPENDITURES AND INVESTMENTS UNDER THIS
20 ACT, THE BOARD << >> SHALL NOT CONSIDER
21 WHETHER A RECIPIENT HAS MADE A CONTRIBUTION OR EXPENDITURE UNDER
22 THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA 388, MCL 169.201 TO
23 169.282.

24 (8) EXPENDITURES UNDER THIS ACT SHALL NOT BE USED TO FINANCE
25 OR INFLUENCE POLITICAL ACTIVITIES.

26 Sec. 7. The fund shall have the powers ~~necessary or~~
27 ~~convenient to carry out and effectuate the purposes, objectives,~~

1 ~~and provisions of this act, the purposes and objectives of the~~
2 ~~fund,~~ and **DUTIES PROVIDED IN THIS ACT**, the powers delegated by
3 other laws or executive orders, including, but not limited to, the
4 power to:

5 (a) Sue and be sued; to have a seal and alter the same at
6 pleasure; to have perpetual succession; to make, execute, and
7 deliver contracts, conveyances, and other instruments necessary or
8 convenient to the exercise of its powers; and to make and amend
9 bylaws.

10 (b) Solicit and accept gifts, grants, loans, and other aids
11 from any person or the federal, state, or a local government or any
12 agency of the federal, state, or a local government, or to
13 participate in any other way in any federal, state, or local
14 government program.

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

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

21 (e) Borrow money and issue bonds and notes to finance part or
22 all of the project costs of a project, or of a loan ~~pursuant to~~
23 **UNDER** subdivision (r) for an export transaction, and to secure
24 those bonds and notes by mortgage, assignment, or pledge of any of
25 its money, revenues, income, and properties. The authority provided
26 by this subdivision includes but is not limited to issuing bonds
27 and notes to acquire and install machinery, equipment, furnishings,

1 and other personal property, notwithstanding that the fund does not
2 own or propose to own or finance the building or land in or near to
3 which the machinery, equipment, furnishings, and other personal
4 property is or is to be located.

5 (f) Acquire or contract to acquire from any person,
6 municipality, the federal or state government, or any agency of the
7 foregoing, or otherwise, leaseholds, real or personal property or
8 any interest in real or personal property; to own, hold, clear,
9 improve, and rehabilitate and to sell, assign, exchange, transfer,
10 convey, lease, mortgage, or otherwise dispose of or encumber
11 leaseholds, real or personal property or any interest in real or
12 personal property, as is convenient for the accomplishment of the
13 purposes of this act and of the fund.

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

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

19 (i) Engage personnel as is necessary and engage the services
20 of private consultants, managers, counsel, auditors, engineers, and
21 scientists for rendering professional management and technical
22 assistance and advice, payable out of any money of the fund legally
23 available for this purpose.

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

27 (k) Indemnify and procure insurance indemnifying any members

1 of the board from personal loss or accountability from liability
2 asserted by a person on the bonds or notes of the fund or from any
3 personal liability or accountability by reason of the issuance of
4 the bonds, notes, insurance, or guarantees; by reason of
5 acquisition, construction, ownership, or operation of a project; or
6 by reason of any other action taken or the failure to act by the
7 fund.

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

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

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

24 (o) Make loans, participate in the making of loans, undertake
25 commitments to make loans and mortgages, buy and sell loans and
26 mortgages at public or private sale, rewrite loans and mortgages,
27 discharge loans and mortgages, foreclose on a mortgage, commence an

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1 action to protect or enforce a right conferred upon the fund by a
2 law, mortgage, loan, contract, or other agreement, bid for and
3 purchase property which was the subject of the mortgage at a
4 foreclosure or other sale, acquire or take possession of the
5 property and in that event complete, administer, pay the principal
6 and interest on obligations incurred in connection with that
7 property, and dispose of and otherwise deal with the property, in a
8 manner as may be necessary or desirable to protect the interests of
9 the fund.

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

13 (q) ~~<<To~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, TO>>**
create and operate centers, accounts, and funds as
14 required **<<or permitted>>** by law for the use and disbursement of
15 assets of the fund. **<<THE POWERS GRANTED UNDER THIS SUBDIVISION DO NOT
APPLY TO CHAPTER 8A.>>**

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

20 (s) Do all other things necessary or convenient to achieve the
21 objectives and purposes of the fund, this act, or other laws that
22 relate to the purposes and responsibilities of the fund.

23 Sec. 13. The total debt owed to the fund, excluding rights and
24 royalties under a venture capital agreement or obligations to the
25 fund resulting from an industrial development revenue bond or note,
26 in relation to any 1 project shall at no time exceed 5% of the
27 total assets of the fund, except that upon approval by a 2/3 vote

1 of the board this amount may be increased to not to exceed 10% of
2 the assets of the fund. THIS SECTION DOES NOT APPLY TO A PROGRAM OR
3 ACTIVITY AUTHORIZED UNDER CHAPTER 8A.

4 CHAPTER 8A

5 SEC. 88. (1) THE LEGISLATURE FINDS AND DECLARES THAT THE
6 ACTIVITIES AUTHORIZED UNDER THIS CHAPTER TO ENCOURAGE
7 DIVERSIFICATION OF THE ECONOMY AND THE CREATION OF JOBS IN THIS
8 STATE ARE A PUBLIC PURPOSE AND OF PARAMOUNT CONCERN IN THE INTEREST
9 OF THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF THIS
10 STATE. IT IS THE INTENT OF THE LEGISLATURE THAT THE ECONOMIC
11 BENEFITS AND THE CREATION OF JOBS RESULTING FROM THIS CHAPTER SHALL
12 ACCRUE SUBSTANTIALLY WITHIN THIS STATE.

13 (2) ACTIVITIES AUTHORIZED UNDER THIS CHAPTER SHALL NOT BE
14 CONSIDERED A PROJECT, ECONOMIC DEVELOPMENT PROJECT, OR A PRODUCT
15 ASSISTED BY THE FUND FOR PURPOSES OF CHAPTER 1 OR 2.

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

17 (A) "ADVANCED AUTOMOTIVE, MANUFACTURING, AND MATERIALS
18 TECHNOLOGY" MEANS ANY TECHNOLOGY THAT INVOLVES 1 OR MORE OF THE
19 FOLLOWING:

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

22 (ii) NANOTECHNOLOGY, INCLUDING MATERIALS, DEVICES, OR SYSTEMS
23 AT THE ATOMIC, MOLECULAR, OR MACROMOLECULAR LEVEL, WITH A SCALE
24 MEASURED IN NANOMETERS.

25 (iii) MICROELECTROMECHANICAL SYSTEMS, INCLUDING DEVICES OR
26 SYSTEMS INTEGRATING MICROELECTRONICS WITH MECHANICAL PARTS AND A
27 SCALE MEASURED IN MICROMETERS.

1 (iv) IMPROVEMENTS TO VEHICLE SAFETY, VEHICLE PERFORMANCE,
2 VEHICLE PRODUCTION, OR ENVIRONMENTAL IMPACT, INCLUDING, BUT NOT
3 LIMITED TO, VEHICLE EQUIPMENT AND COMPONENT PARTS.

4 (v) A NEW TECHNOLOGY, DEVICE, OR SYSTEM THAT ENHANCES OR
5 IMPROVES THE MANUFACTURING PROCESS OF WOOD, TIMBER, OR
6 AGRICULTURAL-BASED PRODUCTS.

7 (vi) ANY TECHNOLOGY THAT INVOLVES AN ALTERNATIVE ENERGY VEHICLE
8 OR ITS COMPONENTS, AS ALTERNATIVE ENERGY VEHICLE IS DEFINED UNDER
9 SECTION 2 OF THE MICHIGAN NEXT ENERGY AUTHORITY ACT, 2002 PA 593,
10 MCL 207.822.

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

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

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

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

19 (i) COMPUTER HARDWARE AND SOFTWARE.

20 (ii) DATA COMMUNICATIONS.

21 (iii) INFORMATION TECHNOLOGIES.

22 (C) "ALTERNATIVE ENERGY TECHNOLOGY" MEANS APPLIED RESEARCH OR
23 COMMERCIALIZATION OF NEW OR NEXT GENERATION TECHNOLOGY IN 1 OR MORE
24 OF THE FOLLOWING:

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

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

7 (iii) A NEW TECHNOLOGY, PRODUCT, OR SYSTEM THAT PERMITS THE
8 UTILIZATION OF BIOMASS FOR THE PRODUCTION OF SPECIALTY, COMMODITY,
9 OR FOUNDATIONAL CHEMICALS OR OF NOVEL OR ECONOMICAL COMMODITY
10 MATERIALS THROUGH THE APPLICATION OF BIOTECHNOLOGY THAT MINIMIZES,
11 COMPLEMENTS, OR REPLACES RELIANCE ON PETROLEUM FOR THE PRODUCTION.

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

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

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

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

25 (E) "BASIC RESEARCH" MEANS ANY ORIGINAL INVESTIGATION FOR THE
26 ADVANCEMENT OF SCIENTIFIC OR TECHNOLOGICAL KNOWLEDGE THAT WILL
27 ENHANCE THE RESEARCH CAPACITY OF THIS STATE IN A WAY THAT INCREASES

1 THE ABILITY TO ATTRACT TO OR DEVELOP COMPANIES, JOBS, RESEARCHERS,
2 OR STUDENTS IN THIS STATE.

3 (F) "COMMERCIALIZATION" MEANS THE TRANSITION FROM RESEARCH TO
4 THE ACTIONS NECESSARY TO ACHIEVE MARKET ENTRY AND GENERAL MARKET
5 COMPETITIVENESS OF NEW INNOVATIVE TECHNOLOGIES, PROCESSES, AND
6 PRODUCTS AND THE SERVICES THAT SUPPORT, ASSIST, EQUIP, FINANCE, OR
7 PROMOTE A PERSON OR AN ENTITY WITH THAT TRANSITION.

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

10 (i) LIFE SCIENCES TECHNOLOGY.

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

13 (iii) HOMELAND SECURITY AND DEFENSE TECHNOLOGY.

14 (iv) ALTERNATIVE ENERGY TECHNOLOGY.

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

20 (I) "FUND BOARD" MEANS THE BOARD OF THE MICHIGAN STRATEGIC
21 FUND DESCRIBED IN SECTION 5.

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

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1 THE FOLLOWING:

2 (i) SENSORS, SYSTEMS, PROCESSES, OR EQUIPMENT FOR
3 COMMUNICATIONS, IDENTIFICATION AND AUTHENTICATION, SCREENING,
4 SURVEILLANCE, TRACKING, AND DATA ANALYSIS.

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

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

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

12 (v) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
13 DESCRIBED UNDER THIS SUBDIVISION.

14 (K) "INDEPENDENT PEER REVIEW EXPERT" MEANS A PERSON OR PERSONS
15 SELECTED BY THE COMMERCIALIZATION BOARD WITH APPROPRIATE EXPERTISE
16 TO CONDUCT AN INDEPENDENT, UNBIASED, OBJECTIVE, AND COMPETITIVE
17 EVALUATION OF ACTIVITIES FUNDED UNDER <<SECTION 88K>>. THE PERSON OR
18 PERSONS SHALL DEMONSTRATE THE CAPABILITY AND EXPERIENCE, AS
19 APPROPRIATE OR NECESSARY FOR THE PARTICULAR ACTIVITY FUNDED, TO DO
20 ALL OF THE FOLLOWING:

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

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

26 (iii) PROVIDE RECOMMENDATIONS TO OR ASSIST THE COMMERCIALIZATION
27 BOARD IN IDENTIFYING HIGH-QUALITY ACTIVITIES FOR FUNDING THAT ARE

1 LIKELY TO RESULT IN THE DEVELOPMENT AND COMMERCIALIZATION OF
2 COMPETITIVE EDGE TECHNOLOGY AND JOB CREATION IN THIS STATE. THE
3 RECOMMENDATIONS SHALL INCLUDE ALL MATERIALS USED BY THE INDEPENDENT
4 PEER REVIEW EXPERT IN MAKING THE RECOMMENDATION.

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

7 (l) "INSTITUTION OF HIGHER EDUCATION" MEANS AN INSTITUTION OF
8 HIGHER EDUCATION OR A COMMUNITY OR JUNIOR COLLEGE DESCRIBED IN
9 SECTION 4, 5, 6, OR 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
10 1963 OR AN INDEPENDENT NONPROFIT DEGREE-GRANTING INSTITUTION OF
11 POSTSECONDARY EDUCATION IN THIS STATE THAT IS APPROVED BY THE STATE
12 BOARD OF EDUCATION.

13 (M) "JOBS FOR MICHIGAN INVESTMENT FUND" OR "INVESTMENT FUND"
14 MEANS THE JOBS FOR MICHIGAN INVESTMENT FUND CREATED IN SECTION 88F.

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

18 (i) BIOENGINEERING.

19 (ii) BIOMEDICAL ENGINEERING.

20 (iii) GENOMICS.

21 (iv) PROTEOMICS.

22 (v) MOLECULAR AND CHEMICAL ECOLOGY.

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

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

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

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

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

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

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

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

22 (ii) DESIGN, ENGINEERING, TESTING, OR DIAGNOSTICS RELATED TO
23 TECHNOLOGY OR THE COMMERCIAL MANUFACTURING OF TECHNOLOGY DESCRIBED
24 UNDER THIS SUBDIVISION.

25 (iii) PRODUCT RESEARCH AND DEVELOPMENT RELATED TO TECHNOLOGY
26 DESCRIBED UNDER THIS SUBDIVISION.

27 (P) "QUALIFIED BUSINESS" MEANS A BUSINESS ENTITY LOCATED IN

1 THIS STATE.

2 (Q) "QUALIFIED MEZZANINE FUND" MEANS A PERSON OR ENTITY
3 PRIMARILY ENGAGED IN MAKING LOANS OR INVESTMENTS RANGING IN SIZE
4 FROM \$250,000.00 TO \$6,000,000.00 THAT IS MANAGED BY 2 OR MORE
5 INDIVIDUALS WITH NO LESS THAN 5 YEARS' DIRECT EXPERIENCE IN
6 MEZZANINE LENDING OR CAPITAL INVESTMENTS AND THAT HOLDS INVESTMENT
7 CAPITAL OR HAS COMMITMENTS FROM INVESTORS OTHER THAN THE FUND AND
8 AT LEAST 2 FINANCIAL INSTITUTIONS.

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

14 (S) "QUALIFIED VENTURE CAPITAL FUND" MEANS A FIRM PRINCIPALLY
15 OR PRIMARILY ENGAGED IN INVESTING IN OR ACQUIRING EARLY STAGE
16 BUSINESSES WITH GROWTH POTENTIAL THAT HAVE NOT YET DEMONSTRATED
17 CONSISTENT PROFITABILITY OR A PROVEN BUSINESS MODEL, THAT IS
18 MANAGED BY 2 OR MORE INDIVIDUALS WITH NOT LESS THAN 5 YEARS OF
19 DIRECT EXPERIENCE IN VENTURE CAPITAL, AND THAT HOLDS CAPITAL FROM
20 INVESTORS OTHER THAN THE FUND.

21 (T) "SMALL BUSINESS" MEANS A BUSINESS ENTITY FORMED OR DOING
22 BUSINESS IN THIS STATE, INCLUDING THE AFFILIATES OF THE BUSINESS
23 CONCERN, WHICH BUSINESS ENTITY IS INDEPENDENTLY OWNED AND OPERATED
24 AND EMPLOYS FEWER THAN 250 FULL-TIME EMPLOYEES OR HAS GROSS ANNUAL
25 SALES OF LESS THAN \$6,000,000.00.

26 (U) "21ST CENTURY INVESTMENTS" MEANS INVESTMENTS IN 1 OR MORE
27 OF THE FOLLOWING:

1 (i) COMMERCIAL LOAN GUARANTEES UNDER A LOAN ENHANCEMENT PROGRAM
2 OPERATED BY THE FUND.

3 (ii) PRIVATE EQUITY INVESTMENTS UNDER A PRIVATE EQUITY
4 INVESTMENT PROGRAM OPERATED BY THE FUND.

5 (iii) VENTURE CAPITAL INVESTMENTS UNDER A VENTURE CAPITAL
6 INVESTMENT PROGRAM OPERATED BY THE FUND.

7 (iv) MEZZANINE INVESTMENTS UNDER A MEZZANINE INVESTMENT PROGRAM
8 OPERATED BY THE FUND.

9 (v) "STRATEGIC ECONOMIC INVESTMENT AND COMMERCIALIZATION
10 BOARD" OR "COMMERCIALIZATION BOARD" MEANS THE STRATEGIC ECONOMIC
11 INVESTMENT AND COMMERCIALIZATION BOARD CREATED IN SECTION 88G.

12 (w) "UNIVERSITY TECHNOLOGY TRANSFER" MEANS INNOVATIVE METHODS
13 TO ACCELERATE THE CREATION OF START-UP COMPANIES AFFILIATED WITH
14 INSTITUTIONS OF HIGHER EDUCATION OR THE TRANSFER OF COMPETITIVE
15 EDGE TECHNOLOGY RESEARCH FROM AN INSTITUTION OF HIGHER EDUCATION TO
16 A QUALIFIED BUSINESS IN MICHIGAN.

17 SEC. 88B. (1) THE FUND SHALL CREATE AND OPERATE PROGRAMS
18 AUTHORIZED UNDER THIS CHAPTER. THE BOARD SHALL DETERMINE THE ANNUAL
19 ALLOCATION OF MONEY FOR PROGRAMS AUTHORIZED UNDER THIS CHAPTER AND
20 MAKE AUTHORIZED EXPENDITURES OR INVESTMENTS FROM THE INVESTMENT
21 FUND OF THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE MICHIGAN
22 TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256, AS AUTHORIZED
23 UNDER THIS CHAPTER FOR PROGRAMS AND ACTIVITIES AUTHORIZED UNDER
24 THIS CHAPTER.

25 (2) MONEY TRANSFERRED OR APPROPRIATED BY LAW TO THE FUND FOR
26 THE PURPOSES OF CARRYING OUT THIS CHAPTER SHALL BE EXPENDED OR
27 INVESTED BY THE FUND AS AUTHORIZED BY LAW FOR THE FOLLOWING

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1 PURPOSES:

2 (A) 21ST CENTURY INVESTMENTS.

3 (B) GRANTS AND LOANS APPROVED BY THE COMMERCIALIZATION BOARD
4 UNDER SECTION 88K.

5 (C) OTHER PROGRAMS OR ACTIVITIES AUTHORIZED UNDER THIS
6 CHAPTER.

7 (3) THE FUND BOARD SHALL NOT EXPEND MORE THAN THE FOLLOWING
8 AMOUNTS FROM THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE
9 MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256, FOR THE
10 FOLLOWING PURPOSES:

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

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

15 (C) 70% FOR THE COMMERCIALIZATION OF COMPETITIVE EDGE
16 TECHNOLOGY. THE COMMERCIALIZATION BOARD SHALL ALLOCATE NOT LESS
17 THAN <<\$40,000,000.00 IN THE 2005-2006 FISCAL YEAR AND NOT LESS THAN
\$50,000,000.00 EACH FISCAL YEAR AFTER 2005-2006 FOR 4 FISCAL>> YEARS FOR
GRANTS AND LOANS FOR
18 LIFE SCIENCES AS PROVIDED IN THIS CHAPTER. THE COMMERCIALIZATION
19 BOARD SHALL NOT ALLOCATE MORE THAN \$100,000,000.00 FOR BASIC
20 RESEARCH.

21 (4) NOT MORE THAN 4% OF THE ANNUAL APPROPRIATION AS PROVIDED
22 BY LAW FROM THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE
23 MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256, MAY BE
24 USED FOR THE PURPOSES OF ADMINISTERING THE PROGRAMS AND ACTIVITIES
25 AUTHORIZED UNDER THIS CHAPTER.

26 (5) NOT MORE THAN 5% OF THE ANNUAL APPROPRIATION AS PROVIDED
27 BY LAW FROM THE 21ST CENTURY JOBS TRUST FUND CREATED IN THE

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1 MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256, MAY BE
 2 USED FOR BUSINESS DEVELOPMENT AND BUSINESS MARKETING COSTS. NOT
 3 LESS THAN 80% OF THE FUNDS COMMITTED FOR BUSINESS DEVELOPMENT AND
 4 BUSINESS MARKETING COSTS SHALL BE TARGETED TO PERSONS OR ENTITIES
 5 OUTSIDE OF THIS STATE. NO FUNDS MAY BE USED FOR ANY BUSINESS
 6 DEVELOPMENT AND BUSINESS MARKETING EFFORT THAT INCLUDES <<A REFERENCE TO
 7 OR THE IMAGE OR VOICE>>
 8 OF AN ELECTED STATE OFFICER OR A CANDIDATE FOR ELECTIVE STATE
 9 OFFICE AND THAT IS TARGETED TO A MEDIA MARKET IN MICHIGAN. THE FUND
 10 BOARD SHALL SELECT ALL VENDORS FOR ALL << >>
 11 MARKETING EXPENDITURES UNDER THIS CHAPTER BY ISSUING A REQUEST FOR
 12 PROPOSAL. AT A MINIMUM, THE REQUEST FOR PROPOSAL SHALL REQUIRE THE
 13 RESPONDING ENTITIES TO DISCLOSE ANY CONFLICT OF INTEREST, DISCLOSE
 14 ANY CRIMINAL CONVICTIONS, DISCLOSE ANY INVESTIGATIONS BY THE
 15 INTERNAL REVENUE SERVICE OR ANY OTHER FEDERAL OR STATE TAXING BODY
 16 OR COURT, DISCLOSE ANY PERTINENT LITIGATION REGARDING THE CONDUCT
 17 OF THE ENTITY, AND MAINTAIN RECORDS AND EVIDENCE PERTAINING TO WORK
 18 PERFORMED. THE FUND BOARD SHALL ESTABLISH A STANDARD PROCESS TO
 19 EVALUATE PROPOSALS SUBMITTED AS A RESULT OF A REQUEST FOR PROPOSAL
 20 AND APPOINT A COMMITTEE TO REVIEW THE PROPOSALS.

21 (6) THE FUND SHALL NOT USE ANY MONEY APPROPRIATED OR
 22 TRANSFERRED FOR PURPOSES AUTHORIZED UNDER THIS CHAPTER TO ACQUIRE
 23 INTERESTS IN OR IMPROVE REAL PROPERTY. THE RESTRICTION UNDER THIS
 24 SUBSECTION APPLIES ONLY TO THE FUND AND NOT TO RECIPIENTS OF
 25 EXPENDITURES OR INVESTMENTS UNDER THIS CHAPTER.

26 SEC. 88C. (1) THE FUND BOARD SHALL EXERCISE THE DUTIES OF A
 27 FIDUCIARY WITH RESPECT TO 21ST CENTURY INVESTMENTS CONSISTENT WITH
 THE <<PURPOSES>> OF THIS CHAPTER. THE PRUDENT INVESTOR RULE SHALL

1 BE APPLIED BY THE FUND BOARD AND ANY AGENT OF THE FUND BOARD IN THE
2 MANAGEMENT OF 21ST CENTURY INVESTMENTS. THE PRUDENT INVESTOR RULE
3 AS APPLIED TO 21ST CENTURY INVESTMENTS MEANS THAT IN MAKING 21ST
4 CENTURY INVESTMENTS, THE FUND BOARD SHALL EXERCISE THE JUDGMENT AND
5 CARE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT AN INSTITUTIONAL
6 INVESTOR OF ORDINARY PRUDENCE, DISCRETION, AND INTELLIGENCE WOULD
7 EXERCISE IN SIMILAR CIRCUMSTANCES IN A LIKE POSITION. THE FUND
8 BOARD SHALL MAINTAIN A REASONABLE DIVERSIFICATION AMONG 21ST
9 CENTURY INVESTMENTS CONSISTENT WITH THE REQUIREMENTS OF THIS
10 CHAPTER.

11 (2) THE FUND BOARD SHALL SELECT QUALIFIED PRIVATE EQUITY
12 FUNDS, QUALIFIED VENTURE CAPITAL FUNDS, AND QUALIFIED MEZZANINE
13 FUNDS BY ISSUING A REQUEST FOR PROPOSAL. AT A MINIMUM, THE REQUEST
14 FOR PROPOSAL SHALL REQUIRE A RESPONDING ENTITY TO DISCLOSE ANY
15 CONFLICT OF INTEREST, DISCLOSE ANY CRIMINAL CONVICTIONS, DISCLOSE
16 ANY INVESTIGATIONS BY THE INTERNAL REVENUE SERVICE, THE SECURITIES
17 AND EXCHANGE COMMISSION, OR ANY OTHER FEDERAL OR STATE TAXING OR
18 SECURITIES REGULATORY BODY, OR COURT, OR PERTINENT LITIGATION
19 REGARDING THE CONDUCT OF THE PERSON OR ENTITY. THE FUND BOARD SHALL
20 ESTABLISH A STANDARD PROCESS TO EVALUATE PROPOSALS SUBMITTED AS A
21 RESULT OF A REQUEST FOR PROPOSAL AND APPOINT A COMMITTEE TO REVIEW
22 THE PROPOSALS.

23 (3) THE FUND BOARD SHALL ENSURE THAT A RECIPIENT OF MONEY
24 UNDER SECTIONS 88D, 88E, 88F, AND 88G AGREES AS A CONDITION OF
25 RECEIVING THE MONEY NOT TO USE THE MONEY FOR ANY OF THE FOLLOWING:

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

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

(4) THE FUND BOARD SHALL ESTABLISH REQUIREMENTS TO ENSURE THAT MONEY EXPENDED UNDER SECTIONS 88D, 88E, 88F, AND 88G SHALL NOT BE USED FOR ANY OF THE FOLLOWING:

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

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

<<(C) PROVISION OF MONEY TO A BUSINESS ENTERPRISE TO INDUCE QUALIFIED BUSINESSES OR SMALL BUSINESSES TO LEAVE THIS STATE.

(D) PROVISION OF MONEY THAT WOULD CONTRIBUTE TO THE VIOLATION OF INTERNATIONALLY RECOGNIZED WORKERS RIGHTS, AS DEFINED IN SECTION 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE OR AREA IN THAT COUNTRY.>>

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1 PERSONS DESIGNATED BY THE FUND BOARD WHO HAVE KNOWLEDGE OF THE
2 SUBJECT MATTER OF THE PROPOSED RESOLUTION SHALL BE PRESENT AT THE
3 PUBLIC HEARING AND SHALL PARTICIPATE IN THE DISCUSSION OF THE
4 PROPOSED RESOLUTION. THE FUND BOARD MAY ACT ON THE PROPOSED
5 RESOLUTION NO SOONER THAN 14 DAYS AFTER THE PUBLIC HEARING. THE
6 FUND BOARD SHALL PRODUCE A FINAL DECISION DOCUMENT THAT DESCRIBES
7 THE BASIS FOR ITS DECISION. THE FINAL RESOLUTION AND ALL
8 ATTACHMENTS AND THE DECISION DOCUMENT SHALL BE PROVIDED TO THE
9 GOVERNOR, TO THE CLERK OF THE HOUSE OF REPRESENTATIVES, TO THE
10 SECRETARY OF THE SENATE, AND TO MEMBERS OF THE SENATE AND HOUSE OF
11 REPRESENTATIVES APPROPRIATION COMMITTEES AND SHALL BE PUBLISHED ON
12 THE FUND'S INTERNET WEBSITE.

13 (6) THE NOTICE DESCRIBED IN SUBSECTION (5) SHALL INCLUDE ALL
14 OF THE FOLLOWING:

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

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

18 (C) THE ADDRESS TO WHICH WRITTEN COMMENTS MAY BE SENT AND THE
19 DATE BY WHICH COMMENTS MUST BE MAILED OR ELECTRONICALLY
20 TRANSMITTED, WHICH DATE SHALL NOT BE BEFORE THE DATE OF THE PUBLIC
21 HEARING.

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

23 (7) THE FUND BOARD SHALL EMPLOY OR CONTRACT WITH A FUND
24 MANAGER OR OTHER PERSONS IT CONSIDERS NECESSARY TO IMPLEMENT THIS
25 SECTION. THE PERSON EMPLOYED OR CONTRACTED UNDER THIS SUBSECTION
26 SHALL HAVE NOT LESS THAN 10 YEARS' EXPERIENCE IN COMMERCIAL
27 LENDING, PRIVATE EQUITY, MEZZANINE FUNDING, OR VENTURE CAPITAL. THE

1 PERSON EMPLOYED OR CONTRACTED UNDER THIS SECTION SHALL EXERCISE THE
2 DUTIES OF A FIDUCIARY TOWARD INVESTMENTS FROM THE INVESTMENT FUND
3 UNDER THIS SECTION. MANAGEMENT FEES PAYABLE BY THE FUND AND OTHER
4 INVESTORS IN A QUALIFIED PRIVATE EQUITY FUND, A QUALIFIED MEZZANINE
5 FUND, OR A QUALIFIED VENTURE CAPITAL FUND SHALL BE CONSIDERED AN
6 INVESTMENT EXPENSE AND NOT AN ADMINISTRATIVE COST INCURRED BY THE
7 FUND.

8 (8) SUBJECT TO SUBSECTION (9), A RECORD RECEIVED, PREPARED,
9 USED, OR RETAINED BY AN INVESTMENT FIDUCIARY IN CONNECTION WITH AN
10 INVESTMENT OR POTENTIAL INVESTMENT OF THE INVESTMENT FUND THAT
11 RELATES TO INVESTMENT INFORMATION PERTAINING TO A PORTFOLIO COMPANY
12 IN WHICH THE INVESTMENT FIDUCIARY HAS INVESTED OR HAS CONSIDERED AN
13 INVESTMENT THAT IS CONSIDERED BY THE PORTFOLIO COMPANY AND
14 ACKNOWLEDGED BY THE INVESTMENT FIDUCIARY AS CONFIDENTIAL, OR THAT
15 RELATES TO INVESTMENT INFORMATION WHETHER PREPARED BY OR FOR THE
16 INVESTMENT FIDUCIARY REGARDING LOANS AND ASSETS DIRECTLY OWNED BY
17 THE INVESTMENT FIDUCIARY AND ACKNOWLEDGED BY THE INVESTMENT
18 FIDUCIARY AS CONFIDENTIAL, IS EXEMPT FROM THE DISCLOSURE
19 REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
20 15.231 TO 15.246, IF AT LEAST ANNUALLY THE FUND PROVIDES TO THE
21 FUND BOARD, AND MAKES AVAILABLE TO THE PUBLIC, A REPORT OF FUND
22 INVESTMENTS DURING THE PRIOR STATE FISCAL YEAR THAT INCLUDES ALL OF
23 THE FOLLOWING:

24 (A) THE NAME OF EACH PORTFOLIO COMPANY IN WHICH THE INVESTMENT
25 FUND INVESTED DURING THE REPORTING PERIOD.

26 (B) THE AGGREGATE AMOUNT OF MONEY INVESTED BY THE INVESTMENT
27 FUND IN PORTFOLIO COMPANIES DURING THE REPORTING PERIOD.

1 (C) THE RATE OF RETURN REALIZED DURING THE REPORTING PERIOD ON
2 THE INVESTMENTS OF THE INVESTMENT FUND IN PORTFOLIO COMPANIES.

3 (D) THE SOURCE OF ANY PUBLIC FUNDS INVESTED BY THE INVESTMENT
4 FUND IN PORTFOLIO COMPANIES DURING THE REPORTING PERIOD.

5 (9) IF A RECORD DESCRIBED IN SUBSECTION (8) IS AN AGREEMENT OR
6 INSTRUMENT TO WHICH AN INVESTMENT FIDUCIARY IS A PARTY, ONLY THOSE
7 PARTS OF THE RECORD THAT CONTAIN INVESTMENT INFORMATION ARE EXEMPT
8 FROM THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT,
9 1976 PA 442, MCL 15.231 TO 15.246.

10 (10) AS USED IN SUBSECTIONS (8) AND (9):

11 (A) "INVESTMENT FIDUCIARY" MEANS A PERSON WHO EXERCISES ANY
12 DISCRETIONARY AUTHORITY OR CONTROL OVER AN INVESTMENT OF THE
13 INVESTMENT FUND OR RENDERS INVESTMENT ADVICE FOR THE FUND FOR A FEE
14 OR OTHER DIRECT OR INDIRECT COMPENSATION.

15 (B) "INVESTMENT INFORMATION" MEANS INFORMATION THAT HAS NOT
16 BEEN PUBLICLY DISSEMINATED OR THAT IS UNAVAILABLE FROM OTHER
17 SOURCES, THE RELEASE OF WHICH MIGHT CAUSE A PORTFOLIO COMPANY OR AN
18 INVESTMENT FIDUCIARY SIGNIFICANT COMPETITIVE HARM. INVESTMENT
19 INFORMATION INCLUDES, BUT IS NOT LIMITED TO, FINANCIAL PERFORMANCE
20 DATA AND PROJECTIONS, FINANCIAL STATEMENTS, LIST OF COINVESTORS AND
21 THEIR LEVEL OF INVESTMENT, PRODUCT AND MARKET DATA, RENT ROLLS, AND
22 LEASES.

23 (C) "PORTFOLIO COMPANY" MEANS AN ENTITY IN WHICH AN INVESTMENT
24 FIDUCIARY HAS MADE OR CONSIDERED AN INVESTMENT ON BEHALF OF THE
25 INVESTMENT FUND.

26 (D) "RECORD" MEANS ALL OR PART OF A WRITING, AS THAT TERM IS
27 DEFINED IN SECTION 2 OF THE FREEDOM OF INFORMATION ACT, 1976 PA

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1 442, MCL 15.232.

2 SEC. 88D. (1) THE FUND SHALL CREATE AND OPERATE A LOAN
3 ENHANCEMENT PROGRAM.

4 (2) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
5 PROGRAM, THE FUND MAY CREATE A LOAN GUARANTEE PROGRAM THAT DOES ALL
6 OF THE FOLLOWING:

7 (A) PROVIDE A LOAN GUARANTEE MECHANISM TO FINANCIAL
8 INSTITUTIONS LOCATED IN THIS STATE THAT PROVIDE COMMERCIAL LOANS TO
9 QUALIFIED BUSINESSES.

10 (B) <<ENSURES THAT PARTICIPATING FINANCIAL INSTITUTIONS DO NOT
11 REFINANCE PRIOR DEBT.

12 >>

13 (C) PROVIDE THAT A QUALIFIED BUSINESS IS ONLY ELIGIBLE FOR A
14 LOAN GUARANTEE UNDER THIS SECTION IF IT HAS A DOCUMENTED GROWTH
15 OPPORTUNITY. AS USED IN THIS SUBDIVISION, "DOCUMENTED GROWTH
16 OPPORTUNITY" MEANS A PLANT EXPANSION, CAPITAL EQUIPMENT INVESTMENT,
17 ACQUISITION OF INTELLECTUAL PROPERTY OR TECHNOLOGY, OR THE HIRING
18 OF NEW EMPLOYEES TO MEET OR SATISFY A NEW BUSINESS OPPORTUNITY.

19 (D) PROVIDE THAT A QUALIFIED BUSINESS THAT ENGAGES PRIMARILY
20 IN RETAIL SALES IS NOT ELIGIBLE FOR A LOAN GUARANTEE UNDER THIS
21 CHAPTER UNLESS THE FUND BOARD MAKES A SPECIFIC FINDING THAT THE
22 LOAN GUARANTEE SUPPORTS A NEW CONCEPT THAT HAS SIGNIFICANT GROWTH
23 POTENTIAL.

24 (E) PROVIDE REPAYMENT PROVISIONS FOR A LOAN OR A GUARANTEE
25 GIVEN TO A QUALIFIED BUSINESS THAT LEAVES MICHIGAN WITHIN 3 YEARS
26 OF THE PROVISION OF THE LOAN OR GUARANTEE OR OTHERWISE BREACHES THE
27 TERMS OF AN AGREEMENT WITH THE FUND.

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

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

17 (B) TO FINANCE PASSIVE REAL ESTATE OWNERSHIP.

18 (C) TO REFINANCE PRIOR DEBT FROM THE PARTICIPATING FINANCIAL
19 INSTITUTION THAT IS NOT PART OF THE SMALL BUSINESS CAPITAL ACCESS
20 PROGRAM.

21 SEC. 88E. WHEN CREATING PROGRAMS FOR 21ST CENTURY INVESTMENTS
22 UNDER THIS CHAPTER, THE FUND SHALL CREATE AND OPERATE A PRIVATE
23 EQUITY INVESTMENT PROGRAM. THE FUND BOARD SHALL AUTHORIZE
24 INVESTMENTS ONLY IN OR ALONGSIDE A QUALIFIED PRIVATE EQUITY FUND.
25 THE PRIVATE EQUITY INVESTMENT PROGRAM SHALL DO ALL OF THE
26 FOLLOWING:

27 (A) PROVIDE THAT THE RETURN ON INVESTMENT THAT IS SOUGHT IS

1 GREATER THAN THE RETURN ON INVESTMENT UNDER THE COMMERCIAL LOAN
2 PORTION OF THE LOAN ENHANCEMENT PROGRAM TO REFLECT THE GREATER
3 RISK.

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

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

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

21 (E) PROVIDE THAT A QUALIFIED PRIVATE EQUITY FUND IS NOT
22 ELIGIBLE TO PARTICIPATE IN A PRIVATE EQUITY INVESTMENT PROGRAM IF
23 ITS INVESTMENT STRATEGY PROVIDES FOR THE BREAKUP AND LIQUIDATION OF
24 BUSINESSES. THE FUND BOARD SHALL MAKE SURE THAT THE AGREEMENTS WITH
25 A PRIVATE EQUITY FUND HAVE THE APPROPRIATE PROVISIONS TO PROHIBIT
26 THE ACTIONS DESCRIBED IN THIS SUBDIVISION.

27 SEC. 88F. WHEN CREATING PROGRAMS FOR 21ST CENTURY INVESTMENTS

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1 UNDER THIS CHAPTER, THE FUND SHALL CREATE AND OPERATE THE VENTURE
2 CAPITAL INVESTMENT PROGRAM. THE FUND BOARD SHALL AUTHORIZE
3 INVESTMENTS THAT SHALL INVEST ONLY <<IN OR ALONGSIDE>> A QUALIFIED
4 VENTURE CAPITAL FUND THAT INVESTS PRIMARILY IN EARLY STAGE
5 BUSINESSES. THE VENTURE CAPITAL INVESTMENT PROGRAM SHALL DO ALL OF
6 THE FOLLOWING:

7 (A) PROVIDE THAT THE RETURN ON INVESTMENT THAT IS SOUGHT IS
8 GREATER THAN THE RETURN ON INVESTMENT UNDER THE COMMERCIAL LOAN
9 PORTION OF THE LOAN ENHANCEMENT PROGRAM TO REFLECT THE GREATER
10 RISK.

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

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

23 (D) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND IS NOT
24 ELIGIBLE TO PARTICIPATE IN A VENTURE CAPITAL INVESTMENT PROGRAM
25 UNLESS IT AGREES TO MAKE VENTURE CAPITAL INVESTMENTS IN THIS STATE
26 AT A PERCENTAGE RATE THAT IS NOT LESS THAN THE PERCENTAGE RATE THAT
27 THE FUND'S INVESTMENT IN THE QUALIFIED VENTURE CAPITAL FUND BEARS

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1 TO THE TOTAL AMOUNT IN THE QUALIFIED VENTURE CAPITAL FUND.

2 (E) PROVIDE THAT A QUALIFIED VENTURE CAPITAL FUND IS NOT
3 ELIGIBLE TO PARTICIPATE IN A VENTURE CAPITAL INVESTMENT PROGRAM IF
4 ITS INVESTMENT STRATEGY PROVIDES FOR THE BREAK UP AND LIQUIDATION
5 OF BUSINESSES. THE FUND BOARD SHALL MAKE SURE THAT THE AGREEMENTS
6 WITH A VENTURE CAPITAL FUND HAVE THE APPROPRIATE PROVISIONS TO
7 PROHIBIT THE ACTIONS DESCRIBED IN THIS SUBDIVISION.

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

13 (G) PROVIDE THAT 80% OF THE FUNDS ALLOCATED TO A VENTURE
14 CAPITAL INVESTMENT PROGRAM SHALL FOCUS ON COMPETITIVE EDGE
15 TECHNOLOGIES.

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

20 SEC. 88G. WHEN CREATING PROGRAMS FOR 21ST CENTURY INVESTMENTS
21 UNDER THIS CHAPTER, THE <<FUND SHALL CREATE AND OPERATE A PRIVATE EQUITY
INVESTMENT PROGRAM. THE FUND>> BOARD SHALL AUTHORIZE INVESTMENTS IN OR
22 ALONGSIDE A QUALIFIED MEZZANINE FUND UNDER A MEZZANINE INVESTMENT
23 PROGRAM PROVIDING FOR ALL OF THE FOLLOWING:

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

27 (B) THAT THE QUALIFIED MEZZANINE FUND WILL HAVE AN AMOUNT AT

1 RISK GREATER THAN THE FUND'S INVESTMENT.

2 (C) THAT A QUALIFIED MEZZANINE FUND IS NOT ELIGIBLE TO
3 PARTICIPATE IN A MEZZANINE INVESTMENT PROGRAM UNLESS IT OPERATES A
4 BUSINESS DEVELOPMENT OFFICE IN THIS STATE STAFFED WITH AT LEAST 1
5 FULL-TIME EQUIVALENT EMPLOYEE WHO IS ACTIVELY SEEKING OPPORTUNITIES
6 FOR MEZZANINE INVESTMENTS IN BUSINESSES LOCATED IN THIS STATE.

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

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

19 SEC. 88H. (1) THE JOBS FOR MICHIGAN INVESTMENT FUND IS CREATED
20 WITHIN THE FUND AS A PERMANENT FUND AUTHORIZED BY SECTION 19 OF
21 ARTICLE IX OF THE STATE CONSTITUTION OF 1963. MONEY IN THE
22 INVESTMENT FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE
23 INVESTMENT FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. MONEY IN
24 THE INVESTMENT FUND SHALL NOT BE TRANSFERRED TO ANOTHER
25 GOVERNMENTAL ENTITY OR A SEPARATE LEGAL ENTITY AND PUBLIC BODY
26 CORPORATE ESTABLISHED UNDER THE URBAN COOPERATION ACT OF 1967, 1967
27 (EX SESS) PA 7, MCL 124.501 TO 124.512, EXCEPT AS AUTHORIZED IN

1 THIS CHAPTER.

2 (2) MONEY OR OTHER ASSETS DEPOSITED IN THE INVESTMENT FUND
3 SHALL BE HELD AS PERMANENT FUNDS AS PROVIDED UNDER SECTION 19 OF
4 ARTICLE IX OF THE STATE CONSTITUTION OF 1963 AND INVESTED ONLY AS
5 AUTHORIZED UNDER THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO,
6 INVESTMENTS IN THE STOCK OF A COMPANY, ASSOCIATION, OR CORPORATION.

7 (3) THE INVESTMENT FUND SHALL BE INVESTED AS AUTHORIZED UNDER
8 THIS CHAPTER FOR THE BENEFIT OF THE PEOPLE OF THE STATE OF MICHIGAN
9 AND FOR THE PURPOSE OF CREATING INCENTIVES FOR THE FOLLOWING IN
10 THIS STATE:

11 (A) DIVERSIFYING THE ECONOMY.

12 (B) RETAINING OR CREATING JOBS.

13 (C) INCREASING CAPITAL INVESTMENT ACTIVITY.

14 (D) INCREASING COMMERCIAL LENDING ACTIVITY.

15 (E) ENCOURAGING THE DEVELOPMENT AND COMMERCIALIZATION OF
16 COMPETITIVE EDGE TECHNOLOGIES.

17 (4) FUNDS OR OTHER ASSETS OF THE INVESTMENT FUND ALSO MAY BE
18 INVESTED IN DEBT INSTRUMENTS OR DEBT OBLIGATIONS FOR LOANS OR
19 GUARANTEES AUTHORIZED UNDER THIS CHAPTER.

20 (5) THE INVESTMENT FUND SHALL CONSIST OF ALL OF THE FOLLOWING:

21 (A) ANY FUNDS APPROPRIATED TO, TRANSFERRED TO, OR DEPOSITED IN
22 THE INVESTMENT FUND FROM THE 21ST CENTURY JOBS TRUST FUND UNDER THE
23 MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.251 TO 12.256.

24 (B) EARNINGS, ROYALTIES, RETURN ON INVESTMENTS, RETURN OF
25 PRINCIPAL, PAYMENTS MADE, OR OTHER MONEY RECEIVED BY OR PAYABLE TO
26 THE FUND UNDER AGREEMENTS RELATED TO GRANTS, LOANS, INVESTMENTS, OR
27 EXPENDITURES BY THE FUND UNDER THIS CHAPTER.

1 (C) ASSETS, PROPERTY, MONEY, EARNINGS, ROYALTIES, RETURN ON
2 INVESTMENTS, RETURN OF PRINCIPAL, PAYMENTS MADE, OR OTHER MONEY
3 OWED, RECEIVED BY, OR PAYABLE TO THE FUND OR THE MICHIGAN ECONOMIC
4 DEVELOPMENT CORPORATION UNDER AGREEMENTS RELATED TO GRANTS, LOANS,
5 INVESTMENTS, OR OTHER PAYMENTS FUNDED BY APPROPRIATIONS FROM THE
6 STATE GENERAL FUND OR TOBACCO SETTLEMENT REVENUE UNDER 1 OR MORE OF
7 THE FOLLOWING:

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

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

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

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

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

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

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

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

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

5 (E) INTEREST AND EARNINGS ON ANY FUNDS OR OTHER ASSETS
6 DEPOSITED IN THE INVESTMENT FUND OR OTHER NET INCOME OF THE
7 INVESTMENT FUND.

8 (6) THE NET INCOME OF THE INVESTMENT FUND MAY BE EXPENDED BY
9 THE FUND ONLY FOR PURPOSES AUTHORIZED UNDER THIS CHAPTER PURSUANT
10 TO AN APPROPRIATION AUTHORIZED BY LAW. AS USED IN THIS SECTION, THE
11 NET INCOME OF THE INVESTMENT FUND SHALL BE COMPUTED ANNUALLY AS OF
12 THE LAST DAY OF THE STATE FISCAL YEAR IN ACCORDANCE WITH GENERALLY
13 ACCEPTED ACCOUNTING PRINCIPLES, EXCLUDING ANY UNREALIZED GAINS OR
14 LOSSES.

15 (7) THE FUND BOARD SHALL BE THE TRUSTEES OF THE INVESTMENT
16 FUND AND SHALL DIRECT THE INVESTMENT AND REINVESTMENT OF THE FUNDS
17 AND ASSETS OF THE INVESTMENT FUND AS PROVIDED UNDER, AND CONSISTENT
18 WITH THE OBJECTIVES OF, THIS CHAPTER.

19 (8) THE FUND BOARD MAY ESTABLISH RESTRICTED SUBACCOUNTS WITHIN
20 THE INVESTMENT FUND AS NECESSARY TO ADMINISTER THE INVESTMENT FUND.
21 THE FUND BOARD MAY CONTRACT WITH THE STATE TREASURER TO ASSIST THE
22 FUND BOARD IN ADMINISTERING THE INVESTMENT FUND. THE FUND BOARD MAY
23 AUTHORIZE MONEY IN THE INVESTMENT FUND NOT INVESTED AS AUTHORIZED
24 UNDER SECTIONS 88D, 88E, 88F, AND 88G TO BE MANAGED BY THE STATE
25 TREASURER AS PART OF THE COMMON CASH FUND OF THIS STATE UNDER 1967
26 PA 55, MCL 12.51 TO 12.53. MONEY MANAGED BY THE STATE TREASURER
27 UNDER THIS SUBSECTION SHALL BE SEPARATELY ACCOUNTED FOR BY THE

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1 STATE TREASURER. WHEN AUTHORIZED UNDER THIS SUBSECTION, THE STATE
2 TREASURER MAY INVEST THE FUNDS OR ASSETS OF THE INVESTMENT FUND IN
3 ANY INVESTMENT AUTHORIZED UNDER 1855 PA 105, MCL 21.141 TO 21.147,
4 FOR SURPLUS FUNDS OF THIS STATE, IN OBLIGATIONS ISSUED BY ANY STATE
5 OR POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE UNITED STATES,
6 OR IN ANY OBLIGATION ISSUED, ASSUMED, OR GUARANTEED BY A SOLVENT
7 ENTITY CREATED OR EXISTING UNDER THE LAWS OF THE UNITED STATES OR
8 OF ANY STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES, WHICH
9 ARE NOT IN DEFAULT AS TO PRINCIPAL OR INTEREST.

10 (9) A MEMBER OF THE FUND BOARD OR OFFICER OF THE FUND SHALL
11 NOT GAIN FROM ANY INVESTMENT OF FUNDS OR ASSETS OF THE INVESTMENT
12 FUND. A MEMBER OF THE FUND BOARD OR OFFICER OF THE FUND SHALL NOT
13 HAVE ANY DIRECT OR INDIRECT INTEREST IN AN INVESTMENT OF FUNDS OR
14 ASSETS OF THE INVESTMENT FUND. A MEMBER OF THE FUND BOARD OR PERSON
15 CONNECTED WITH THE INVESTMENT FUND DIRECTLY OR INDIRECTLY, FOR
16 HIMSELF OR HERSELF, OR AS AN AGENT OR PARTNER OF OTHERS, SHALL NOT
17 BORROW ANY OF THE FUNDS OR ASSETS OF THE INVESTMENT FUND OR IN ANY
18 MANNER USE FUNDS OR ASSETS OF THE INVESTMENT FUND EXCEPT AS
19 AUTHORIZED UNDER THIS CHAPTER. A MEMBER OF THE FUND BOARD OR
20 OFFICER OF THE FUND SHALL NOT BECOME AN ENDORSER OR SURETY OR
21 BECOME IN ANY MANNER AN OBLIGOR FOR MONEY LOANED BY OR BORROWED
22 FROM THE INVESTMENT FUND. FAILURE TO COMPLY WITH THIS SUBSECTION
23 CONSTITUTES MISCONDUCT IN OFFICE SUBJECT TO REMOVAL <<UNDER SECTION 94>>.

24 SEC. 88I. (1) THE OFFICE OF THE CHIEF COMPLIANCE OFFICER IS
25 CREATED WITHIN THE FUND. THE OFFICE SHALL <<EXERCISE ITS POWERS AND
26 DUTIES UNDER THIS SECTION>> INDEPENDENTLY OF
27 THE FUND.

(2) THE OFFICE SHALL ASSIST THE FUND BOARD WITH THE CREATION,

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1 IMPLEMENTATION, MONITORING, AND ENFORCEMENT OF POLICIES AND
2 PROCEDURES TO PREVENT ILLEGAL, UNETHICAL, OR IMPROPER CONDUCT ON
3 THE PART OF FUND BOARD MEMBERS, COMMERCIALIZATION BOARD MEMBERS AND
4 EMPLOYEES, OR AGENTS OF THE FUND BOARD AND COMMERCIALIZATION BOARD
5 IN CARRYING OUT THEIR DUTIES UNDER THIS CHAPTER.

6 (3) THE PRINCIPAL EXECUTIVE OFFICER OF THE OFFICE IS THE CHIEF
7 COMPLIANCE OFFICER. THE STATE ADMINISTRATIVE BOARD SHALL BE THE
8 APPOINTING AUTHORITY OF THE CHIEF COMPLIANCE OFFICER<<.

9 >>

10 (4) A PERSON MAY NOT INTERFERE WITH, PREVENT, OR PROHIBIT THE
11 CHIEF COMPLIANCE OFFICER FROM CARRYING OUT HIS OR HER DUTIES AS
12 ESTABLISHED IN THIS SECTION AND SET BY THE STATE ADMINISTRATIVE
13 BOARD. THE CHIEF COMPLIANCE OFFICER IS AN EMPLOYEE FOR PURPOSES OF
14 THE WHISTLEBLOWERS' PROTECTION ACT, 1980 PA 469, MCL 15.361 TO
15 15.369.

16 (5) ALL DEPARTMENTS, STATE AGENCIES, COMMITTEES,
17 COMMISSIONERS, OR OFFICERS OF THIS STATE OR ANY POLITICAL
18 SUBDIVISION OF THIS STATE, SO FAR AS IS COMPATIBLE WITH THEIR
19 DUTIES, SHALL GIVE THE CHIEF COMPLIANCE OFFICER ANY NECESSARY
20 ASSISTANCE REQUIRED BY THE CHIEF COMPLIANCE OFFICER IN THE
21 PERFORMANCE OF THE DUTIES OF THE CHIEF COMPLIANCE OFFICER. ALL
22 DEPARTMENTS, STATE AGENCIES, COMMITTEES, COMMISSIONERS, OR OFFICERS
23 OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE SHALL
24 PROVIDE THE CHIEF COMPLIANCE OFFICER FREE ACCESS TO ANY BOOK,
25 RECORD, OR DOCUMENT IN THEIR CUSTODY, RELATING TO THE MATTERS
26 WITHIN THE SCOPE OF THE CHIEF COMPLIANCE OFFICER IN THE PERFORMANCE
27 OF HIS OR HER DUTIES.

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1 (6) THE CHIEF COMPLIANCE OFFICER SHALL DO ALL OF THE
2 FOLLOWING:

3 (A) RECOMMEND POLICIES AND PROCEDURES, INCLUDING, BUT NOT
4 LIMITED TO, A CONFLICT OF INTEREST POLICY, AN INVESTMENT POLICY,
5 AND AN ETHICS POLICY TO THE FUND BOARD AND THE COMMERCIALIZATION
6 BOARD THAT SHALL PROTECT THE STATE'S ASSETS CONSISTENT WITH THE
7 REQUIREMENTS OF THIS CHAPTER AND APPLICABLE STATE AND FEDERAL LAW.
8 THE CHIEF COMPLIANCE OFFICER SHALL ALSO ASSIST IN THE DESIGN OF THE
9 POLICIES AND PROCEDURES THAT WILL PREVENT VIOLATIONS FROM
10 OCCURRING, DETECT VIOLATIONS THAT HAVE OCCURRED, AND CORRECT SUCH
11 VIOLATIONS PROMPTLY.

12 (B) ASSIST EMPLOYEES AND AGENTS OF THE BOARD AND THE
13 COMMERCIALIZATION BOARD TO ENSURE THAT THEY ARE IN COMPLIANCE WITH
14 INTERNAL POLICIES AND PROCEDURES AND WITH APPLICABLE STATE AND
15 FEDERAL LAW.

16 (C) PROVIDE GUIDANCE TO THE BOARD, THE COMMERCIALIZATION
17 BOARD, AND EMPLOYEES <<OF THE BOARD AND THE COMMERCIALIZATION BOARD>> ON
18 MATTERS RELATED TO COMPLIANCE WITH INTERNAL
19 POLICIES AND PROCEDURES AND WITH APPLICABLE STATE AND FEDERAL LAW.

20 (D) MAKE RECOMMENDATIONS TO THE BOARD, THE COMMERCIALIZATION
21 BOARD, AND EMPLOYEES <<OF THE BOARD AND THE COMMERCIALIZATION BOARD>>
22 REGARDING THE APPROPRIATE EVALUATION,
23 INVESTIGATION, AND RESOLUTION OF ISSUES AND CONCERNS REGARDING
24 COMPLIANCE WITH INTERNAL POLICIES AND PROCEDURES AND WITH
25 APPLICABLE STATE AND FEDERAL LAW.

26 (E) REVIEW AND EVALUATE COMPLIANCE WITH INTERNAL POLICIES AND
27 PROCEDURES AND WITH APPLICABLE STATE AND FEDERAL LAW.

(F) COOPERATE WITH THE OFFICE OF THE AUDITOR GENERAL AS THE
AUDITOR GENERAL CARRIES OUT HIS OR HER DUTIES.

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1 (G) REPORT QUARTERLY TO THE FUND BOARD AND THE STATE
2 ADMINISTRATIVE BOARD REGARDING COMPLIANCE WITH INTERNAL POLICIES
3 AND PROCEDURES AND WITH APPLICABLE STATE AND FEDERAL LAW.

4 (H) CONTACT PERSONS RECEIVING AWARDS, INVESTMENTS, GRANTS, AND
5 LOANS <<UNDER THIS CHAPTER>> TO THE EXTENT NECESSARY TO CARRY OUT
6 RESPONSIBILITIES UNDER
7 THIS CHAPTER.

8 (I) PREPARE A WRITTEN ANNUAL REPORT THAT EVALUATES COMPLIANCE
9 WITH INTERNAL POLICIES AND PROCEDURES AND WITH APPLICABLE STATE AND
10 FEDERAL LAW, EXPLAINS ANY COMPLIANCE MATTERS THAT AROSE DURING THE
11 PREVIOUS YEAR, AND SUGGESTS REVISIONS TO AGENCY POLICIES AND
12 PROCEDURES. COPIES OF THE REPORT SHALL BE PROVIDED TO THE GOVERNOR,
13 THE CLERK OF THE HOUSE OF REPRESENTATIVES, THE SECRETARY OF THE
14 SENATE, AND THE CHAIRPERSONS OF THE SENATE AND HOUSE OF
15 REPRESENTATIVES << >> COMMITTEES ON APPROPRIATIONS. THE ANNUAL
16 REPORT SHALL ALSO BE PUBLISHED ON THE FUND'S INTERNET WEBSITE.

17 (J) DO ALL OTHER THINGS NECESSARY TO CARRY OUT THE CHIEF
18 COMPLIANCE OFFICER'S RESPONSIBILITIES UNDER THIS SECTION.

19 (7) AS USED IN THIS SECTION, "OFFICE" MEANS THE OFFICE OF THE
20 CHIEF COMPLIANCE OFFICER.

21 SEC. 88J. (1) UPON REQUEST FROM THE FUND BOARD, THE STATE
22 TREASURER SHALL TRANSFER APPROPRIATED FUNDS FROM THE 21ST CENTURY
23 JOBS TRUST FUND TO THE FUND IN THE AMOUNTS DESIGNATED BY THE FUND
24 BOARD AT THE TIME AND AS NECESSARY TO FUND DISBURSEMENTS OR
25 RESERVES REQUIRED FOR PROGRAMS OR ACTIVITIES AUTHORIZED UNDER THIS
26 CHAPTER OR TO FUND INVESTMENTS AUTHORIZED BY THE FUND BOARD FROM
27 THE INVESTMENT FUND. FUNDS APPROPRIATED OR TRANSFERRED TO THE FUND
SHALL NOT BE TRANSFERRED TO ANOTHER GOVERNMENTAL ENTITY OR A

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1 SEPARATE LEGAL ENTITY AND PUBLIC BODY CORPORATE ESTABLISHED UNDER
2 THE URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501
3 TO 124.512, EXCEPT AS AUTHORIZED UNDER THIS CHAPTER.

4 (2) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006, THERE IS
5 APPROPRIATED AND TRANSFERRED FROM THE 21ST CENTURY JOBS TRUST FUND
6 TO THE FUND \$400,000,000.00 FOR THE PURPOSES OF CARRYING OUT THE
7 PURPOSES OF THIS CHAPTER.

8 (3) FROM THE FUNDS APPROPRIATED AND TRANSFERRED IN SUBSECTION
9 (2), THE FUND SHALL MAKE THE FOLLOWING COMMITMENTS<<,>> DISPERSIBLE AS
10 PROVIDED IN SUBSECTION (1):

11 (A) \$26,000,000.00 AS A GRANT TO THE MICHIGAN FOREST FINANCE
12 AUTHORITY <<FOR PURPOSES>> UNDER PART 505 OF THE NATURAL RESOURCES AND
13 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.50501 TO
14 324.50522. THE MONEY SHALL BE SPENT ONLY AS PROVIDED BY THE
15 MICHIGAN FOREST FINANCE AUTHORITY.

16 (B) \$10,000,000.00, UP TO 1/2 IN LOANS, TO SUPPORT THE
17 DEVELOPMENT AND CREATION OF A DEFENSE CONTRACT COORDINATION CENTER
18 PROGRAM TO ASSIST MICHIGAN COMPANIES IN SECURING MORE FEDERAL
19 DEFENSE AND HOMELAND SECURITY PROCUREMENT CONTRACTS. THIS PROGRAM
20 SHALL INCLUDE, BUT IS NOT LIMITED TO, PROVIDING LOW-INTEREST RATE
21 LOANS TO SUPPORT THE EXPANSION OF MANUFACTURING OPERATIONS IN ORDER
22 TO FULFILL FEDERAL PROCUREMENT CONTRACTS. THE LOAN REPAYMENTS SHALL
23 RETURN TO THE INVESTMENT FUND.

24 (C) \$4,000,000.00 FOR A PRIVATE RESEARCH INSTITUTE THAT HAS
25 RECEIVED A SPECIFIC FEDERAL APPROPRIATION PRIOR TO 2005 FOR THE
26 CREATION OF A GOOD MANUFACTURING FACILITY. THE FACILITY SHALL BE
27 USED FOR THE PRODUCTION OF DRUGS APPROVED FOR USE IN CLINICAL

1 TRIALS, AS APPROVED BY THE UNITED STATES FOOD AND DRUG
2 ADMINISTRATION, AND SHALL WORK TO MARKET THE CORE TECHNOLOGY
3 ALLIANCE FOR THE PURPOSES OF COMMERCIALIZATION AND PROVIDING ACCESS
4 TO ADVANCED TECHNOLOGIES TO RESEARCHERS AFFILIATED WITH
5 UNIVERSITIES, PRIVATE RESEARCH INSTITUTES, AND BIOTECH AND
6 PHARMACEUTICAL FIRMS.

7 (D) \$6,000,000.00 FOR AN AUTOMOTIVE TECHNOLOGY BUSINESS
8 ACCELERATOR TO PROVIDE FOR THE RESEARCH, DEVELOPMENT, AND
9 COMMERCIALIZATION OF INNOVATIVE TECHNOLOGIES AND PRODUCTS. THE
10 FUNDS SHALL BE USED TO SUPPORT INTERNATIONAL BUSINESS DEVELOPMENT,
11 ENCOURAGE DEVELOPMENT OF COMPETITIVE EDGE TECHNOLOGIES THROUGH THE
12 CREATION OF EARLY STAGE SEED FUNDS, AND SUPPORT THE OUTREACH AND
13 GROWTH OF TECHNOLOGY BASED BUSINESSES AND PROFESSIONALS.

14 (E) \$2,000,000.00 FOR A MICHIGAN FILM INITIATIVE TO PROMOTE
15 THE FILMING OF MOTION PICTURES IN THIS STATE. NO FUNDS MAY BE USED
16 TO PROMOTE THE FILMING OF A MOTION PICTURE THAT DEPICTS OBSCENE
17 MATTER OR AN OBSCENE PERFORMANCE. AS USED IN THIS SUBDIVISION,
18 "OBSCENE MATTER OR AN OBSCENE PERFORMANCE" MEANS OBSCENE MATERIAL,
19 THE DISSEMINATION OF WHICH IS A VIOLATION OF 1984 PA 343, MCL
20 752.361 TO 752.374. THE MICHIGAN FILM OFFICE CREATED UNDER SECTION
21 21 OF THE HISTORY, ARTS, AND LIBRARIES ACT, 2001 PA 63, MCL
22 399.721, SHALL USE THE FUNDS IN THE FOLLOWING MANNER:

23 (i) TO HIRE AN INDEPENDENT FIRM TO CONDUCT A BASELINE STUDY
24 THAT WILL ACCURATELY DEMONSTRATE MICHIGAN'S STATUS WITHIN THE FILM
25 INDUSTRY AND INCLUDE RECOMMENDATIONS OF NECESSARY IMPROVEMENTS FOR
26 MICHIGAN TO ATTRACT MOTION PICTURES.

27 (ii) TO MARKET AND PROMOTE MICHIGAN AS A PREMIERE LOCATION FOR

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1 FILMING MOTION PICTURES, COMMERCIALS, AND DOCUMENTARIES. MARKETING
2 AND PROMOTING INCLUDE, BUT ARE NOT LIMITED TO, WEBSITE DEVELOPMENT,
3 PROMOTIONAL AND RESEARCH EXPENSES, EVENT AND FESTIVAL SPONSORSHIP,
4 AND ADVERTISING.

5 (iii) ASSIST IN WORKFORCE DEVELOPMENT WITHIN THE FILM INDUSTRY
6 BY SUPPORTING ON-THE-JOB TRAINING OF QUALIFIED CREW MEMBERS. JOB
7 TRAINING OF FILM AND MEDIA TECHNICIANS INCLUDES, BUT IS NOT LIMITED
8 TO, TECHNICAL TRAINING, PRACTICAL TRAINING, AND INTERNSHIP
9 OPPORTUNITIES.

10 (F) \$2,000,000.00 TO IMPLEMENT THE TRANSFER OF COMPETITIVE
11 EDGE TECHNOLOGY RESEARCH FROM INSTITUTIONS OF HIGHER EDUCATION TO
12 THE PRIVATE SECTOR AS PROVIDED IN THIS CHAPTER.

13 (G) \$15,000,000.00 FOR A MICHIGAN PROMOTION PROGRAM TO ENHANCE
14 FUNDING BEYOND THAT INCLUDED IN THE ANNUAL APPROPRIATION FOR TRAVEL
15 MICHIGAN TO ATTRACT ADDITIONAL TOURISM EXPENDITURES IN THIS STATE.
16 NO FUNDS MAY BE USED FOR ANY TOURISM MARKETING EFFORT THAT INCLUDES
17 THE IMAGE OF AN ELECTED STATE OFFICER OR A CANDIDATE FOR ELECTIVE
18 STATE OFFICE THAT IS TARGETED TO A MEDIA MARKET IN MICHIGAN.

<<(H) \$10,000,000.00 AS A GRANT TO THE AGRICULTURAL DEVELOPMENT
FUND CREATED IN SECTION 2 OF THE JULIAN-STILLE VALUE-ADDED ACT, 2000 PA
322, MCL 285.302. THE MONEY SHALL NOT BE SPENT UNTIL AFTER APRIL 1,
2006.>>

19 (4) NOT MORE THAN 4% OF THE APPROPRIATION MADE IN SUBSECTION
20 (2) MAY BE EXPENDED FOR ADMINISTRATIVE COSTS RELATED TO THE
21 ADMINISTRATION OF PROGRAMS OR ACTIVITIES AUTHORIZED UNDER THIS
22 CHAPTER.

23 (5) NOT MORE THAN 5% OF THE APPROPRIATION MADE IN SUBSECTION
24 (2) MAY BE EXPENDED FOR BUSINESS DEVELOPMENT AND BUSINESS MARKETING
25 COSTS. NOT LESS THAN 80% OF THE FUNDS COMMITTED FOR BUSINESS
26 DEVELOPMENT AND BUSINESS MARKETING COSTS SHALL BE TARGETED TO
27 PERSONS OR ENTITIES OUTSIDE OF THIS STATE. NO FUNDS SHALL BE USED

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1 FOR ANY BUSINESS DEVELOPMENT AND BUSINESS MARKETING EFFORT THAT
2 INCLUDES <<A REFERENCE TO OR THE IMAGE OR VOICE >> OF AN ELECTED STATE
OFFICER OR A CANDIDATE FOR
3 ELECTIVE STATE OFFICE AND THAT IS TARGETED TO A MEDIA MARKET IN
4 THIS STATE. THE FUND BOARD SHALL SELECT ALL VENDORS FOR ALL
5 << >> MARKETING EXPENDITURES UNDER THIS CHAPTER
6 BY ISSUING A REQUEST FOR PROPOSAL. AT A MINIMUM, THE REQUEST FOR
7 PROPOSAL SHALL REQUIRE THE RESPONDING ENTITIES TO DISCLOSE ANY
8 CONFLICT OF INTEREST, DISCLOSE ANY CRIMINAL CONVICTIONS, DISCLOSE
9 ANY INVESTIGATIONS BY THE INTERNAL REVENUE SERVICE OR ANY OTHER
10 FEDERAL OR STATE TAXING BODY OR COURT, DISCLOSE ANY PERTINENT
11 LITIGATION REGARDING THE CONDUCT OF THE ENTITY, AND MAINTAIN
12 RECORDS AND EVIDENCE PERTAINING TO WORK PERFORMED. THE FUND BOARD
13 SHALL ESTABLISH A STANDARD PROCESS TO EVALUATE PROPOSALS SUBMITTED
14 AS A RESULT OF A REQUEST FOR PROPOSAL AND APPOINT A COMMITTEE TO
15 REVIEW THE PROPOSALS.

16 (6) FOLLOWING THE DISBURSEMENTS DESCRIBED IN SUBSECTIONS (3),
17 (4), AND (5), THE REMAINING MONEY SHALL BE ALLOCATED PURSUANT TO
18 SECTION 88B(1).

19 (7) THE APPROPRIATION AUTHORIZED IN SUBSECTION (2) IS A WORK
20 PROJECT APPROPRIATION AND ANY UNENCUMBERED OR UNALLOTTED FUNDS ARE
21 CARRIED FORWARD INTO THE FOLLOWING FISCAL YEAR. THE FOLLOWING IS IN
22 COMPLIANCE WITH SECTION 451A(1) OF THE MANAGEMENT AND BUDGET ACT,
23 1984 PA 431, MCL 18.1451A:

24 (A) THE PURPOSE OF THE PROJECT IS TO PROVIDE SUBSTANTIAL
25 ECONOMIC BENEFITS AND JOB CREATION WITHIN THIS STATE AND TO CREATE
26 INCENTIVES FOR THE DIVERSIFICATION OF THE ECONOMY OF THIS STATE
27 THROUGH 21ST CENTURY INVESTMENTS, GRANTS AND LOANS APPROVED BY THE

1 COMMERCIALIZATION BOARD UNDER SECTION 88K, AND OTHER PROGRAMS OR
2 ACTIVITIES AUTHORIZED UNDER THIS CHAPTER.

3 (B) THE WORK PROJECT WILL BE ACCOMPLISHED THROUGH THE USE OF
4 INTERAGENCY AGREEMENTS, GRANTS, LOANS, INVESTMENTS, STATE
5 EMPLOYEES, AND CONTRACTS.

6 (C) THE TOTAL ESTIMATED COMPLETION COST OF THE WORK PROJECT IS
7 \$400,000,000.00.

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

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

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

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

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

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

25 (a) Senate Bill No. 298.

26 (b) Senate Bill No. 359.

27 (c) Senate Bill No. 521.

- 1 (d) Senate Bill No. 533.
- 2 (e) House Bill No. 5048.
- 3 (f) House Bill No. 5109.