

Legislative Analysis



MICHIGAN STRATEGIC FUND REVISIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6206

Sponsor: Rep. Andy Meisner

House Bill 6207

Sponsor: Rep. David Palsrok

House Bill 6209

Sponsor: Rep. Lee Gonzales

House Bill 6208

Sponsor: Rep. Ed Clemente

House Bill 6210

Sponsor: Rep. Dave Hildenbrand

Committee: New Economy and Quality of Life
Complete to 6-11-08

A SUMMARY OF HOUSE BILLS 6206 - 6210 AS INTRODUCED 6-5-08

Each of the bills would amend the Michigan Strategic Fund Act. A description of each bill follows.

House Bill 6206 would revise the definitions of key terms, including adding new programs under the rubric of 21st century investments.

Under the bill, the term "advanced automotive, manufacturing, and materials technology" would be changed to "advanced automotive, manufacturing, materials, *and information* technology.

Under the current law, the term "competitive edge technology" means one or more of the following: (1) life sciences technology; (2) advanced automotive, manufacturing, and materials technology; (3) homeland security and defense technology; and (4) alternative energy technology. The bill would revise (2) to read: advanced automotive, manufacturing, materials, *and informational* technology.

Under the current law, the term "21st century investments" means investments in one or more of the following: (1) commercial loan guarantees under a loan enhancement program operated by the Fund; (2) private equity investments under a private equity investment program operated by the Fund; (3) venture capital investments under a venture capital investment program operated by the Fund; and (4) mezzanine investments under a mezzanine investment program operated by the Fund. House Bill 6206 would retain these elements of the definition and add (5) *convertible loans, equity investments, or warrants from the Jobs for Michigan Investment Fund recommended by the Strategic Economic Investment and Commercialization Board for approval by the Strategic Fund Board.*

House Bill 6207 would revise provisions dealing with expenditures and the use of administrative fees.

Currently under the law, the Michigan Strategic Fund Board expends or invests for three purposes: (1) 21st century investments; (2) grants and loans approved by the Commercialization Board; and (3) other authorized programs or activities. The Strategic Fund Board cannot expend more than the following amounts each year from the 21st Century Jobs Trust Fund: 25 percent for the loan enhancement program; 40 percent for the private equity investment program, the venture capital investment program, and the mezzanine investment program combined; and 70 percent for competitive edge technology grants and loans. House Bill 6207 would eliminate these provisions.

Currently under the law, the Commercialization Board must authorize the expenditure of at least \$30 million in the 2007-2008 through 2011-2012 fiscal years. The bill would specify that the (at least) \$30 million expended each year would be earmarked for competitive edge technology loans or grants under Section 88k, or for convertible loans, equity investments, or warrants from the Investment Fund recommended by the Commercialization Board under Section 88k and approved by the Strategic Fund Board.

The law currently prohibits the Commercialization Board from authorizing the expenditure of more than \$100,000,000 for basic research over the life of the program. The bill instead specifies that the Commercialization Board and the Strategic Fund Board could not authorize the expenditure of more than \$100 million of the amount for basic research between October 1, 2005 and September 30, 2016.

Finally, the bill requires that application fees received for programs and activities be paid to the Strategic Fund, and specifies that they could be used upon appropriation for administering the programs and activities.

House Bill 6208 would revise certain loan programs.

Currently, as part of the recently enacted film and media incentive program, the law requires that as a separate and distinct part of the Loan Enhancement Program, the Strategic Fund establish the Choose Michigan Film and Digital Media Loan Fund. House Bill 6208 would specify that the Strategic Fund establish *and operate* the Choose Michigan Film and Digital Media Loan Fund.

Further, the bill requires that as a separate and distinct part of the Loan Enhancement Program, the Strategic Fund operate the Choose Michigan Fund Program to invest in loans from the Investment Fund to a qualified business. The bill specifies that the Choose Michigan Fund Program is to operate on an incentive basis, and provide loans to qualified businesses to promote and enhance significant job creation or retention in Michigan. Under the bill, notwithstanding any requirement imposed by the Fund before April 1, 2008, to receive a loan under this subsection, the Fund Board could (or could not) require a qualified business to obtain an additional loan from an accredited financial institution or other approved lending market to obtain a loan under this subsection. At the discretion of the fund board, loans provided through the Choose Michigan Fund would be forgivable.

A loan issued would be subject to all of the following requirements:

- An interest rate of at least one percent.
- A minimum loan amount of \$500,000.
- A maximum term of 10 years (including up to three years of deferred principal payments to align principal payments with receipt of any primary incentives, as determined by the Fund Board).
- The business is responsible for repayment of the loan regardless of any primary incentives received.
- The business is responsible for loan preparation and closing costs.
- The loan is issued consistent with guidelines for the initiation of a loan, and the terms of the loan approved by the fund board.
- A loan may be converted to an equity investment by the Fund Board.

House Bill 6209 would revise the duties of the Strategic Economic Investment and Commercialization Board.

Currently under the law, the Commercialization Board must award grants and loans from the 21st Century Jobs Trust Fund created in the Michigan Trust Fund Act, and the Investment Fund, only for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies to create jobs in Michigan.

House Bill 6209 revises this to say the board *may recommend loans, convertible loans, equity investments, and warrants* from the Investment Fund (with "only" eliminated) for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies *intended* to create jobs in Michigan. The bill further specifies that "loans, convertible loans, equity investments, and warrants *recommended* by the Commercialization Board would be *subject to approval* by the Strategic Fund Board. Finally, the Fund Board would be required to establish a standard process to review investments recommended by the Commercialization Board before approving any investment.

Currently under the law, the Commercialization Board must establish a competitive process to award grants and make loans for competitive edge technologies. Under that process, applications must be peer-reviewed by independent peer review experts based on the proposal's scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding of the application. House Bill 6209 would require this process of both the Commercialization Board and the Fund Board. The bill also specifies that if an applicant was seeking a grant or investment to match federal funds for small business innovation research, or small business technology transfer program, then the peer review requirement would be satisfied by the review conducted by the federal agency awarding the federal funds.

Currently under the law, grants or loans are not available for people convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. House Bill 6209 would extend this prohibition to also include crimes related to convertible loans, equity investments, or warrants. It also specifies that a nonprofit entity could satisfy these requirements by filing an affidavit with the fund affirming that no one had been convicted of a criminal offense related to the application for or performance of a state contract or subcontract. Under the bill, a director or officer of a nonprofit entity could satisfy these requirements by filing an affidavit with the Fund, affirming that he or she had not been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflected 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.

Finally, the Commercialization Board's purview is expanded to include the approval of convertible loans, equity investments, or warrants, in addition to grants and loans.

House Bill 6210 would revise the membership of the Commercialization Board.

Currently under the law, the 19-member Commercialization Board includes members representing Michigan State University, the University of Michigan, Wayne State University, Western Michigan University, and Michigan Technological University. House Bill 6210 would specify that the board members would be the *presidents* of those universities (or their designees). In addition, under the current law, the commercialization board includes the director of the Department of Labor and Economic Growth and the state treasurer as two voting ex officio members. House Bill 6210 specifies that the board would have seven voting ex officio members, to include the director of DLEG and the state treasurer, as well as the university presidents.

Currently under the law, the Governor appoints 17 members of the Commercialization Board, most with the advice and consent of the Senate. With the change noted above, the bill specifies that the Governor would appoint 12 members.

Currently under the law, the Governor selects two of the members from two separate lists of two or more individuals (representing qualified businesses or people with business, technological, or financial experience related to competitive edge technology) that are submitted by the Majority Leader of the Senate, and the Speaker of the House of Representatives. Under the bill, the Majority Leader and Speaker would each submit three individuals.

The bill specifies that the Commercialization Board could delegate to its chairperson, vice-chairperson, or the president of the fund, those functions of the board that it deems necessary or appropriate.

Currently under the law, the Commercialization Board can act only by resolution approved by a majority of its members, and a majority of its members appointed and serving constitute a quorum. House Bill 6210 would retain these provisions, and add that

if one or more members of the board (either physically present at a meeting or participating by electronic means) recused himself or herself from participating because of a potential or actual conflict of interest, the remaining members would constitute a quorum or the board, and the board could act by resolution approved by a majority of the remaining and participating members.

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: J. Hunault
Fiscal Analyst: Viola Bay Wild

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.