

HOUSE BILL No. 4817

April 21, 2009, Introduced by Reps. Lipton, Kennedy, Liss, Scripps, Gregory, Kandrevas and Roberts and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 4, 71, and 88a (MCL 125.2004, 125.2071, and
125.2088a), section 4 as amended by 2005 PA 225 and section 88a as
amended by 2006 PA 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. As used in this act:

2 (a) "Board" means the board of directors of the Michigan
3 strategic fund, except where the context clearly requires a
4 different definition.

5 (b) "Economic development project" means an endeavor related
6 to industrial, commercial, or agricultural enterprise. Economic
7 development project includes, but is not limited to, a theme or

1 recreation park; agricultural or forestry production, harvesting,
2 storage, or processing facilities or equipment; and the use of
3 equipment or facilities designed to produce energy from renewable
4 resources. Economic development project does not include that
5 portion of an endeavor devoted to the sale of goods at retail,
6 except that, as used in relation to the fund insuring a transaction
7 entered into by a depository institution, and as used in relation
8 to a loan by the fund to a minority owned business, an economic
9 development project may include that portion of an endeavor devoted
10 to the sale of goods at retail. Economic development project does
11 not include that portion of an endeavor devoted to housing or a
12 program or activity authorized under chapter 8A.

13 (c) "Financial institution" means a state or nationally
14 chartered bank or a state or federally chartered savings and loan
15 association, savings bank, or credit union whose deposits are
16 insured by an agency of the United States government and that
17 maintains a principal office or branch office in this state under
18 the laws of this state or the United States.

19 (d) "Fund" means the Michigan strategic fund created under
20 section 5, except where the context clearly requires a different
21 definition.

22 (E) "GREEN CHEMISTRY" MEANS THE DESIGN OF CHEMICAL PRODUCTS OR
23 PROCESSES THAT REDUCE OR ELIMINATE THE MANUFACTURE, USE, OR
24 GENERATION OF HAZARDOUS SUBSTANCES, WHILE PRODUCING HIGH-QUALITY
25 PRODUCTS, AND INCLUDES THE DEVELOPMENT OF SAFER BIO-BASED CHEMICALS
26 AND MATERIALS. GREEN CHEMISTRY IS GUIDED BY THE 12 PRINCIPLES OF
27 GREEN CHEMISTRY USED BY THE UNITED STATES ENVIRONMENTAL PROTECTION

1 **AGENCY.**

2 **(F)** ~~(e)~~—"Michigan economic development corporation" or "MEDC"
3 means the Michigan economic development corporation, the public
4 body corporate created under section 28 of article VII of the state
5 constitution of 1963 and the urban cooperation act of 1967, 1967
6 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
7 agreement effective April 5, 1999, and subsequently amended,
8 between local participating economic development corporations
9 formed under the economic development corporations act, 1974 PA
10 338, MCL 125.1601 to 125.1636, and the fund.

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

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

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

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

22 (J) ~~(i)~~ "Private sector" means other than the fund, a state or
23 federal source, or an agency of a state or the federal government.

24 Sec. 71. As used in this chapter:

25 (a) "Economic development fund" means that fund to which the
26 fund succeeded in ownership pursuant to section 22.

27 (b) "Research and development enterprise" means any person

1 found by the fund to be engaged in a business which has as its
2 principal function **THE DEVELOPMENT OF GREEN CHEMISTRY OR** the
3 discovery of new substances and the refinement of known substances,
4 processes, products, theories, and ideas, except for those persons
5 whose businesses are directed primarily to the accumulation or
6 analysis of commercial, financial, or mercantile data.

7 (c) "Research center fund" means that fund created by **FORMER**
8 section 27 of ~~Act No. 70 of the Public Acts of 1982, being section~~
9 ~~125.1927 of the Michigan Compiled Laws 1982 PA 70~~, to which the
10 fund succeeds in ownership pursuant to section 76.

11 Sec. 88a. As used in this chapter:

12 (a) "Advanced automotive, manufacturing, and materials
13 technology" means any technology that involves 1 or more of the
14 following:

15 (i) Materials with engineered properties created through the
16 development of specialized process and synthesis technology.

17 (ii) Nanotechnology, including materials, devices, or systems
18 at the atomic, molecular, or macromolecular level, with a scale
19 measured in nanometers.

20 (iii) Microelectromechanical systems, including devices or
21 systems integrating microelectronics with mechanical parts and a
22 scale measured in micrometers.

23 (iv) Improvements to vehicle safety, vehicle performance,
24 vehicle production, or environmental impact, including, but not
25 limited to, vehicle equipment and component parts.

26 (v) A new technology, device, or system that enhances or
27 improves the manufacturing process of wood, timber, or

1 agricultural-based products.

2 (vi) Any technology that involves an alternative energy vehicle
3 or its components, as alternative energy vehicle is defined under
4 section 2 of the Michigan next energy authority act, 2002 PA 593,
5 MCL 207.822.

6 (vii) Advanced computing or electronic device technology
7 related to technology described under this subdivision.

8 (viii) Design, engineering, testing, or diagnostics related to
9 technology described under this subdivision.

10 (ix) Product research and development related to technology
11 described under this subdivision.

12 (b) "Advanced computing" means any technology used in the
13 design and development of 1 or more of the following:

14 (i) Computer hardware and software.

15 (ii) Data communications.

16 (iii) Information technologies.

17 (c) "Alternative energy technology" means applied research or
18 commercialization of new or next generation technology in 1 or more
19 of the following:

20 (i) Alternative energy technology as that term is defined in
21 section 2 of the Michigan next energy authority act, 2002 PA 593,
22 MCL 207.822.

23 (ii) Devices or systems designed and used solely for the
24 purpose of generating energy from agricultural crops, residue and
25 waste generated from the production and processing of agricultural
26 products, animal wastes, or food processing wastes, not including a
27 conventional gasoline or diesel fuel engine or retrofitted

1 conventional gasoline or diesel fuel engine.

2 (iii) A new technology, product, or system that permits the
3 utilization of biomass for the production of specialty, commodity,
4 or foundational chemicals or of novel or economical commodity
5 materials through the application of biotechnology that minimizes,
6 complements, or replaces reliance on petroleum for the production.
7 Alternative energy technology also includes a new technology,
8 product, or system that utilizes wind energy.

9 (iv) Advanced computing or electronic device technology related
10 to technology described under this subdivision.

11 (v) Design, engineering, testing, or diagnostics related to
12 technology described under this subdivision.

13 (vi) Product research and development related to a technology
14 described under this subdivision.

15 (d) "Applied research" means translational research conducted
16 with the objective of attaining a specific benefit or to solve a
17 practical problem, or other research activity that seeks to
18 utilize, synthesize, or apply existing knowledge, information, or
19 resources to the resolution of a specified problem, question, or
20 issue, with high potential for commercial application to create
21 jobs in this state.

22 (e) "Basic research" means any original investigation for the
23 advancement of scientific or technological knowledge that will
24 enhance the research capacity of this state in a way that increases
25 the ability to attract to or develop companies, jobs, researchers,
26 or students in this state.

27 (f) "Commercialization" means the transition from research to

1 the actions necessary to achieve market entry and general market
2 competitiveness of new innovative technologies, processes, and
3 products and the services that support, assist, equip, finance, or
4 promote a person or an entity with that transition.

5 (g) "Competitive edge technology" means 1 or more of the
6 following:

7 (i) Life sciences technology.

8 (ii) Advanced automotive, manufacturing, and materials
9 technology.

10 (iii) Homeland security and defense technology.

11 (iv) Alternative energy technology.

12 (v) **DEVELOPMENT OF GREEN CHEMISTRY.**

13 (h) "Electronic device technology" means any technology that
14 involves microelectronics, semiconductors, electronic equipment,
15 and instrumentation, radio frequency, microwave, and millimeter
16 electronics; optical and optic-electrical devices; or data and
17 digital communications and imaging devices.

18 (i) "Fund board" means the board of the Michigan strategic
19 fund described in section 5.

20 (j) "Homeland security and defense technology" means
21 technology that assists in the assessment of threats or damage to
22 the general population and critical infrastructure, protection of,
23 defense against, or mitigation of the effects of foreign or
24 domestic threats, disasters, or attacks, or support for crisis or
25 response management, including, but not limited to, 1 or more of
26 the following:

27 (i) Sensors, systems, processes, or equipment for

1 communications, identification and authentication, screening,
2 surveillance, tracking, and data analysis.

3 (ii) Advanced computing or electronic device technology related
4 to technology described under this subdivision.

5 (iii) Aviation technology, including, but not limited to,
6 avionics, airframe design, sensors, early warning systems, and
7 services related to technology described under this subdivision.

8 (iv) Design, engineering, testing, or diagnostics related to
9 technology described under this subdivision.

10 (v) Product research and development related to technology
11 described under this subdivision.

12 (k) "Independent peer review expert" means a person or persons
13 selected by the commercialization board with appropriate expertise
14 to conduct an independent, unbiased, objective, and competitive
15 evaluation of activities funded under section 88k. The person or
16 persons shall demonstrate the capability and experience, as
17 appropriate or necessary for the particular activity funded, to do
18 all of the following:

19 (i) Conduct a highly competitive and intensive, independent,
20 multiphased, peer-review-based evaluation process.

21 (ii) Employ personnel with appropriate business, scientific,
22 technical, commercial, or other specialized expertise to carry out
23 each aspect of the evaluation process.

24 (iii) Provide recommendations to or assist the commercialization
25 board in identifying high-quality activities for funding that are
26 likely to result in the development and commercialization of
27 competitive edge technology and job creation in this state. The

1 recommendations shall include all materials used by the independent
2 peer review expert in making the recommendation.

3 (iv) Assure that any peer review process developed maintains a
4 high level of integrity.

5 (l) "Institution of higher education" means an institution of
6 higher education or a community or junior college described in
7 section 4, 5, 6, or 7 of article VIII of the state constitution of
8 1963 or an independent nonprofit degree-granting institution of
9 postsecondary education in this state that is approved by the state
10 board of education.

11 (m) "Jobs for Michigan investment fund" or "investment fund"
12 means the jobs for Michigan investment fund created in section 88h.

13 (n) "Life sciences" means science for the examination or
14 understanding of life or life processes, including, but not limited
15 to, all of the following:

16 (i) Bioengineering.

17 (ii) Biomedical engineering.

18 (iii) Genomics.

19 (iv) Proteomics.

20 (v) Molecular and chemical ecology.

21 (vi) Biotechnology, including any technology that uses living
22 organisms, cells, macromolecules, microorganisms, umbilical cord
23 blood, or substances from living organisms to make or modify a
24 product for useful purposes. Biotechnology or life sciences does
25 not include any of the following:

26 (A) Activities prohibited under section 2685 of the public
27 health code, 1978 PA 368, MCL 333.2685.

1 (B) Activities prohibited under section 2688 of the public
2 health code, 1978 PA 368, MCL 333.2688.

3 (C) Activities prohibited under section 2690 of the public
4 health code, 1978 PA 368, MCL 333.2690.

5 (D) Activities prohibited under section 16274 of the public
6 health code, 1978 PA 368, MCL 333.16274.

7 (E) Stem cell research with human embryonic tissue.

8 (o) "Life sciences technology" means any technology derived
9 from life sciences intended to improve human health or the overall
10 quality of human life, including, but not limited to, systems,
11 processes, or equipment for drug or gene therapies, biosensors,
12 testing, medical devices or instrumentation with a therapeutic or
13 diagnostic value, a pharmaceutical or other product that requires
14 United States food and drug administration approval or registration
15 prior to its introduction in the marketplace and is a drug or
16 medical device as defined by the federal food, drug, and cosmetic
17 act, 21 USC 301 to 399, or 1 or more of the following:

18 (i) Advanced computing or electronic device technology related
19 to technology described under this subdivision.

20 (ii) Design, engineering, testing, or diagnostics related to
21 technology or the commercial manufacturing of technology described
22 under this subdivision.

23 (iii) Product research and development related to technology
24 described under this subdivision.

25 (p) "Qualified business" means a business entity located in
26 this state.

27 (q) "Qualified mezzanine fund" means a person or entity

1 primarily engaged in making loans or investments ranging in size
2 from \$250,000.00 to \$6,000,000.00 that is managed by 2 or more
3 individuals with no less than 5 years' direct experience in
4 mezzanine lending or capital investments and that holds investment
5 capital or has commitments from investors other than the fund and
6 at least 2 financial institutions.

7 (r) "Qualified private equity fund" means a firm principally
8 or primarily engaged in investing in or acquiring businesses that
9 is managed by 2 or more individuals with no less than 5 years of
10 direct experience in private equity investments, and that holds
11 investment capital from investors other than the fund.

12 (s) "Qualified venture capital fund" means a firm principally
13 or primarily engaged in investing in or acquiring early stage
14 businesses with growth potential that have not yet demonstrated
15 consistent profitability or a proven business model, that is
16 managed by 2 or more individuals with not less than 5 years of
17 direct experience in venture capital, and that holds capital from
18 investors other than the fund.

19 (t) "Small business" means a business entity formed or doing
20 business in this state, including the affiliates of the business
21 concern, which business entity is independently owned and operated
22 and employs fewer than 250 full-time employees or has gross annual
23 sales of less than \$6,000,000.00.

24 (u) "21st century investments" means investments in 1 or more
25 of the following:

26 (i) Commercial loan guarantees under a loan enhancement program
27 operated by the fund.

1 (ii) Private equity investments under a private equity
2 investment program operated by the fund.

3 (iii) Venture capital investments under a venture capital
4 investment program operated by the fund.

5 (iv) Mezzanine investments under a mezzanine investment program
6 operated by the fund.

7 (v) "Strategic economic investment and commercialization
8 board" or "commercialization board" means the strategic economic
9 investment and commercialization board created in section 88k.

10 (w) "University technology transfer" means innovative methods
11 to accelerate the creation of start-up companies affiliated with
12 institutions of higher education or the transfer of competitive
13 edge technology research from an institution of higher education to
14 a qualified business in Michigan.