

SUBSTITUTE FOR
SENATE BILL NO. 200

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
(MCL 125.2001 to 125.2094) by adding section 88s.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 88S. (1) THE FUND SHALL CREATE AND OPERATE THE MICHIGAN
2 INVESTMENT PROGRAM TO PROVIDE GRANTS, LOANS, AND OTHER ECONOMIC
3 ASSISTANCE TO MICHIGAN INVESTMENT MARKETS IN THIS STATE AND TO
4 QUALIFIED PERSONS THAT HAVE A CONTROLLING INTEREST IN A MICHIGAN
5 ADVANCEMENT PORTFOLIO.

6 (2) THE MICHIGAN INVESTMENT PROGRAM SHALL PROVIDE FOR ALL OF
7 THE FOLLOWING:

8 (A) GRANTS, LOANS, AND OTHER ECONOMIC ASSISTANCE TO ASSIST IN
9 DEVELOPING MICHIGAN INVESTMENT MARKETS AND MICHIGAN ADVANCEMENT
10 PORTFOLIOS IN THIS STATE.

1 (B) A DETAILED APPLICATION, APPROVAL, AND COMPLIANCE PROCESS
2 PUBLISHED AND AVAILABLE ON THE FUND'S WEBSITE. THE DETAILED
3 APPLICATION, APPROVAL, AND COMPLIANCE PROCESS SHALL, AT A MINIMUM,
4 CONTAIN THE FOLLOWING:

5 (i) A MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON WITH A
6 CONTROLLING INTEREST IN A MICHIGAN ADVANCEMENT PORTFOLIO MAY APPLY
7 FOR A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE IN A FORM AND
8 MANNER DETERMINED BY THE FUND.

9 (ii) AFTER RECEIPT OF AN APPLICATION, THE FUND MAY ENTER INTO
10 A WRITTEN AGREEMENT WITH THE MICHIGAN INVESTMENT MARKET OR
11 QUALIFIED PERSON.

12 (iii) THE WRITTEN AGREEMENT SHALL PROVIDE IN A CLEAR AND
13 CONCISE MANNER ALL OF THE CONDITIONS IMPOSED, INCLUDING SPECIFIC
14 TIME FRAMES, ON THE MICHIGAN INVESTMENT MARKET OR THE QUALIFIED
15 PERSON TO RECEIVE A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE UNDER
16 THIS SECTION.

17 (iv) THE WRITTEN AGREEMENT SHALL PROVIDE FOR A REPAYMENT
18 PROVISION OF ANY GRANTS, LOANS, OR OTHER ECONOMIC ASSISTANCE IF THE
19 MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON FAILS TO COMPLY WITH
20 THE PROVISIONS OF THE WRITTEN AGREEMENT.

21 (v) THE WRITTEN AGREEMENT SHALL PROVIDE FOR AN AUDIT PROVISION
22 THAT REQUIRES THE FUND TO VERIFY THAT ESTABLISHED MILESTONES FOR
23 THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON HAVE BEEN MET.

24 (C) IN ANY FISCAL YEAR, A MICHIGAN INVESTMENT MARKET OR
25 QUALIFIED PERSON SHALL NOT RECEIVE MORE THAN \$1,000,000.00 UNDER
26 THIS SECTION.

27 (D) IN ANY FISCAL YEAR, THE MICHIGAN INVESTMENT PROGRAM SHALL

1 NOT PROVIDE GRANTS, LOANS, OR OTHER ECONOMIC ASSISTANCE THAT, IN
2 THE AGGREGATE, EXCEEDS \$2,000,000.00.

3 (3) THE FUND SHALL NOT ENTER INTO A WRITTEN AGREEMENT WITH A
4 MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON UNLESS ALL OF THE
5 FOLLOWING ARE MET:

6 (A) THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON
7 PROVIDES A BUSINESS PLAN OR DEMONSTRATES THE NEED FOR THE GRANT,
8 LOAN, OR OTHER ECONOMIC ASSISTANCE.

9 (B) THE MICHIGAN INVESTMENT MARKET OR QUALIFIED PERSON AGREES
10 TO PROVIDE THE DATA DESCRIBED IN THE WRITTEN AGREEMENT NECESSARY
11 FOR THE FUND TO REPORT TO THE LEGISLATURE UNDER THIS ACT.

12 (4) THE FUND SHALL POST ON ITS WEBSITE OR POST ON THE WEBSITE
13 OF THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION THE NAME AND
14 LOCATION OF EACH MICHIGAN INVESTMENT MARKET AND QUALIFIED PERSON
15 THAT RECEIVED A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE AWARDED
16 UNDER THIS SECTION AND THE AMOUNT OF THE GRANT, LOAN, OR OTHER
17 ECONOMIC ASSISTANCE.

18 (5) THE FUND, WITH ASSISTANCE FROM THE MICHIGAN ECONOMIC
19 DEVELOPMENT CORPORATION AND THE OFFICE OF THE CHIEF COMPLIANCE
20 OFFICER, SHALL ESTABLISH POLICIES AND PROCEDURES TO CONDUCT
21 BACKGROUND CHECKS ON EACH MICHIGAN INVESTMENT MARKET AND QUALIFIED
22 PERSON APPLYING FOR A GRANT, LOAN, OR OTHER ECONOMIC ASSISTANCE
23 UNDER THIS SECTION.

24 (6) BEGINNING APRIL 10, 2016 AND EACH YEAR THEREAFTER, THE
25 FUND SHALL REPORT TO EACH HOUSE OF THE LEGISLATURE ON THE
26 ACTIVITIES OF THE FUND UNDER THIS SECTION THAT OCCURRED IN THE
27 PREVIOUS FISCAL YEAR. THE REPORT SHALL BE MADE AVAILABLE IN AN

1 ELECTRONIC FORMAT. THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO,
2 ALL OF THE FOLLOWING:

3 (A) THE TOTAL NUMBER OF NEW WRITTEN AGREEMENTS.

4 (B) THE AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
5 ASSISTANCE AWARDED UNDER THIS SECTION SEPARATELY FOR EACH MICHIGAN
6 INVESTMENT MARKET AND EACH QUALIFIED PERSON.

7 (C) THE ACTUAL AMOUNT OF THE GRANT, LOAN, OR OTHER ECONOMIC
8 ASSISTANCE MADE UNDER THIS SECTION SEPARATELY FOR EACH MICHIGAN
9 INVESTMENT MARKET AND EACH QUALIFIED PERSON VERIFIED BY THE FUND.

10 (7) BEGINNING FEBRUARY 1, 2016 AND NOT LESS THAN EVERY 3
11 MONTHS THEREAFTER, THE FUND SHALL POST ON ITS INTERNET WEBSITE THE
12 NAME AND LOCATION OF EACH MICHIGAN INVESTMENT MARKET AND EACH
13 QUALIFIED PERSON THAT RECEIVED APPROVAL OF A GRANT, LOAN, OR OTHER
14 ECONOMIC ASSISTANCE UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING
15 3-MONTH PERIOD.

16 (8) THE LEGISLATURE FINDS AND DECLARES THAT FUNDING AUTHORIZED
17 UNDER THIS SECTION TO ENCOURAGE DIVERSIFICATION OF THE ECONOMY, TO
18 ENCOURAGE CAPITAL INVESTMENT IN THIS STATE, AND TO PROMOTE THE
19 DEVELOPMENT OF MICHIGAN INVESTMENT MARKETS AND MICHIGAN ADVANCEMENT
20 PORTFOLIOS IN THIS STATE IS A PUBLIC PURPOSE AND OF PARAMOUNT
21 CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND GENERAL WELFARE
22 OF THE CITIZENS OF THIS STATE.

23 (9) FOR PURPOSES OF THIS SECTION, BOTH OF THE FOLLOWING APPLY:

24 (A) A BUSINESS IS CONSIDERED TO BE DOING BUSINESS IN THIS
25 STATE IF ALL OF THE FOLLOWING ARE MET:

26 (i) IF THE BUSINESS HAD GROSS REVENUES OF MORE THAN \$5,000.00
27 FROM THE SALE OF PRODUCTS OR SERVICES OR OTHER CONDUCT OF ITS

1 BUSINESS FOR ITS MOST RECENT 12-MONTH FISCAL PERIOD, IT DERIVED AT
2 LEAST 80% OF ITS GROSS REVENUES, AND THOSE OF ITS SUBSIDIARIES ON A
3 CONSOLIDATED BASIS, FROM THE OPERATION OF A BUSINESS OR OF REAL
4 PROPERTY LOCATED IN OR FROM THE RENDERING OF SERVICES IN THIS STATE
5 DURING 1 OF THE FOLLOWING TIME PERIODS:

6 (A) IN ITS MOST RECENT FISCAL YEAR, IF THE FIRST OFFER OF ANY
7 PART OF THE ISSUE IS MADE DURING THE FIRST 6 MONTHS OF THE ISSUER'S
8 CURRENT FISCAL YEAR.

9 (B) IN THE FIRST 6 MONTHS OF ITS CURRENT FISCAL YEAR, OR
10 DURING THE 12-MONTH FISCAL PERIOD ENDING WITH THAT 6-MONTH PERIOD,
11 IF THE FIRST OFFER OF ANY PART OF THE BUSINESS'S INTRASTATE
12 OFFERING IS MADE DURING THE LAST 6 MONTHS OF THE BUSINESS'S CURRENT
13 FISCAL YEAR.

14 (ii) AT THE END OF ITS MOST RECENT SEMIANNUAL FISCAL PERIOD
15 BEFORE THE FIRST OFFER OF ANY PART OF THE ISSUE, THE BUSINESS HAD
16 AT LEAST 80% OF ITS ASSETS AND THOSE OF ITS SUBSIDIARIES ON A
17 CONSOLIDATED BASIS LOCATED IN THIS STATE.

18 (iii) THE BUSINESS INTENDS TO USE AND USES AT LEAST 80% OF THE
19 NET PROCEEDS TO THE BUSINESS FROM THE SALE OR RESALE OF INTRASTATE
20 SECURITIES IN CONNECTION WITH THE OPERATION OF A BUSINESS OR OF
21 REAL PROPERTY IN, THE PURCHASE OF REAL PROPERTY LOCATED IN, OR THE
22 RENDERING OF SERVICES IN THIS STATE.

23 (iv) THE PRINCIPAL OFFICE OF THE BUSINESS IS LOCATED WITHIN
24 THIS STATE.

25 (B) EACH OF THE FOLLOWING IS PRIMA FACIE EVIDENCE THAT AN
26 INDIVIDUAL IS A RESIDENT OF THIS STATE:

27 (i) A VALID OPERATOR'S LICENSE, CHAUFFEUR'S LICENSE, OR

1 OFFICIAL PERSONAL IDENTIFICATION CARD ISSUED BY THIS STATE.

2 (ii) A CURRENT MICHIGAN VOTER REGISTRATION.

3 (iii) A SIGNED AFFIDAVIT AS DESCRIBED IN SECTION 7CC(2) OF THE
4 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7CC, THAT INDICATES
5 THAT THE INDIVIDUAL OWNS AND OCCUPIES PROPERTY IN THIS STATE AS HIS
6 OR HER PRINCIPAL RESIDENCE.

7 (iv) ANY OTHER RECORD OR DOCUMENTS ISSUED BY THIS STATE THAT
8 ESTABLISHES THAT THE INDIVIDUAL'S PRINCIPAL RESIDENCE IS IN THIS
9 STATE.

10 (10) THE FUND SHALL NOT MAKE A GRANT OR LOAN OR PROVIDE OTHER
11 ECONOMIC ASSISTANCE OR OTHERWISE OPERATE THE MICHIGAN INVESTMENT
12 PROGRAM UNDER THIS SECTION AFTER SEPTEMBER 30, 2020.

13 (11) AS USED IN THIS SECTION:

14 (A) "INSTITUTIONAL INVESTOR" MEANS THAT TERM AS DEFINED IN
15 SECTION 102A OF THE UNIFORM SECURITIES ACT (2002), 2008 PA 551, MCL
16 451.2102A.

17 (B) "MICHIGAN ADVANCEMENT PORTFOLIO" MEANS A COLLECTION OF
18 INVESTMENTS THAT, AS A WHOLE, MEETS ALL OF THE FOLLOWING CRITERIA:

19 (i) INCLUDES SECURITIES ONLY IN BUSINESSES THAT ARE DOING
20 BUSINESS IN THIS STATE.

21 (ii) AT LEAST 10% OF THE PORTFOLIO'S OVERALL INVESTMENT FOR A
22 CALENDAR YEAR IS IN BUSINESSES THAT QUALIFY AS SMALL BUSINESSES
23 ACCORDING TO THE UNITED STATES SMALL BUSINESS ADMINISTRATION SMALL
24 BUSINESS SIZE STANDARDS FOR THE APPLICABLE INDUSTRIES AT THE TIME
25 OF THE INVESTMENT.

26 (iii) BEGINS WITH AT LEAST \$200,000.00 IN INVESTMENTS.

27 (C) "MICHIGAN INVESTMENT MARKET" MEANS THAT TERM AS DEFINED IN

SECTION 451 OF THE UNIFORM SECURITIES ACT (2002), 2008 PA 551, MCL 451.2451.

(D) "OTHER ECONOMIC ASSISTANCE" MEANS ANY OTHER FORM OF ASSISTANCE ALLOWED UNDER THIS ACT THAT IS NOT A GRANT OR A LOAN. OTHER ECONOMIC ASSISTANCE MAY INCLUDE PROVIDING SECURITY FOR A QUALIFIED PERSON'S INVESTMENTS WITHIN ITS MICHIGAN ADVANCEMENT PORTFOLIO, AND THAT SECURITY MAY BE EQUAL TO OR LESS THAN 35% OF THE ORIGINAL VALUE OF THE QUALIFIED PERSON'S MICHIGAN ADVANCEMENT PORTFOLIO. HOWEVER, THAT SECURITY IS ONLY PAYABLE IN PROPORTION TO REALIZED LOSSES ON INVESTMENTS WITHIN THAT PORTFOLIO ON AN INDIVIDUAL BASIS. THE SECURITIZATION DESCRIBED IN THIS SUBDIVISION IS SUBJECT TO ALL OF THE FOLLOWING:

(i) MICHIGAN ADVANCEMENT PORTFOLIOS WITH INITIAL INVESTMENTS TOTALING \$200,000.00 TO \$350,000.00 ARE ELIGIBLE FOR SECURITY UP TO 20%.

(ii) MICHIGAN ADVANCEMENT PORTFOLIOS WITH INITIAL INVESTMENTS TOTALING \$350,000.01 TO \$500,000.00 ARE ELIGIBLE FOR SECURITY UP TO 25%.

(iii) MICHIGAN ADVANCEMENT PORTFOLIOS WITH INITIAL INVESTMENTS TOTALING \$500,000.01 TO \$1,000,000.00 ARE ELIGIBLE FOR SECURITY UP TO 30%.

(iv) MICHIGAN ADVANCEMENT PORTFOLIOS WITH INITIAL INVESTMENTS TOTALING MORE THAN \$1,000,000.00 ARE ELIGIBLE FOR SECURITY UP TO 35%.

(E) "QUALIFIED PERSON" MEANS A PERSON THAT IS DOING BUSINESS IN THIS STATE OR IS A RESIDENT OF THIS STATE AND IS EITHER AN INSTITUTIONAL INVESTOR OR AN ACCREDITED INVESTOR AS DEFINED BY RULE

1 501 OF SEC REGULATION D, 17 CFR 230.501. THE FUND MAY RELY ON
2 CONFIRMATION THAT THE PURCHASER IS AN ACCREDITED INVESTOR FROM A
3 LICENSED BROKER-DEALER OR ANOTHER THIRD PARTY IN MAKING A
4 DETERMINATION THAT THE INDIVIDUAL IS AN ACCREDITED INVESTOR.