

SUBSTITUTE FOR
SENATE BILL NO. 929

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 4, 9, 88b, 88c, 88h, 88k, and 90b (MCL
125.2004, 125.2009, 125.2088b, 125.2088c, 125.2088h, 125.2088k, and
125.2090b), section 4 as amended by 2010 PA 271, section 9 as
amended by 2011 PA 291, section 88b as amended by 2011 PA 250,
sections 88c and 88h as amended by 2011 PA 251, section 88k as
added by 2005 PA 215, and section 90b as added by 2011 PA 252.

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

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

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

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

24 (e) "Green chemistry" means chemistry and chemical engineering
25 to design chemical products or processes that reduce or eliminate
26 the use or generation of hazardous substances, while producing
27 high-quality products through safe and efficient manufacturing

1 processes. Green chemistry is guided by the following 12
2 principles:

3 (i) Prevent waste: Design chemical syntheses to prevent waste,
4 leaving no waste to treat or clean up.

5 (ii) Design safer chemicals and products: Design chemical
6 products to be fully effective, yet have little or no toxicity.

7 (iii) Design less hazardous chemical syntheses: Design syntheses
8 to use and generate substances with little or no toxicity to humans
9 and the environment.

10 (iv) Use renewable feedstocks: Use raw materials and feedstocks
11 that are renewable rather than depleting. Renewable feedstocks are
12 often made from agricultural products or are the wastes of other
13 processes; depleting feedstocks are made from fossil fuels,
14 including petroleum, natural gas, or coal, or are mined.

15 (v) Use catalysts, not stoichiometric reagents: Minimize waste
16 by using catalytic reactions. Catalysts are used in small amounts
17 and can carry out a single reaction many times. They are preferable
18 to stoichiometric reagents, which are used in excess and work only
19 once.

20 (vi) Avoid chemical derivatives: Avoid using blocking or
21 protecting groups or any temporary modifications if possible.
22 Derivatives use additional reagents and generate waste.

23 (vii) Maximize atom economy: Design syntheses so that the final
24 product contains the maximum proportion of the starting materials.
25 There should be few, if any, wasted atoms.

26 (viii) Use safer solvents and reaction conditions: Avoid using
27 solvents, separation agents, or other auxiliary chemicals. If these

1 chemicals are necessary, use innocuous chemicals.

2 (ix) Increase energy efficiency: Run chemical reactions at
3 ambient temperature and pressure whenever possible.

4 (x) Design chemicals and products to degrade after use: Design
5 chemical products to break down to innocuous substances after use
6 so that they do not accumulate in the environment.

7 (xi) Analyze in real-time to prevent pollution: Include in-
8 process real-time monitoring and control during syntheses to
9 minimize or eliminate the formation of by-products.

10 (xii) Minimize the potential for accidents: Design chemicals
11 and their forms, including solid, liquid, or gas, to minimize the
12 potential for chemical accidents, including explosions, fires, and
13 releases to the environment.

14 (f) "Michigan economic development corporation" or "MEDC"
15 means the Michigan economic development corporation, the public
16 body corporate created under section 28 of article VII of the state
17 constitution of 1963 and the urban cooperation act of 1967, 1967
18 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
19 agreement effective April 5, 1999, and subsequently amended,
20 between local participating economic development corporations
21 formed under the economic development corporations act, 1974 PA
22 338, MCL 125.1601 to 125.1636, and the fund.

23 (g) "Municipality" means a county, city, village, township,
24 port district, development organization, institution of higher
25 education, community or junior college, or subdivision or
26 instrumentality of any of the legal entities listed in this
27 subdivision.

1 (h) "Person" means an individual, sole proprietorship,
2 partnership, limited partnership, limited liability partnership,
3 limited liability company, joint venture, profit or nonprofit
4 corporation including a public or private college or university,
5 public utility, **MUNICIPALITY**, local industrial development
6 corporation, economic development corporation, or other association
7 of persons organized for agricultural, commercial, or industrial
8 purposes.

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

1 equipment; grain elevators; shipping heads and livestock pens;
2 livestock; warehouses; wharves and dock facilities; water,
3 electricity, hydro electric, coal, petroleum, or natural gas
4 provision facilities; dams and irrigation facilities; sewage,
5 liquid, and solid waste collection, disposal treatment, and
6 drainage services and facilities. Project does not include a
7 program or activity authorized under chapter 8A.

8 (j) "Private sector" means other than the fund, a state or
9 federal source, or an agency of a state or the federal government.

10 Sec. 9. (1) The fund shall transmit to the legislature ~~each~~
11 ~~quarter~~ **ANNUALLY** a status report of its activities. The report
12 shall include, but not be limited to, information on name and
13 location of all applicants, amount and type of financial assistance
14 being requested, type of project or product being financed, number
15 of net jobs created or retained, duration of financial assistance,
16 amount of financial support other than state resources, and the
17 status of any loans of the fund, excluding industrial development
18 revenue loans, which are in default. The report shall not include
19 information exempt from disclosure under section 5.

20 (2) The auditor general or a certified public accountant
21 appointed by the auditor general annually shall conduct and remit
22 to the legislature an audit of the fund and, in the conduct of the
23 audit, shall have access to all records of the fund at any time,
24 whether or not confidential. Each audit required by this section
25 shall include a determination of whether the fund is likely to be
26 able to continue to meet its obligations, including a report on the
27 status of outstanding loans and agreements made by the fund.

1 (3) The fund shall also transmit the status report described
2 in subsection (1) and audit described in subsection (2) to the
3 chairperson and minority vice-chairperson of the senate
4 appropriations subcommittee on general government and the house of
5 representatives appropriations subcommittee on general government.
6 The fund shall make the status report and audit available to the
7 public on the fund's website.

8 Sec. 88b. (1) The fund shall create and operate programs
9 authorized under this chapter. The fund board shall determine the
10 annual allocation of money for programs authorized under this
11 chapter and make authorized expenditures or investments from the
12 investment fund of the 21st century jobs trust fund created in the
13 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, as
14 authorized under this chapter for programs and activities
15 authorized under this chapter.

16 (2) Money transferred or appropriated by law to the fund for
17 the purposes of carrying out this chapter or chapter 8C shall be
18 expended or invested by the fund as authorized by law for the
19 following purposes:

20 (a) 21st century investments.

21 (b) Grants and loans approved by the commercialization board
22 under section 88k.

23 (c) Other programs or activities authorized under this
24 chapter.

25 (d) For promotion of tourism in this state. For fiscal year
26 2010-2011 only, \$20,000,000.00 for the promotion of tourism in this
27 state from funds appropriated in the jobs for Michigan investment

1 program - 21st century jobs fund line in section 109 of 2010 PA 191
2 with not less than \$1,500,000.00 to be used for the 2010-2011
3 winter advertisement buy. For all funds used for promotion of
4 tourism in this state under this subdivision, the fund shall report
5 to the legislature at the same time and in the same manner as
6 provided in section 89d.

7 (e) Grants, loans, or other economic assistance under section
8 88r and community revitalization incentives under chapter 8C.

9 (3) Not more than 4% of the annual appropriation as provided
10 by law from the 21st century jobs trust fund created in the
11 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be
12 used for the purposes of administering the programs and activities
13 authorized under this chapter. However, the fund and the fund board
14 shall not use more than 3% of the annual appropriation for
15 administering the programs and activities authorized under this
16 chapter unless the fund board by a 2/3 vote authorizes the
17 additional 1% for administration. The MEDC may charge actual and
18 reasonable fees for costs associated with loans, **GRANTS, OR OTHER**
19 **ECONOMIC ASSISTANCE** under this chapter. These fees are in addition
20 to an amount of the appropriation used for administering the
21 programs and activities authorized under this chapter.

22 (4) Not more than 5% of the annual appropriation as provided
23 by law from the 21st century jobs trust fund created in the
24 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be
25 used for business development and business marketing costs. Not
26 less than 80% of the funds committed for business development and
27 business marketing costs shall be targeted to persons or entities

1 outside of this state. No funds may be used for any business
2 development and business marketing effort that includes a reference
3 to or the image or voice of an elected state officer or a candidate
4 for elective state office and that is targeted to a media market in
5 Michigan. ~~The fund board shall select all vendors for all marketing~~
6 ~~expenditures under this chapter by issuing a request for proposal.~~
7 ~~At a minimum, the request for proposal shall require the responding~~
8 ~~entities to disclose any conflict of interest, disclose any~~
9 ~~criminal convictions, disclose any investigations by the internal~~
10 ~~revenue service or any other federal or state taxing body or court,~~
11 ~~disclose any pertinent litigation regarding the conduct of the~~
12 ~~entity, and maintain records and evidence pertaining to work~~
13 ~~performed. The fund board shall establish a standard process to~~
14 ~~evaluate proposals submitted as a result of a request for proposal~~
15 ~~and appoint a committee to review the proposals. The fund or the~~
16 ~~fund board shall not appoint or designate any person paid or unpaid~~
17 ~~to a committee to review proposals if that person has a conflict of~~
18 ~~interest with any potential vendors as determined by the office of~~
19 ~~the chief compliance officer established in section 88i.~~

20 (5) The fund shall not use any money appropriated or
21 transferred for purposes authorized under this chapter to acquire
22 interests in or improve real property. The restriction under this
23 subsection does not prohibit the fund from taking a security
24 interest in real property. The restriction under this subsection
25 applies only to the fund and not to recipients of expenditures or
26 investments under this chapter.

27 (6) **THE FUND BOARD MAY SELECT ALL VENDORS FOR ALL EXPENDITURES**

1 AND FOR PROGRAM AWARDS UNDER THIS CHAPTER BY ISSUING A REQUEST FOR
2 PROPOSAL OR AN ALTERNATIVE COMPETITIVE PROCESS AS DETERMINED BY THE
3 FUND BOARD. AT A MINIMUM, THE REQUEST FOR PROPOSAL SHALL REQUIRE
4 THE RESPONDING ENTITIES TO DISCLOSE ANY CONFLICT OF INTEREST,
5 DISCLOSE ANY CRIMINAL CONVICTIONS, DISCLOSE ANY INVESTIGATIONS BY
6 THE INTERNAL REVENUE SERVICE OR ANY OTHER FEDERAL OR STATE TAXING
7 BODY OR COURT, DISCLOSE ANY LITIGATION INVOLVING THE ENTITY, AND
8 MAINTAIN RECORDS AND EVIDENCE PERTAINING TO WORK PERFORMED. THE
9 FUND BOARD SHALL ESTABLISH A STANDARD PROCESS TO EVALUATE PROPOSALS
10 SUBMITTED AS A RESULT OF A REQUEST FOR PROPOSAL AND APPOINT A
11 COMMITTEE TO REVIEW THE PROPOSALS. THE FUND OR THE FUND BOARD SHALL
12 NOT APPOINT OR DESIGNATE ANY PERSON PAID OR UNPAID TO A COMMITTEE
13 TO REVIEW PROPOSALS IF THAT PERSON HAS A CONFLICT OF INTEREST WITH
14 ANY POTENTIAL VENDORS AS DETERMINED BY THE OFFICE OF THE CHIEF
15 COMPLIANCE OFFICER ESTABLISHED IN SECTION 88I.

16 (7) APPLICATION FEES RECEIVED FOR PROGRAMS AND ACTIVITIES
17 AUTHORIZED UNDER THIS CHAPTER OR CHAPTER 8C MAY BE USED BY THE FUND
18 FOR ADMINISTERING THE PROGRAMS AND ACTIVITIES AUTHORIZED UNDER THIS
19 CHAPTER OR CHAPTER 8C. THE RESTRICTIONS ON EXPENDITURES UNDER
20 SUBSECTION (3) DO NOT APPLY TO EXPENDITURE OF APPLICATION FEE
21 REVENUE UNDER THIS SUBSECTION.

22 Sec. 88c. (1) The fund board shall exercise the duties of a
23 fiduciary with respect to 21st century investments consistent with
24 the purposes of this chapter. The prudent investor rule shall be
25 applied by the fund board and any agent of the fund board in the
26 management of 21st century investments. The prudent investor rule
27 as applied to 21st century investments means that in making 21st

1 century investments, the fund board shall exercise the judgment and
2 care under the circumstances then prevailing that an institutional
3 investor of ordinary prudence, discretion, and intelligence would
4 exercise in similar circumstances in a like position. The fund
5 board shall maintain a reasonable diversification among 21st
6 century investments consistent with the requirements of this
7 chapter.

8 (2) The fund board shall select qualified private equity
9 funds, qualified venture capital funds, and qualified mezzanine
10 funds by issuing a request for proposal. At a minimum, the request
11 for proposal shall require a responding entity to disclose any
12 conflict of interest, disclose any criminal convictions, disclose
13 any investigations by the internal revenue service, the securities
14 and exchange commission, or any other federal or state taxing or
15 securities regulatory body, or court, or pertinent litigation
16 regarding the conduct of the person or entity. The fund board shall
17 establish a standard process to evaluate proposals submitted as a
18 result of a request for proposal and appoint a committee to review
19 the proposals.

20 (3) The fund board shall ensure that a recipient of money
21 under sections 88d, 88e, 88f, 88g, **88Q**, and 88r and chapter 8C
22 agrees as a condition of receiving the money not to use the money
23 for any of the following:

24 (a) The development of a stadium or arena for use by a
25 professional sports team.

26 (b) The development of a casino regulated by this state under
27 the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201

1 to 432.226, a casino at which gaming is conducted under the Indian
2 gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or
3 property associated or affiliated with the operation of either type
4 of casino described in this subdivision, including, but not limited
5 to, a parking lot, hotel, motel, or retail store.

6 (4) The fund board shall establish requirements to ensure that
7 money expended under sections 88d, 88e, 88f, 88g, **88Q**, and 88r and
8 chapter 8C shall not be used for any of the following:

9 (a) Provision of money to a person who has been convicted of a
10 criminal offense incident to the application for or performance of
11 a state contract or subcontract. As used in this subdivision, if a
12 person is a business entity, person includes affiliates,
13 subsidiaries, officers, directors, managerial employees as
14 determined by the board, and any person who, directly or
15 indirectly, holds a pecuniary interest in that business entity of
16 20% or more.

17 (b) Provision of money to a person who has been convicted of a
18 criminal offense, or held liable in a civil proceeding, that
19 negatively reflects on the person's business integrity, based on a
20 finding of embezzlement, theft, forgery, bribery, falsification or
21 destruction of records, receiving stolen property, or violation of
22 state or federal antitrust statutes. As used in this subdivision,
23 if a person is a business entity, person includes affiliates,
24 subsidiaries, officers, directors, managerial employees, and any
25 person who, directly or indirectly, holds a pecuniary interest in
26 that business entity of 20% or more.

27 (c) Provision of money to a business enterprise to induce

1 qualified businesses or small businesses to leave this state.

2 (d) Provision of money that would contribute to the violation
3 of internationally recognized workers rights, as defined in section
4 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a
5 country other than the United States, including any designated zone
6 or area in that country.

7 (e) Provision of money to a corporation or an affiliate of the
8 corporation who is incorporated in a tax haven country after
9 September 11, 2001, while maintaining the United States as the
10 principal market for the public trading of the corporation's stock.
11 As used in this section, "tax haven country" includes a country
12 with tax laws that facilitate avoidance by a corporation or an
13 affiliate of the corporation of United States tax obligations,
14 including Barbados, Bermuda, British Virgin Islands, Cayman
15 Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of
16 Man, the principality of Liechtenstein, the principality of Monaco,
17 and the Republic of the Seychelles.

18 (5) Before adopting a resolution that establishes or
19 substantially changes a 21st century investment program, including
20 any fees, charges, or penalties attached to that program, the fund
21 board shall give notice of the proposed resolution to the governor,
22 to the clerk of the house of representatives, to the secretary of
23 the senate, to members of the senate and house of representatives
24 appropriation committees, and to each person who requested from the
25 fund in writing or electronically to be notified regarding proposed
26 resolutions. The notice and proposed resolution and all attachments
27 shall be published on the fund's internet website **AT LEAST 10 DAYS**

1 **PRIOR TO THE DATE THAT THE PROPOSED RESOLUTION IS CONSIDERED BY THE**
2 **FUND BOARD.** The fund board shall hold a public hearing ~~not sooner~~
3 ~~than 14 days and not longer than 30 days from the date notice of a~~
4 ~~proposed resolution is given~~ and offer a person an opportunity to
5 present data, views, questions, and arguments. Members of the fund
6 board or 1 or more persons designated by the fund board who have
7 knowledge of the subject matter of the proposed resolution shall be
8 present at the public hearing and shall participate in the
9 discussion of the proposed resolution. The fund board may act on
10 the proposed resolution ~~no sooner than 14 days after~~ **ON THE DAY OF**
11 the public hearing. The fund board shall produce a final decision
12 document that describes the basis for its decision. The final
13 resolution and all attachments and the decision document shall be
14 provided to the governor, to the clerk of the house of
15 representatives, to the secretary of the senate, and to members of
16 the senate and house of representatives appropriation committees
17 and shall be published on the fund's internet website.

18 (6) The notice described in subsection (5) shall include all
19 of the following:

20 (a) A copy of the proposed resolution and all attachments.

21 (b) A statement that the addressee may express any data,
22 views, or arguments regarding the proposed resolution.

23 (c) The address to which written comments may be sent and the
24 date by which comments must be mailed or electronically
25 transmitted, which date shall not be before the date of the public
26 hearing.

27 (d) The date, time, and place of the public hearing.

1 (7) The fund board shall employ or contract with a fund
2 manager or other persons it considers necessary to implement this
3 section. The person employed or contracted under this subsection
4 shall have not less than 10 years' experience in commercial
5 lending, private equity, mezzanine funding, or venture capital. The
6 person employed or contracted under this section shall exercise the
7 duties of a fiduciary toward investments from the investment fund
8 under this section. Management fees payable by the fund and other
9 investors in a qualified private equity fund, a qualified mezzanine
10 fund, or a qualified venture capital fund shall be considered an
11 investment expense and not an administrative cost incurred by the
12 fund.

13 (8) Subject to subsection (9), a record received, prepared,
14 used, or retained by an investment fiduciary in connection with an
15 investment or potential investment of the investment fund that
16 relates to investment information pertaining to a portfolio company
17 in which the investment fiduciary has invested or has considered an
18 investment that is considered by the portfolio company and
19 acknowledged by the investment fiduciary as confidential, or that
20 relates to investment information whether prepared by or for the
21 investment fiduciary regarding loans and assets directly owned by
22 the investment fiduciary and acknowledged by the investment
23 fiduciary as confidential, is exempt from the disclosure
24 requirements of the freedom of information act, 1976 PA 442, MCL
25 15.231 to 15.246, if at least annually the fund provides to the
26 fund board, and makes available to the public, a report of fund
27 investments during the prior state fiscal year that includes all of

1 the following:

2 (a) The name of each portfolio company in which the investment
3 fund invested during the reporting period.

4 (b) The aggregate amount of money invested by the investment
5 fund in portfolio companies during the reporting period.

6 (c) The rate of return realized during the reporting period on
7 the investments of the investment fund in portfolio companies.

8 (d) The source of any public funds invested by the investment
9 fund in portfolio companies during the reporting period.

10 (9) If a record described in subsection (8) is an agreement or
11 instrument to which an investment fiduciary is a party, only those
12 parts of the record that contain investment information are exempt
13 from the disclosure requirements of the freedom of information act,
14 1976 PA 442, MCL 15.231 to 15.246.

15 (10) As used in subsections (8) and (9):

16 (a) "Investment fiduciary" means a person who exercises any
17 discretionary authority or control over an investment of the
18 investment fund or renders investment advice for the fund for a fee
19 or other direct or indirect compensation.

20 (b) "Investment information" means information that has not
21 been publicly disseminated or that is unavailable from other
22 sources, the release of which might cause a portfolio company or an
23 investment fiduciary significant competitive harm. Investment
24 information includes, but is not limited to, financial performance
25 data and projections, financial statements, list of coinvestors and
26 their level of investment, product and market data, rent rolls, and
27 leases.

1 (c) "Portfolio company" means an entity in which an investment
2 fiduciary has made or considered an investment on behalf of the
3 investment fund.

4 (d) "Record" means all or part of a writing, as that term is
5 defined in section 2 of the freedom of information act, 1976 PA
6 442, MCL 15.232.

7 Sec. 88h. (1) The jobs for Michigan investment fund is created
8 within the fund as a permanent fund authorized by section 19 of
9 article IX of the state constitution of 1963. Money in the
10 investment fund at the close of the fiscal year shall remain in the
11 investment fund and shall not lapse to the general fund. Money in
12 the investment fund shall not be transferred to another
13 governmental entity or a separate legal entity and public body
14 corporate established under the urban cooperation act of 1967, 1967
15 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized in
16 this chapter.

17 (2) Money or other assets deposited in the investment fund
18 shall be held as permanent funds as provided under section 19 of
19 article IX of the state constitution of 1963 and invested only as
20 authorized under this chapter, including, but not limited to,
21 investments in the stock of a company, association, or corporation.

22 (3) The investment fund shall be invested as authorized under
23 this chapter for the benefit of the people of the state of Michigan
24 and for the purpose of creating incentives for the following in
25 this state:

26 (a) Retaining or creating jobs.

27 (b) Increasing capital investment activity.

1 (c) Increasing commercial lending activity.

2 (d) Encouraging the development and commercialization of
3 competitive edge technologies.

4 (e) Revitalizing Michigan communities.

5 (4) Funds or other assets of the investment fund also may be
6 invested in debt instruments or debt obligations for loans or
7 guarantees authorized under this chapter.

8 (5) The investment fund shall consist of all of the following:

9 (a) Any funds appropriated to, transferred to, or deposited in
10 the investment fund from the 21st century jobs trust fund under the
11 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260.

12 (b) Earnings, royalties, return on investments, return of
13 principal, payments made, or other money received by or payable to
14 the fund under agreements related to grants, loans, investments, or
15 expenditures by the fund under this chapter or chapter 8C.

16 (c) Assets, property, money, earnings, royalties, return on
17 investments, return of principal, payments made, or other money
18 owed, received by, or payable to the fund or the Michigan economic
19 development corporation under agreements related to grants, loans,
20 investments, or other payments funded by appropriations from the
21 state general fund or tobacco settlement revenue under 1 or more of
22 the following:

23 (i) Section 418 of 1999 PA 120, commonly known as the health
24 and aging research and development initiative or the Michigan life
25 sciences corridor initiative, or any successor program.

26 (ii) Section 410 of 2000 PA 292, commonly known as the health
27 and aging research and development initiative or the Michigan life

1 sciences corridor initiative, or any successor program.

2 (iii) Section 410 of 2001 PA 80, commonly known as the health
3 and aging research and development initiative or the Michigan life
4 sciences corridor initiative, or any successor program.

5 (iv) Section 410 of 2002 PA 517, commonly known as the Michigan
6 life sciences corridor initiative, or any successor program.

7 (v) Section 410 of 2003 PA 169, commonly known as the Michigan
8 life sciences and technology tri-corridor initiative, or any
9 successor program.

10 (vi) Section 510 of 2004 PA 354, commonly known as the Michigan
11 technology tri-corridor and life sciences initiative, or any
12 successor program.

13 (vii) Section 801 of 2005 PA 11, commonly known as the
14 technology tri-corridor and life sciences initiative, or any
15 successor program.

16 (viii) Section 381(1)(c) of 2003 PA 173, providing for payments
17 to the life sciences commercial development fund.

18 (d) Money or assets received by the state treasurer or the
19 fund from any source for deposit in the investment fund.

20 (e) Interest and earnings on any funds or other assets
21 deposited in the investment fund or other net income of the
22 investment fund.

23 (6) The net income of the investment fund may be expended by
24 the fund only for purposes authorized under this chapter or chapter
25 8C pursuant to an appropriation authorized by law. As used in this
26 section, the net income of the investment fund shall be computed
27 annually as of the last day of the state fiscal year in accordance

1 with generally accepted accounting principles, excluding any
2 unrealized gains or losses.

3 (7) The fund board shall be the trustees of the investment
4 fund and shall direct the investment and reinvestment of the funds
5 and assets of the investment fund as ~~provided under, and~~ consistent
6 with the objectives of ~~,~~ this chapter or chapter 8C.

7 (8) The fund board may establish restricted subaccounts within
8 the investment fund as necessary to administer the investment fund.
9 The fund board may contract with the state treasurer to assist the
10 fund board in administering the investment fund. The fund board may
11 authorize money in the investment fund not invested as authorized
12 under sections 88d, 88e, 88f, 88g, **88Q**, and 88r and chapter 8C to
13 be managed by the state treasurer as part of the common cash fund
14 of this state under 1967 PA 55, MCL 12.51 to 12.53. Money managed
15 by the state treasurer under this subsection shall be separately
16 accounted for by the state treasurer. When authorized under this
17 subsection, the state treasurer may invest the funds or assets of
18 the investment fund in any investment authorized under 1855 PA 105,
19 MCL 21.141 to 21.147, for surplus funds of this state, in
20 obligations issued by any state or political subdivision or
21 instrumentality of the United States, or in any obligation issued,
22 assumed, or guaranteed by a solvent entity created or existing
23 under the laws of the United States or of any state, district, or
24 territory of the United States, which are not in default as to
25 principal or interest.

26 (9) A member of the fund board or officer of the fund shall
27 not gain from any investment of funds or assets of the investment

1 fund. A member of the fund board or officer of the fund shall not
2 have any direct or indirect interest in an investment of funds or
3 assets of the investment fund. A member of the fund board or person
4 connected with the investment fund directly or indirectly, for
5 himself or herself, or as an agent or partner of others, shall not
6 borrow any of the funds or assets of the investment fund or in any
7 manner use funds or assets of the investment fund except as
8 authorized under this chapter. A member of the fund board or
9 officer of the fund shall not become an endorser or surety or
10 become in any manner an obligor for money loaned by or borrowed
11 from the investment fund. Failure to comply with this subsection
12 constitutes misconduct in office subject to removal under section
13 94. In addition to any other sanction, a person who violates this
14 subsection is guilty of a misdemeanor punishable by imprisonment
15 for not more than 90 days or a fine of not more than \$500.00, or
16 both.

17 Sec. 88k. (1) The strategic economic investment and
18 commercialization board is created within the fund. The
19 commercialization board shall exercise its powers, duties, and
20 decision-making authority under this chapter independently of the
21 fund, the fund board, and the department of treasury.

22 (2) The commercialization board shall award grants and loans
23 from the 21st century jobs trust fund created in the Michigan trust
24 fund act, 2000 PA 489, MCL 12.251 to 12.256, and the investment
25 fund only for basic research, applied research, university
26 technology transfer, and commercialization of products, processes,
27 and services to encourage the development of competitive edge

1 technologies to create jobs in this state.

2 (3) Subject to subsection (2), the fund as determined by the
3 commercialization board shall ~~do all of the following:~~

4 ~~— (a) Establish~~ **ESTABLISH** a competitive process to award grants
5 and make loans for competitive edge technologies. The competitive
6 process shall include, but is not limited to, the following:

7 **(A)** ~~(i)~~—A provision that the applications must be ~~peer reviewed~~
8 ~~by independent peer review experts based on the scientific and~~
9 ~~technical merit, personnel expertise, commercial merit, and the~~
10 ~~ability to leverage additional funding of the application~~ **REVIEWED**
11 **BY A JOINT-EVALUATION COMMITTEE**. Scientific and technical merit,
12 personnel expertise, commercial merit, and the ability to leverage
13 additional funding shall ~~shall~~ **MAY** be given equal weight in the review
14 and scoring process **AS DETERMINED BY THE FUND BOARD**.

15 **(B)** ~~(ii)~~—A preference for proposals that can contribute to the
16 development of economic diversification or the creation of
17 employment opportunities in this state.

18 **(C)** ~~(iii)~~—A provision that out-of-state business must have a
19 significant existing or proposed business presence in this state.

20 **(D)** ~~(iv)~~—A provision that the program will utilize contracts
21 with measurable milestones, clear objectives, provisions to revoke
22 awards for breach of contract, and repayment provisions for loans
23 given to qualified businesses that leave Michigan within 3 years of
24 the execution of the contract or otherwise breach the terms of the
25 contract.

26 **(E)** ~~(v)~~—A provision that the applicant leverage other
27 resources as a condition of the grant or loan. If an applicant is

1 seeking a grant or a loan under this chapter to match federal funds
2 for small business innovation research or small business technology
3 transfer programs, the grant or loan under this chapter shall not
4 exceed 25% of the federal funds and must leverage third-party
5 commercialization funding at both the phase I and phase II levels.

6 (F) ~~(vi)~~ Limit overhead rates, for recipients of grants and
7 loans to reflect actual overhead but not greater than 15% of the
8 grant or loan. **ADMINISTRATIVE FEES, AND MANAGEMENT FEES FOR**
9 **RECIPIENTS OF AWARDS TO NOT MORE THAN 25% OF THE AWARD.**

10 (G) ~~(vii)~~ Except as provided in subparagraph ~~(v)~~, **SUBDIVISION**
11 **(E)**, a provision that grants can only be awarded to Michigan
12 institutions of higher education, Michigan nonprofit research
13 institutions, and Michigan nonprofit corporations.

14 (H) ~~(viii)~~ A preference for collaborations between institutions
15 of higher education, Michigan nonprofit research institutions,
16 Michigan nonprofit corporations, and qualified businesses.

17 (I) ~~(ix)~~ A provision authorizing the award of grants to
18 institutions of higher education to serve as match to promote or
19 secure the award and receipt of competitively awarded federal
20 research grants related to competitive edge technologies. A
21 matching grant shall not exceed 10% of the amount of the
22 competitively awarded federal research grants received.

23 (J) ~~(x)~~ A provision encouraging the redevelopment of existing
24 scientific wet lab space for the commercialization of life science
25 technology.

26 (K) ~~(xi)~~ A preference for proposals that meet 1 or more of the
27 following:

1 (i) ~~(A)~~—Forecast revenues within 2 years.

2 (ii) ~~(B)~~—Have outside investments from investors with
3 experience and management teams with experience in the industry
4 targeted by the proposal.

5 (iii) ~~(C)~~—Have outside directors with expertise in the industry
6 targeted by the proposal.

7 ~~(b) The fund shall contract with independent peer review
8 experts selected by the commercialization board to assist the
9 commercialization board with its responsibilities under this
10 chapter.~~

11 (4) The commercialization board shall establish standards to
12 ensure that money expended under this chapter will result in
13 economic benefit to this state and ensure that a major share of the
14 business activity resulting from the expenditures occurs in this
15 state.

16 (5) The commercialization board shall ensure that a recipient
17 of money expended under this chapter agrees as a condition of
18 receiving the money not to use the money for any of the following:

19 (a) The development of a stadium or arena for use by a
20 professional sports team.

21 (b) The development of a casino regulated by this state under
22 the Michigan gaming control and revenue act, ~~the Initiated Law of~~
23 1996 **IL 1**, MCL 432.201 to 432.226, a casino at which gaming is
24 conducted under the Indian gaming regulatory act, Public Law 100-
25 497, 102 Stat. 2467, or property associated or affiliated with the
26 operation of either type of casino described in this subdivision,
27 including, but not limited to, a parking lot, hotel, motel, or

1 retail store.

2 (6) The commercialization board shall establish requirements
3 to ensure that money expended under this section shall not be used
4 for any of the following:

5 (a) Grants or loans to a person who has been convicted of a
6 criminal offense incident to the application for or performance of
7 a state contract or subcontract. As used in this subdivision, if a
8 person is a business entity, then person includes affiliates,
9 subsidiaries, officers, directors, managerial employees **AS**
10 **DETERMINED BY THE FUND BOARD**, and any person who, directly or
11 indirectly, holds a pecuniary interest in that business entity of
12 20% or more.

13 (b) Grants or loans to a person who has been convicted of a
14 criminal offense, or held liable in a civil proceeding, that
15 negatively reflects on the person's business integrity, based on a
16 finding of embezzlement, theft, forgery, bribery, falsification or
17 destruction of records, receiving stolen property, or violation of
18 state or federal antitrust statutes. As used in this subdivision,
19 if a person is a business entity, then person includes affiliates,
20 subsidiaries, officers, directors, managerial employees **AS**
21 **DETERMINED BY THE FUND BOARD**, and any person who, directly or
22 indirectly, holds a pecuniary interest in that business entity of
23 20% or more.

24 (c) Grants or loans to induce a qualified business or a small
25 business to leave this state.

26 (d) Grants or loans that would contribute to the violation of
27 internationally recognized workers rights, as defined in section

1 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a
2 country other than the United States, including any designated zone
3 or area in that country.

4 (e) Grants or loans to a corporation or an affiliate of the
5 corporation incorporated in a tax haven country after September 11,
6 2001, but with the United States as the principal market for the
7 public trading of the corporation's stock. As used in this section,
8 "tax haven country" includes a country with tax laws that
9 facilitate avoidance by a corporation or an affiliate of the
10 corporation of United States tax obligations, including Barbados,
11 Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of
12 the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of
13 Liechtenstein, the Principality of Monaco, and the Republic of the
14 Seychelles.

15 (7) When the commercialization board approves a grant or a
16 loan under this chapter, the commercialization board shall state
17 the specific objective reasons the applicant was selected over
18 other applicants for a grant or loan under this chapter.

19 (8) After March 31, 2006, before adopting a resolution that
20 establishes or substantially changes a program operated by the
21 commercialization board, including any fees, charges, or penalties
22 attached to that program, the commercialization board shall give
23 notice of the proposed resolution to the governor, to the secretary
24 of the senate, to the clerk of the house of representatives, to
25 members of the senate and house of representatives standing
26 committees on appropriations, and to each person who requested from
27 the fund in writing or electronically to be notified regarding

1 proposed resolutions. The notice and proposed resolution and all
2 attachments shall be published on the fund's internet website **AT**
3 **LEAST 10 DAYS PRIOR TO THE DATE THAT THE PROPOSED RESOLUTION IS**
4 **CONSIDERED BY THE COMMERCIALIZATION BOARD.** The commercialization
5 board shall hold a public hearing not sooner than 14 days and not
6 longer than 30 days from the date notice of a proposed resolution
7 is given and offer a person an opportunity to present data, views,
8 questions, and arguments. Commercialization board members or 1 or
9 more persons designated by the commercialization board who have
10 knowledge of the subject matter of the proposed resolution shall be
11 present at the public hearing and shall participate in the
12 discussion of the proposed resolution. The commercialization board
13 may act on the proposed resolution ~~no sooner than 14 days after~~ **ON**
14 **THE DAY OF** the public hearing. The commercialization board shall
15 produce a final decision document that describes the basis for its
16 decision. The final resolution and all attachments and the decision
17 document shall be provided to the governor, to the secretary of the
18 senate, to the clerk of the house of representatives, and to
19 members of the senate and house of representatives standing
20 committees on appropriations and shall be published on the fund's
21 internet website.

22 (9) The notice described in subsection (8) shall include all
23 of the following:

24 (a) A copy of the proposed resolution and all attachments.

25 (b) A statement that the addressee may express any data,
26 views, or arguments regarding the proposed resolution.

27 (c) The address to which written comments may be sent and the

1 date by which comments must be mailed or electronically
2 transmitted, which date shall not be before the date of the public
3 hearing.

4 (d) The date, time, and place of the public hearing.

5 Sec. 90b. (1) The fund shall create and operate the Michigan
6 community revitalization program to provide community
7 revitalization incentives for eligible investments on eligible
8 property in this state. The fund shall develop and use a detailed
9 application, approval, and compliance process adopted by a
10 resolution of the board and published and available on the fund's
11 website. Program standards, guidelines, templates, or any other
12 forms used by the fund to implement the Michigan community
13 revitalization program shall be approved by the board.

14 (2) A person may apply to the fund for approval of community
15 revitalization incentives associated with a project under this
16 section. Community revitalization incentives shall not be approved
17 for any property that is not eligible property.

18 (3) Funds appropriated for programs under this chapter shall
19 be placed in the 21st century jobs trust fund created in the
20 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260.

21 (4) Subject to section 88c, the fund shall review all
22 applications for community revitalization incentives. As part of
23 the application, the applicant shall include documentation
24 establishing that the project is located on eligible property and a
25 project description that includes a project pro-forma. The fund
26 shall consider the following criteria to the extent reasonably
27 applicable to the type of project proposed when approving a

1 community revitalization incentive:

2 (a) The importance of the project to the community in which it
3 is located.

4 (b) If the project will act as a catalyst for additional
5 revitalization of the community in which it is located.

6 (c) The amount of local community and financial support for
7 the project.

8 (d) The applicant's financial need for a community
9 revitalization incentive.

10 (e) The extent of reuse of vacant buildings, reuse of
11 historical buildings, and redevelopment of blighted property.

12 (f) Creation of jobs.

13 (g) The level of private sector and other contributions,
14 including, but not limited to, federal funds and federal tax
15 credits.

16 (h) Whether the project is financially and economically sound.

17 (i) Whether the project increases the density of the area.

18 (j) Whether the project promotes mixed-use development and
19 walkable communities.

20 (k) Whether the project converts abandoned public buildings to
21 private use.

22 (l) Whether the project promotes sustainable development.

23 (m) Whether the project involves the rehabilitation of a
24 historic resource.

25 (n) Whether the project addresses areawide redevelopment.

26 (o) Whether the project addresses underserved markets of
27 commerce.

1 (p) The level and extent of environmental contamination.

2 (q) If the rehabilitation of the historic resource will meet
3 the federal secretary of the interior's standards for
4 rehabilitation and guidelines for rehabilitating historic
5 buildings, 36 CFR 67.

6 (r) Whether the project will compete with or effect existing
7 Michigan businesses within the same industry.

8 (s) Any other additional criteria approved by the board that
9 are specific to each individual project and are consistent with the
10 findings and intent of this chapter.

11 (5) An application shall be approved or denied not more than
12 90 days after receipt of the application that is considered
13 administratively complete by the board or its designee. If the
14 application is neither approved nor denied within 90 days after
15 being considered administratively complete, it shall be considered
16 by the fund board, or its president if delegated, for action at, or
17 by, the next regularly scheduled board meeting. If an application
18 is approved, the fund shall determine the amount of community
19 revitalization incentives for the project based on the fund's
20 review of the application and the criteria specified in subsection
21 (4).

22 (6) The amount of community revitalization incentives that the
23 board may approve for a single project shall not exceed 25% of a
24 project's eligible investment up to \$10,000,000.00. A community
25 revitalization loan shall not exceed \$10,000,000.00 and a community
26 revitalization grant shall not exceed \$1,000,000.00. However, a
27 combination of loans, grants, and other economic assistance under

1 this chapter shall not exceed \$10,000,000.00 per project. The board
2 may not approve \$10,000,000.00 per project in community
3 revitalization incentives to more than 3 projects per fiscal year.
4 The board shall approve not less than 5 projects of \$1,000,000.00
5 or less per project per fiscal year. If, after reviewing all
6 applications in a fiscal year, the fund determines that less than 5
7 projects warranted an award of \$1,000,000.00 or less, this
8 subsection shall not apply.

9 (7) When the board approves an application and determines the
10 amount of community revitalization incentives, the board shall
11 enter into a written agreement with the applicant. The written
12 agreement shall provide in a clear and concise manner all of the
13 conditions imposed, including specific time frames, on the
14 applicant to receive the community revitalization incentive under
15 this chapter. The written agreement shall provide for repayment and
16 penalties if the applicant fails to comply with the provisions of
17 the written agreement as determined by the board. The applicant
18 shall agree to provide the data described in the written agreement
19 that is necessary for the fund to report to the legislature under
20 this chapter.

21 (8) Not more than 4% of the annual appropriation as provided
22 by law from the 21st century jobs trust fund established in the
23 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be
24 used for the purposes of administering the programs and activities
25 authorized under this chapter. However, the fund and the fund board
26 shall not use more than 3% of the annual appropriation for
27 administering the programs and activities authorized under this

1 chapter unless the fund board by a 2/3 vote authorizes the
2 additional 1% for administration. The MEDC may charge actual and
3 reasonable fees for costs associated with the community
4 revitalization ~~loan~~. **INCENTIVE AUTHORIZED UNDER THIS CHAPTER.** These
5 fees are in addition to an amount of the appropriation used for
6 administering the programs and activities authorized under this
7 chapter.