

MICHIGAN STRATEGIC FUND ACT (EXCERPT)
Act 270 of 1984

CHAPTER 1

125.2001 Legislative finding and declaration.

Sec. 1. The legislature hereby finds and declares the following problems and objectives:

(a) The economy of the state of Michigan is at present recovering from a recession and action is needed to encourage increased employment and business expansion in this state.

(b) The economy of the state of Michigan is undergoing a long-term transition requiring new and innovative policies from state government and greater coordination of existing policies and programs related to jobs and economic development.

(c) It is necessary to provide a mechanism to foster greater coordination of state policies and to make available public and private development finance opportunities to agriculture, forestry, business, and industry, and to communities within the state, in order to expand the number of jobs in the state and to help agriculture, forestry, business, and industry prosper in the state.

(d) There exists a need to leverage private sector investment in new and innovative products, in entrepreneurial activity, and in economic development finance; therefore, state assistance for development finance should reflect a leveraging investment strategy.

(e) There is a statewide pressing need for programs to alleviate and prevent conditions of unemployment; to preserve existing jobs and create new jobs to meet the employment demands of population growth and population shifts; to promote the development of existing business enterprises and to meet the growing competition among states and nations for business enterprises; to revitalize and diversify the Michigan economy in general to achieve the goals of long-term economic growth and full employment, and to provide a solid tax base for the state and its local units of government to provide funds for needed public services.

(f) The goals of long-term economic growth and full employment can best be provided by the promotion, attraction, stimulation, retention, rehabilitation, and revitalization of business enterprises and worker-owned enterprises and by actions to lower the costs of business and production.

(g) The retention, promotion, diversification, and development of business enterprises and the lowering of costs of business and production require additional means of financing, including economic development finance mechanisms that support private capital resources, to help existing business enterprises expand more rapidly, and to promote the location of additional business enterprises in Michigan.

(h) It is necessary to provide means and methods for the encouragement and assistance of industrial and commercial development projects, including but not limited to providing aid to development enterprises utilizing new or experimental technologies in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its local units of government.

(i) The retention and expansion of existing business enterprise and the acquiring of new business enterprises to Michigan requires the availability of energy supplies and that, to this end, known sources of energy in Michigan should be developed to the fullest extent possible consistent with environmental protection and ecological preservation.

(j) To conserve the public benefits of nonrenewable oil, gas, and mineral resources which are now subject to increasing development and depletion it is necessary to apply the proceeds of such resources to the encouragement of capital growth and the financing of self-sustaining sources of economic activity.

(k) It is necessary to promote economic activity in the forestry and agricultural sectors by providing incentives to reduce energy consumption, to retain agricultural and forestry enterprises, to reduce the rate at which urban sprawl has been devouring productive farm and forestry lands, and to provide our farmers and foresters with a more favorable export market. It is also necessary to encourage the development of facilities designed to produce energy from renewable resources.

(l) For the preservation and betterment of the health, safety, and general welfare of the people of Michigan, it is necessary to promote and develop new and adequate water and air pollution control and solid waste disposal facilities for business enterprises and public utilities located in this state, which equipment or facilities need not be incidental to an industrial building, but may serve the general public.

(m) It is necessary for a sound economy of the state for the local units of government of the state to provide quality services and this requires an adequate and modern infrastructure in the local units of government which makes it necessary for such units to finance local improvements in an economical manner which in many cases can be best done through assistance by the state.

(n) The lending and investment of funds to develop and improve the economy of the state requires

specialized and unique knowledge, skills, and experience.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Compiler's note: For transfer of powers and duties of department of commerce for minority, women, and small business service units to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For creation of Michigan public educational facilities authority within department of treasury; transfer of certain powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties of Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public and educational facilities authority and Michigan public education facilities authority board of trustees, see E.R.O. No. 2002-3, compiled at MCL 12.192 of the Michigan Compiled Laws.

For transfer of Michigan strategic fund from department of management and budget to department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Strategic Fund

125.2002 Purposes of act.

Sec. 2. It is hereby declared to be the purposes of this act and of the Michigan strategic fund created by this act to help diversify the economy of this state, to promote economic stability and growth, to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, export markets and export activities, industry and industrial buildings and facilities, including the sites for these, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment, to make loans to the Special Purpose FWC Settlement Entity, which will in turn use the loan proceeds only to pay the expenses, costs, and fees associated with the Special Purpose FWC Settlement Entity, to reimburse this state for its initial \$5,000,000.00 payment to the FWC Qualified Settlement Fund, and to pay to the FWC Qualified Settlement Fund the settlement amount agreed to by this state in the settlement agreement and related preliminary approval orders, any amendments to those orders, or the subsequent final approval orders that will be entered by the court in the consolidated cases known as *In re Flint Water Cases*, No. 5:16-cv-10444-JEL-MKM (ED Mich), so as to assist in alleviating health issues of Michigan citizens and to ensure continued state fiscal stability and credit worthiness, and to otherwise assist in the achievement of the solution to the problems and objectives described in section 1.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2020, Act 358, Imd. Eff. Dec. 30, 2020.

Popular name: Strategic Fund

125.2003 Short title.

Sec. 3. This act shall be known and may be cited as the "Michigan strategic fund act".

History: 1984, Act 270, Eff. Mar. 29, 1985.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

Popular name: Strategic Fund

125.2004 Definitions.

Sec. 4. As used in this act:

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

(b) "Economic development project" means an endeavor related to industrial, commercial, or agricultural enterprise. Economic development project includes, but is not limited to, a theme or recreation park; agricultural or forestry production, harvesting, storage, or processing facilities or equipment; port facilities; and the use of equipment or facilities designed to produce energy from renewable resources. Economic development project does not include that portion of an endeavor devoted to the sale of goods at retail, except that, as used in relation to the fund insuring a transaction entered into by a depository institution, and as used in relation to a loan by the fund to a minority owned business, an economic development project may include that portion of an endeavor devoted to the sale of goods at retail. Economic development project does not include that portion of an endeavor devoted to housing or a program or activity authorized under chapter 8A.

(c) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the

United States government and that maintains a principal office or branch office in this state under the laws of this state or the United States.

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

(e) "FWC Qualified Settlement Fund" means the FWC Qualified Settlement Fund described in the settlement agreement approved by the court in *In re Flint Water Cases*, No. 5:16-cv-10444-JEL-MKM (ED Mich).

(f) "Green chemistry" means chemistry and chemical engineering to design chemical products or processes that reduce or eliminate the use or generation of hazardous substances, while producing high-quality products through safe and efficient manufacturing processes. Green chemistry is guided by the following 12 principles:

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

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

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

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

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

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

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

(viii) Use safer solvents and reaction conditions: Avoid using solvents, separation agents, or other auxiliary chemicals. If these chemicals are necessary, use innocuous chemicals.

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

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

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

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

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

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

(i) "Person" means an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, profit or nonprofit corporation including a public or private college or university, public utility, municipality, local industrial development corporation, economic development corporation, other association of persons organized for agricultural, commercial, or industrial purposes, a lender, or any other entity approved by the board.

(j) "Port facilities" means seawall jetties; piers; wharves; docks; boat landings; marinas; warehouses; storehouses; elevators; grain bins; cold storage plants; bunkers; oil tanks; ferries; canals; locks; bridges; tunnels; seaways; conveyors; modern appliances for the economical handling, storage, and transportation of freight and handling of passenger traffic; transfer and terminal facilities required for the efficient operation and development of ports and harbors; other harbor improvements; or improvements, enlargements, remodeling, or extensions of any of these buildings or structures. Port facilities do not include an international bridge or international tunnel.

(k) "Project" means an economic development project and, in addition, means the acquisition, construction, reconstruction, conversion, or leasing of an industrial, commercial, retail, agricultural, or

forestry enterprise, or any part of these, to carry out the purposes and objectives of this act and of the fund, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings which include, but are not limited to, the following: research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; bridges and bridge facilities; water and air pollution control equipment or waste disposal facilities; theme or recreational parks; equipment or facilities designed to produce energy from renewable resources; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; warehouses; wharves and dock facilities; dredging of recreational or commercial harbors; water, electricity, hydro electric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project also includes the resolution and settlement of pending claims and assisting to alleviate health issues of Michigan citizens through a loan to the Special Purpose FWC Settlement Entity, which entity may use those loan proceeds only to pay the expenses, costs, and fees associated with the Special Purpose FWC Settlement Entity, to reimburse this state for its initial \$5,000,000.00 payment to the FWC Qualified Settlement Fund, and to pay the FWC Qualified Settlement Fund. Project does not include a program or activity authorized under chapter 8A.

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

(m) "Special Purpose FWC Settlement Entity" means the Special Purpose FWC Settlement Entity described in the settlement agreement approved by the court in *In re Flint Water Cases*, No. 5:16-cv-10444-JEL-MKM (ED Mich).

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2010, Act 271, Imd. Eff. Dec. 15, 2010;—Am. 2012, Act 145, Imd. Eff. May 30, 2012;—Am. 2014, Act 507, Imd. Eff. Jan. 14, 2015;—Am. 2020, Act 358, Imd. Eff. Dec. 30, 2020.

Popular name: Strategic Fund

125.2005 Michigan strategic fund; creation; purposes, powers, duties, and functions generally; appointment, qualifications, and terms of members; chairperson, president, and vice-president; compensation and expenses; delegation of functions and authority; quorum; voting; meetings; conducting business at public meeting; notice; confidentiality; closed sessions; "financial or proprietary information" defined.

Sec. 5. (1) There is created by this act a public body corporate and politic to be known as the Michigan strategic fund. The fund is within the department of labor and economic opportunity and shall exercise its prescribed statutory powers, duties, and functions independently of the director of the department of labor and economic opportunity. The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the fund, including the functions of budgeting, procurement, personnel, and management-related functions, are retained by the fund, and the fund is an autonomous entity within the department of labor and economic opportunity in the same manner as the Michigan employment security commission was designated an autonomous entity within the department of labor under section 379 of the executive organization act of 1965, 1965 PA 380, MCL 16.479.

(2) Except as otherwise provided in this act, the purposes, powers, and duties of the Michigan strategic fund are vested in and shall be exercised by a board of directors.

(3) Except as provided in subsection (4), the board shall consist of the following members:

(a) The director of the department of labor and economic opportunity or the director's designee from within the department of labor and economic opportunity.

(b) The state treasurer or the state treasurer's designee from within the department of treasury.

(c) The director of the state transportation department or the director's designee from within the state transportation department.

(d) The chief executive officer of the MEDC or the chief executive officer's designee.

(e) Seven other members with knowledge, skill, and experience in the academic, business, or financial field, who shall be appointed by the governor with the advice and consent of the senate, subject to all of the following requirements:

(i) The 7 members appointed under this subdivision must be residents of this state and must not be employees of this state.

(ii) Not less than 6 members appointed under this subdivision must be members of the private sector.

(iii) One of the 7 members appointed under this subdivision must be appointed from a list of 3 or more nominees of the speaker of the house of representatives representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology.

(iv) One of the 7 members appointed under this subdivision must be appointed from a list of 3 or more nominees of the senate majority leader representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology.

(v) Members appointed under this subdivision must include minority, female, and small business representation.

(vi) Of the members appointed under this subdivision, at least 2 must have experience in private equity or venture capital investments, at least 1 must have experience in commercial lending, and at least 1 must have experience in commercialization of technology.

(vii) Except as otherwise provided in this subparagraph, members appointed under this subdivision must be appointed for a term of 4 years. Members described in this subdivision that were appointed under Executive Reorganization Order No. 2019-3, MCL 125.1998, shall serve the terms provided in Executive Reorganization Order No. 2019-3, MCL 125.1998.

(4) In addition to the 11 members of the board under subsection (3), not later than December 31, 2023, the governor shall appoint, with the advice and consent of the senate, 2 additional members to the board for terms expiring December 31, 2027. After the initial appointments under this subsection, members appointed under this subsection must be appointed for a term of 4 years. The members appointed under this subsection shall be from the private sector and shall have experience in private equity or venture capital investments, commercial lending, or commercialization of technology. One of the members appointed under this subsection must be appointed from a list of 3 or more nominees of the senate minority leader, and the other member appointed under this subsection must be appointed from a list of 3 or more nominees of the house minority leader.

(5) A member appointed under subsection (3) or (4) shall serve until a successor is appointed, and a vacancy must be filled for the balance of the unexpired term in the same manner as the original appointment.

(6) The governor shall designate 1 member of the board, other than the director of the department of labor and economic opportunity, to serve as president of the fund and may designate 1 member to serve as vice-president of the fund. The president and vice-president, if a vice-president is designated, shall serve as those officers at the pleasure of the governor. The member of the board who is designated to serve as president of the fund is the chairperson of the board. The members of the board may elect a vice-chairperson from among their members.

(7) Members of the board shall serve without compensation for their membership on the board, except that members of the board may receive reasonable reimbursement for necessary travel and expenses.

(8) The board may delegate to its president, vice-president, staff, or others, including the MEDC, those functions and authority that the board considers necessary or appropriate, which may include the oversight and supervision of employees of the fund. However, responsibilities specifically vested in the board under chapter 8A shall be performed by the board and shall not be transferred to the MEDC, except that Michigan business development program incentives under section 88r, and community revitalization incentives under chapter 8C, of \$1,000,000.00 or less may be authorized by the president of the fund.

(9) A majority of the members of the board appointed and serving constitutes a quorum for the transaction of business at a meeting, or the exercise of a power or function of the fund, notwithstanding the existence of 1 or more vacancies. The board may act only by resolution approved by a majority of board members appointed and serving. Voting on action taken by the board must be conducted by majority vote of the members appointed and serving. Members of the board may be present in person at a meeting of the board or, if authorized by the bylaws of the board, by use of telecommunications or other electronic equipment. The fund shall meet at the call of the chair and as may be provided in the bylaws of the fund. Meetings of the fund may be held anywhere within this state.

(10) The business of the board must be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting must be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and must also be provided on an internet website operated by the fund. A record or portion of a record, material, or other data received, prepared, used, or retained by the fund or any of its centers in connection with an application to or with a project or product assisted by the fund or any of its centers or with an award, grant, loan, or investment that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the board or a designee of the board as confidential is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442,

MCL 15.231 to 15.246. The disclosure of a record concerning investment information described in section 88c under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is subject to the limitations provided in section 88c. The board may also meet in closed session pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to determine whether it acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the board shall not acknowledge routine financial information as confidential. If the board determines that information submitted to the fund is financial or proprietary information and is confidential, the board shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, that states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the board to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

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

(12) Any document to which the fund is a party evidencing a loan, insurance, mortgage, lease, venture, or other type of agreement the fund is authorized to enter into is not considered financial or proprietary information that may be exempt from disclosure under subsection (10).

(13) For purposes of subsections (10), (11), and (12), "financial or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the applicant significant competitive harm.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 224, Imd. Eff. July 16, 2008;—Am. 2011, Act 251, Imd. Eff. Dec. 13, 2011;—Am. 2014, Act 507, Imd. Eff. Jan. 14, 2015;—Am. 2023, Act 24, Imd. Eff. Apr. 26, 2023.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For transfer of powers and duties of the Michigan strategic fund from the director of the Michigan jobs commission to the Michigan strategic fund housed within the Michigan jobs commission, see E.R.O. No. 1995-4, compiled at MCL 408.50 of the Michigan Compiled Laws.

For transfer of the Michigan strategic fund from department of treasury to department of talent and economic development, and transfer of powers and duties of board of directors of Michigan strategic fund to new board of directors, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

For transfer of the Michigan strategic fund from the department of talent and economic development to the department of labor and economic opportunity, and abolishment and transfer of powers and duties of board of directors to new board of directors, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Strategic Fund

125.2006 Members, officers, and employees subject to MCL 15.321 to 15.330 or MCL 15.301 to 15.310; discharge of duties by member, officer, employee, or agent; prohibited conduct; conflict of interest; noncompliance; expenditures.

Sec. 6. (1) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the board and officers and employees of the fund are subject to 1968 PA 317, MCL 15.321 to 15.330, or 1968 PA 318, MCL 15.301 to 15.310, as applicable.

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

(3) A member of the board shall not make, participate in making, or in any way attempt to use his or her position as a member of the board to influence a decision regarding a loan, grant, investment, or other expenditure under this act to his or her employer.

(4) A member, employee, or agent of the board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the board in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the board-related

work or duty of the member, employee, or agent of the board.

(5) A member who has a conflict of interest related to any matter before the board shall disclose the conflict of interest before the board takes any action with respect to the matter, which disclosure shall become a part of the record of the board's official proceedings. The member with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

- (a) Voting in the board's proceedings related to the matter.
- (b) Participating in the board's discussion of and deliberation on the matter.
- (c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.
- (d) Discussing the matter with any other board member.

(6) Failure of a member to comply with subsection (5) constitutes misconduct in office subject to removal under section 94.

(7) When authorizing expenditures and investments under this act, the board shall not consider whether a recipient has made a contribution or expenditure under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

(8) Expenditures under this act shall not be used to finance or influence political activities.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2007 Powers and duties of fund.

Sec. 7. The fund shall have the powers and duties provided in this act, the powers delegated by other laws or executive orders, including, but not limited to, the power to do 1 or more of the following:

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

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

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

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

(e) Borrow money and issue bonds and notes to finance part or all of the project costs of a project, including the Special Purpose FWC Settlement Entity, or of a loan under subdivision (r) for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision includes, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the fund does not own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located.

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

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

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

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

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

(k) Indemnify and procure insurance indemnifying any members of the board from personal loss or accountability from liability asserted by a person on the bonds or notes of the fund or from any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the fund.

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

renew.

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

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

(o) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the fund by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and in that event complete, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the fund.

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

(q) Except as otherwise provided in this subdivision, to create and operate centers, accounts, and funds as required or permitted by law for the use and disbursement of assets of the fund. The powers granted under this subdivision do not apply to chapter 8A.

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

(s) Procure goods and services, purchase and sell real and personal property, and lease property independent of any other department or state agency.

(t) Appoint any individuals, including strategic fund employees and MEDC employees, to boards to represent the interests of the fund.

(u) Establish and operate a job training fund that will support the training of workers for Michigan businesses as determined by the fund.

(v) Establish and operate a brownfield historic investment program that provides capital for projects as determined by the fund.

(w) Take necessary and reasonable steps to pursue repayment of funds disbursed for any grant or loan for failing to comply with provisions of a written agreement as required under section 88r(2)(b)(iv) and section 90b(7).

(x) Borrow money and issue bonds or notes for financing a Special Purpose FWC Settlement Entity, which entity may use the financed proceeds only to pay the expenses, costs, and fees associated with the Special Purpose FWC Settlement Entity, to reimburse this state for its initial \$5,000,000.00 payment to the FWC Qualified Settlement Fund, and to pay the FWC Qualified Settlement Fund, and which shall be secured by a pledge of repayment from anticipated state appropriations and from any other sources.

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

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2014, Act 454, Eff. Jan. 14, 2015;—Am. 2020, Act 358, Imd. Eff. Dec. 30, 2020.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For transfer of powers and duties of the Michigan strategic fund from the director of the Michigan jobs commission to the Michigan strategic fund housed within the Michigan jobs commission, see E.R.O. No. 1995-4, compiled at MCL 408.50 of the Michigan Compiled Laws.

Popular name: Strategic Fund

125.2007a Compliance with divestment from terror act.

Sec. 7a. The board shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act.

History: Add. 2008, Act 272, Imd. Eff. Sept. 29, 2008.

Compiler's note: Strategic Fund

125.2007b Advisory committee; projects relating to port facilities; recommendations.

Sec. 7b. (1) The governor shall establish and appoint an advisory committee to make recommendations to the board regarding projects relating to port facilities.

(2) The advisory board described in subsection (1) shall contain 9 members appointed by the governor as follows:

(a) Five members representing the interests of the following geographical areas of this state as determined by the governor:

- (i) The Upper Peninsula of this state.
- (ii) The southwest area of this state.
- (iii) The northern Lower Peninsula of this state.
- (iv) The southeast area of this state.
- (v) The thumb area or midstate area of this state.

(b) One member representing the interests of the agricultural business supply and handling industry.

(c) One member representing the interests of the aggregate supply community.

(d) One member appointed from 2 or more nominees of the majority leader of the senate.

(e) One member appointed from 2 or more nominees of the speaker of the house of representatives.

(3) All of the individuals appointed to the advisory board described under subsection (2) shall be knowledgeable about port facilities or economic development as determined by the governor and shall serve at the pleasure of the governor.

History: Add. 2014, Act 507, Imd. Eff. Jan. 14, 2015.

Popular name: Strategic Fund

125.2008 Evaluation procedures; priorities; targets.

Sec. 8. (1) The fund shall develop procedures to evaluate types of business and industry and to set priorities as to which types of business and industry are most likely to provide significant opportunities for jobs and economic development in this state, consistent with the purposes of this act and of the fund. This evaluation shall include, but not be limited to, the location of the firm and the direct and indirect impact of assistance on state revenues and expenditures. Priorities shall be based on this evaluation and may give preference to any of the following:

(a) The retention of those businesses and industries which would be likely to leave the state absent economic incentives to remain.

(b) The revitalization and diversification of the economic base.

(c) Generating and retaining the greatest number of direct and indirect jobs.

(2) Based on the findings under subsection (1), the fund shall establish targets by which the operations and centers of the fund may be guided.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2009 Activities report; contents; audit; providing and posting information regarding actions under chapter 8C; posting loan or grant documentation and information regarding programs providing financial assistance; "financial assistance" defined.

Sec. 9. (1) The fund shall transmit to each member of the legislature, the governor, the clerk of the house of representatives, the secretary of the senate, and the senate and house fiscal agencies annually a report of its activities. The report shall be transmitted not later than April 10 of each year for activities in the immediately preceding state fiscal year. The report shall not include information exempt from disclosure under section 5. The report shall include, but is not limited to, all of the following for each program operated under this act:

(a) A list of entities that received financial assistance.

(b) The type of project or product being financed.

(c) The amount and type of financial assistance.

(d) For each separate form of financial assistance, all of the following:

(i) The number of new jobs committed or projected when the financial assistance was applied for.

(ii) The number of retained jobs committed or projected when the financial assistance was applied for.

(iii) The actual number of new jobs created that are not temporary employees.

(iv) The actual number of retained jobs that are not temporary employees.

(v) The average annual salary of the new jobs created that are not temporary employees.

(vi) The average annual salary of the retained jobs that are not temporary employees.

(e) The duration of the financial assistance.

(f) The amount of financial support other than state resources.

(g) Money or other revenue or property returned to the fund, including any repayments through a clawback

provision in the agreement.

(h) The status of all loans of the fund.

(i) A list of all entities that are in bankruptcy, that the fund has received actual notice of, filed by a direct recipient of an active single incentive of at least \$500,000.00. In addition, the fund shall, within 120 days after the fund receives notice, provide a report of the notice of bankruptcy on its website and shall forward the report to each of the following:

(i) The senate majority leader and the senate minority leader.

(ii) The speaker of the house and the house minority leader.

(iii) The members of the house commerce and tourism committee.

(iv) The members of the house appropriations subcommittee on general government.

(v) The members of the senate economic and small business development committee.

(vi) The members of the senate appropriations subcommittee on general government.

(j) A summary of the approximate administrative costs used to administer the programs and activities authorized under this act.

(k) Any other information as required in this section.

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

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

(4) The report described in subsection (1) must also contain all of the following that are related to a 21st century investment made by the fund board under chapter 8A:

(a) The amount of qualified venture capital fund investments, qualified mezzanine fund investments, and qualified private equity fund investments under management in this state, including year-to-year growth.

(b) The value of loan enhancement program investments, qualified private equity fund investments, qualified mezzanine fund investments, and qualified venture capital investments in qualified businesses, including year-to-year growth.

(c) A statement of the amount of money in each loan reserve fund established under the small business capital access program required under chapter 8A.

(5) The report described in subsection (1) must also include, but is not limited to, all of the following for all actions under section 88r:

(a) The total actual amount of qualified investment attracted under section 88r as reported to the fund.

(b) The total actual number of new jobs created under section 88r as reported to the fund.

(c) The actual amount of the grant, loan, or other economic assistance made under section 88r separately for each qualified business verified by the fund.

(d) For each qualified business, whether it is a new business, whether it is an expansion of an existing business, or whether it relocated from outside of this state.

(e) An evaluation of the aggregate return on investment that this state realizes on the actual qualified new jobs and actual qualified investment made by qualified businesses.

(6) The report described in subsection (1) must also include, but is not limited to, all of the following for all actions under chapter 8B:

(a) For tourism promotion efforts, all of the following:

(i) An itemized list, by market, of how much was spent, types of media purchased, and target of the tourism promotion campaign.

(ii) The return on investment analysis that utilizes existing baseline data and compares results with prior outcome evaluations funded by Travel Michigan.

(b) For business development efforts, all of the following:

(i) An itemized list, by market, of how much was spent, types of media purchased, and target of the business promotion campaign.

(ii) A performance analysis that compares the program or campaign objectives and outcome of the campaign or program.

(7) The report described in subsection (1) must also include, but is not limited to, all of the following for all actions under section 90d:

(a) The total actual amount of private investment attracted under section 90d as reported to the fund.

(b) The actual amount of the community revitalization incentives made under chapter 8C separately for each project.

(c) The total actual amount of square footage revitalized or added for each project approved under section 90d as reported to the fund. When reporting square footage, the person must report the square footage by category, including, but not limited to, commercial, residential, or retail.

(d) The aggregate increase in taxable value of all property subject to a written agreement under chapter 8C when established and recorded by the local units of government and as reported to the fund.

(e) The total actual number of residential units revitalized or added for each project approved under section 90d as reported to the fund.

(f) Each project that received a community revitalization incentive outside the fund program standards and guidelines and why the variance was given.

(8) Beginning on and after January 1, 2012, on a monthly basis the fund shall provide exact copies of all information regarding all actions under chapter 8C that is provided to board members of the fund for the purpose of monthly board meetings, subject to confidentiality under section 5, to each of the following and post that information on the fund's website:

(a) The chairperson and minority vice-chairperson of the house commerce and tourism committee.

(b) The chairperson and minority vice-chairperson of the house appropriations subcommittee on general government.

(c) The chairperson and minority vice-chairperson of the senate economic and small business development committee.

(d) The chairperson and minority vice-chairperson of the senate appropriations subcommittee on general government.

(9) The report described in subsection (1) must also include a summary of the approximate administrative costs used to administer the programs and activities authorized in the following sections:

(a) Section 88b.

(b) Section 88h.

(c) Section 90b.

(10) The report described in subsection (1) must also include, but is not limited to, all of the following for all actions for business incubators approved by the fund after January 14, 2015:

(a) The number of new jobs created and projected new job growth by current clients of the business incubator.

(b) Amounts of other funds leveraged by current clients of the business incubator.

(c) Increases in revenue for current clients of the business incubator.

(11) The report described in subsection (1) must also include the actual repayments received by the fund for failure to comply with clawback provisions of the written agreement under all of the following:

(a) Section 78.

(b) Section 88d.

(c) Section 88k.

(d) Section 88q.

(e) Section 88r.

(f) Section 90b.

(12) Beginning on July 1, 2015, the fund shall post on the fund's website a list of each contract, agreement, or other written loan or grant documentation for financial assistance under sections 88r and 90b that the fund entered into or modified in the immediately preceding fiscal year.

(13) Beginning on July 1, 2015, the fund shall post and update periodically all of the following on its website for all loans made under sections 88r and 90b:

(a) A description of the project for which the loan was made.

(b) The total amount of the loan.

(c) Whether payments on the loan balance are current or delinquent.

(d) The interest rate of the loan.

(14) Beginning July 1, 2015, the report described in subsection (1) shall also contain all of the following for each program that provides financial assistance under this act that requires a site visit:

(a) A copy of the site visit guidelines for that program.

(b) The number of site visits conducted under that program.

(c) The chief compliance officer shall review and evaluate compliance with the site visit guidelines.

(15) The fund shall post on its website and update periodically all of the information described in subsection (14).

(16) The report described in subsection (1) must also include, but is not limited to, all of the following for

all written agreements related to the good jobs for Michigan program created under chapter 8D:

- (a) The name of the authorized business.
- (b) The number of certified new jobs required to be maintained.
- (c) The amount and duration of the withholding tax capture revenues.

(17) The report described in subsection (1) must also include the activities of the critical industry program described in section 88s.

(18) The report described in subsection (1) must also include the activities of the Michigan strategic site readiness program described in section 88t.

(19) As used in this section, "financial assistance" means grants, loans, other economic assistance, and any other incentives or assistance under this act.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2011, Act 291, Imd. Eff. Dec. 21, 2011;—Am. 2012, Act 145, Imd. Eff. May 30, 2012;—Am. 2014, Act 503, Imd. Eff. Jan. 14, 2015;—Am. 2017, Act 109, Eff. Aug. 25, 2017;—Am. 2021, Act 134, Eff. Dec. 27, 2021;—Am. 2021, Act 136, Eff. Dec. 27, 2021.

Popular name: Strategic Fund

125.2010 Applicability of limitation or restriction.

Sec. 10. If the exercise of a power granted to the fund under this act is expressly limited or restricted under a particular chapter of this act, the limitation or restriction applies only when the fund is acting under that chapter.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2011 Request for assistance; approval or disapproval; reconsideration.

Sec. 11. Within 90 days after assistance for a project is requested from the fund by the filing of a written application with the board, the board shall approve or disapprove the request for assistance. Upon written request by an applicant, the board may reconsider its denial of an application for assistance under this section or may waive the 90-day deadline for approving or disapproving an application.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988.

Popular name: Strategic Fund

125.2012 Private sector financial support; associated transactions.

Sec. 12. (1) Significant private sector financial support shall be associated with all of the following transactions of the fund or any of its concerns:

- (a) A product or an economic development project for which an applicant is being provided assistance from the fund or any of its centers.
- (b) An economic development project in assistance of which, directly or indirectly, an applicant other than a municipality will use the financial support of the fund.

(2) Private sector financial support shall be associated with any loan or lease insurance, guarantee, or letter of credit being provided by the fund or any of its centers in relation to an economic development project.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2012a Loan, loan insurance, or guarantee for public work; requirements.

Sec. 12a. The fund shall not provide a loan, loan insurance, or guarantee for a public work which assists a project or exercise any of its power in relation to a project if completion of the project will cause the transfer of employment of more than 20 full-time persons from 1 or more municipalities of the state to the municipality for which the loan, loan insurance, or guarantee is provided or in which the project is located unless all of the following are met:

- (a) The fund provides notification to each municipality from which such employment is to be transferred.
- (b) If any notified municipality objects within 30 days to the transfer of the employment, the board votes by a majority vote of its members to enter the transaction notwithstanding the employment transfer and the objections to the transfer.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2013 Total debt owed to fund; limitation.

Sec. 13. The total debt owed to the fund, excluding rights and royalties under a venture capital agreement or obligations to the fund resulting from an industrial development revenue bond or note, in relation to any 1

project shall at no time exceed 5% of the total assets of the fund, except that upon approval by a 2/3 vote of the board this amount may be increased to not to exceed 10% of the assets of the fund. This section does not apply to a program or activity authorized under chapter 8A.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005.

Popular name: Strategic Fund

125.2014 Loans and transactions.

Sec. 14. A loan made by the fund pursuant to this act or through any of its centers shall not be considered a loan proscribed by section 11 of Act No. 472 of the Public Acts of 1978, being section 4.421 of the Michigan Compiled Laws. In addition, any transaction of the fund pursuant to this act or through any of its centers shall be considered a financial transaction in the ordinary course of business of the fund for purposes of Act No. 472 of the Public Acts of 1978, being sections 4.411 to 4.431 of the Michigan Compiled Laws.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund