MICHIGAN STRATEGIC FUND ACT

Act 270 of 1984

AN ACT relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts.

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History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

The People of the State of Michigan enact:

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 Notes: 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

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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.

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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 Notes: 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.

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(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,

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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).

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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.

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(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.

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(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 Notes: 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

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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

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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.

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(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.

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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 Notes: 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 Notes: 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

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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 must be transmitted not later than April 10 of each year for activities in the immediately preceding state fiscal year. The report must not include information exempt from disclosure under section 5. The report must 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, of which the fund has received actual notice, filed by a direct recipient of an active single incentive of not less than $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 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 by 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 must 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:

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(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.

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(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) must 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.

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(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) The fund shall cooperate with the department of treasury and assist in preparing the report required under section 718 of the income tax act of 1967, 1967 PA 281, MCL 206.718.

(20) 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 ;-- Am. 2024, Act 117, Eff. Apr. 2, 2025
Popular Name: Strategic Fund

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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

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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

Chapter 2

125.2021 Job development authority and Michigan economic development authority; acquisitions and succession by fund to rights, properties, obligations, and duties thereof.

Sec. 21.

Upon the expiration of 180 days after the effective date of this act, the fund shall acquire and succeed to all of the rights, properties, obligations, and duties of the job development authority under the provisions of Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws, and the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws, including the right to receive distributions required pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, to the Michigan economic development authority for deposit in either the Michigan economic development fund or the research center fund. Upon the expiration of 180 days after the effective date of this act, all property of the job development authority and the Michigan economic development authority shall be transferred to and shall be the property of the fund, subject to any liens thereon and restrictions and limitations on the use thereof, heretofore provided by the job development authority and the Michigan economic development authority, respectively. The members, directors, and officers of the job development authority and the Michigan economic development authority, and the department of commerce, shall execute such conveyances, assignments, and transfers as may be necessary or appropriate to accomplish the foregoing. Upon the expiration of 180 days after the effective date of this act, the fund shall be considered to be the owner of all property of the job development authority and the Michigan economic development authority. Upon the expiration of 180 days after the effective date of this act, the fund shall assume and be liable for all of the obligations, promises, covenants, commitments, and other requirements of the job development authority and the Michigan economic development authority under Act No. 301 of the Public Acts of 1975 and Act No. 70 of the Public Acts of 1982, respectively, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the job development authority and the Michigan economic development authority under any of its agreements, indentures, or other instruments and the foregoing acts. All actions, commitments, and proceedings, including but not limited to industrial development revenue bond projects for which an inducement resolution has been adopted, of the job development authority and the Michigan economic development authority made, given, or undertaken before the date of assumption by the fund under this section are hereby ratified, confirmed, and validated upon assumption by the fund. All actions, commitments, or proceedings undertaken, and all industrial development revenue bond projects for which an inducement resolution has been adopted by the job development

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authority or the Michigan economic development authority shall, and all actions, commitments, or proceedings of these authorities heretofore in the process of being undertaken by but not yet a commitment or obligation of the respective authority may, from and after the date of assumption by the fund under this section, be undertaken and completed by the fund in the manner and at the times provided in this act or other applicable law and in any agreements made before the date of assumption by the fund under this section by the job development authority under Act No. 301 of the Public Acts of 1975 or by the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, and such actions undertaken and completed by the fund shall be considered to be the actions of the job development authority and the Michigan economic development authority, respectively. Upon the expiration of 180 days after the effective date of this act and thereafter, for purposes of the resolution of the Michigan economic development authority authorizing issuance of its economic development revenue bonds (oil and gas revenues), series 1982 A, dated December 1, 1982, this act and any other acts adopted which relate to the fund shall be considered an amendment to Act No. 70 of the Public Acts of 1982.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2022 Economic development fund; succession by fund to ownership and operation thereof; payments pursuant to heritage trust act of 1982; appropriation; utilization and expenditure of money; priorities; transfer and repayments of money; utilization of proceeds from bonds or notes.

Sec. 22.

(1) Upon the expiration of 180 days after the effective date of this act, the fund shall succeed to the ownership and operation of the economic development fund created by Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws. Payments into the economic development fund pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, shall continue to be made as provided by that act upon and after the fund succeeds to the ownership and operation of the economic development fund.

(2) The fund shall pay into the economic development fund any money appropriated or otherwise provided by this state for the economic development fund and any other money made available to the fund for the economic development fund from any other source, public or private.

(3) After the fund succeeds to ownership and operation of the economic development fund, money in the economic development fund shall be utilized to achieve the purposes and objectives of the fund, this act, and other acts related to the fund and shall be expended in the following order of priority:

(a) To pay the principal and interest on bonds and notes issued pursuant to section 7 of Act No. 70 of the Public Acts of 1982, being section 125.1907 of the Michigan Compiled Laws, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

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(b) To pay the principal and interest on bonds and notes issued by the fund, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

(c) To pay the costs of administration of the authority including the cost of administration of the economic development fund.

(d) To make a transfer to any of the accounts or funds created or operated by the fund in such amounts and at such times as the fund shall by resolution determine.

(4) After the fund succeeds to ownership and operation of the economic development fund, money previously transferred from the economic development fund to other funds created by Act No. 70 of the Public Acts of 1982 but not yet expended or obligated shall be transferred to the economic development fund or to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d).

(5) After the fund succeeds to ownership and operation of the economic development fund, repayments of money expended from a fund created by Act No. 70 of the Public Acts of 1982 shall be made to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d), as specified by the fund.

(6) Money deposited in the economic development fund from the proceeds of a bond or note of the fund or to which the fund succeeds pledging money directly derived from payments from the heritage trust fund created by Act No. 327 of the Public Acts of 1982, shall be utilized by the fund only in carrying out its powers in relation to an economic development project, to an export related transaction pursuant to section 7(r), to an enterprise eligible to receive financial aid from the research center fund, or to a process, technique, product, or device eligible to receive financial aid from the product development program account.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2023 Bonds or notes.

Sec. 23.

(1) The fund may borrow money and issue bonds or notes for the following purposes:

(a) To provide sufficient funds for achieving the fund's purposes and objectives including, but not limited to, amounts necessary to pay the costs of acquiring a project or part of a project; to make loans for the costs of a project or part of a project, including a Special Purpose FWC Settlement Entity; to make loans pursuant to section 7(r) for an export related transaction; for making grants; for providing money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; for making working capital loans; for all other expenditures of the fund incident to and necessary or convenient to carry out the fund's purposes, objectives, and powers; and for any combination of the foregoing. The cost of a project may include administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees that are necessary for the project.

(b) To refund bonds or notes of the fund issued under this act, of the job development authority issued under former 1975 PA 301, of the Michigan economic development authority issued under former 1982 PA 70, of an economic development corporation issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, or of a municipality issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of the issuance of the refunding bonds or notes; and to issue bonds or

notes partly to refund the bonds or notes and partly for any other purpose provided for by this section.

(c) To pay the costs of issuance of bonds or notes under this act; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment of that interest as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in the amount determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the board, shall bear the date or dates, and shall mature at the time or times not exceeding 50 years from the date of issuance, as the resolution may provide. The bonds and notes shall bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest, as provided in the resolution. The bonds and notes shall be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be transferable, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of prior redemption at the option of the fund or the holders of the bonds and notes as the resolution or resolutions may provide. The bonds and notes of the fund may be sold at public or private sale at the price or prices determined by the fund. For purposes of 1966 PA 326, MCL 438.31 to 438.33, this act and other acts applicable to the fund shall regulate the rate of interest payable or charged by the fund, and 1966 PA 326, MCL 438.31 to 438.33, does not apply. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be 1 or more of the following:

(a) Made the subject of a put or agreement to repurchase by the fund or others.

(b) Secured by a letter of credit or by any other collateral that the resolution may authorize.

(c) Reissued by the fund once reacquired by the fund pursuant to any put or repurchase agreement.

(4) The fund may authorize by resolution any member of the board to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes.

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the fund or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as may otherwise be expressly provided by the fund, every issue of its notes or bonds shall be general obligations of the fund payable out of revenues, properties, or money of the fund, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security for the notes or bonds.

(6) The notes or bonds of the fund are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994, subject only to the provisions of the notes or bonds for registration.

(7) Bonds or notes issued by the fund are not subject to the terms of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds or notes issued by the fund

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are not required to be registered. A filing of a bond or note of the fund is not required under the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703.

(8) A resolution authorizing notes or bonds may contain any or all of the following covenants, which shall be a part of the contract with the holders of the notes or bonds:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the fund, or all or a part of the money received in payment of lease rentals, or loans and interest on the loans, and other money received or to be received to secure the payment of the notes or bonds or of an issue of the notes or bonds, subject to agreements with bondholders or noteholders as may then exist.

(b) A pledge of all or a part of the assets of the fund, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist.

(c) A pledge of a loan, grant, or contribution from the federal, state, or local government, or source in aid of a project as provided for in this act.

(d) A pledge of money directly derived from payments from the heritage trust fund created by the heritage trust fund act of 1982, former 1982 PA 327.

(e) The use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the fund.

(f) The establishment and setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds subject to this act.

(g) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes.

(h) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured. Additional bonds pledging money derived from the heritage trust fund as provided in subdivision (d) may only be issued if the issuance meets the requirements of section 204 of the resolution adopted by the Michigan economic development authority authorizing issuance of its bonds dated December 1, 1982, and any requirement of former 1982 PA 70, provided that these requirements do not apply if those bonds have been defeased.

(i) The procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent to an amendment or abrogation, and the manner in which the consent may be given.

(j) Vest in a trustee or a secured party the property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the fund may determine necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the fund with any trustee who may be located inside or outside this state to accomplish any of the foregoing.

(k) Pay maintenance and repair costs of a project.

(l) The insurance to be carried on a project and the use and disposition of insurance money and condemnation awards.

(m) The terms, conditions, and agreements upon which the holder of the bonds, or a portion of the bonds, is entitled to the appointment of a receiver by the circuit court. A receiver who is appointed may enter and take possession of the project and maintain it or lease or sell the project for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the fund.

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(n) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(9) A pledge made by the fund is valid and binding from the time the pledge is made. The money or property so pledged and thereafter received by the fund is immediately subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge is valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the fund and is valid and binding as against the transfer of the money or property pledged, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded.

(10) A member of the board or a person executing the notes or bonds is not liable personally on the notes or bonds and is not subject to personal liability of accountability by reason of the issuance of the notes or bonds.

(11) This state is not liable on notes or bonds of the fund, and the notes or bonds shall not be considered a debt of this state. The notes and bonds shall contain on their face a statement indicating this fact.

(12) The notes and bonds of the fund are securities in which the public officers and bodies of this state; municipalities and municipal subdivisions; insurance companies, associations, and other persons carrying on an insurance business; banks, trust companies, savings banks, savings associations, and savings and loan associations; investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and all other persons who are authorized to invest in bonds or other obligations of this state may properly and legally invest funds.

(13) The property of the fund and its income and operation is exempt from all taxation by this state or any of its political subdivisions, and all bonds and notes of the fund, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the fund under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the notes and bonds, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

(14) The issuance of bonds and notes under this act is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(15) For the purpose of more effectively managing its debt service, the fund may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by the board by resolution.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988 ;-- Am. 2002, Act 556, Imd. Eff. July 26, 2002 ;-- Am. 2009, Act 85, Imd. Eff. Aug. 31, 2009 ;-- Am. 2014, Act 507, Imd. Eff. Jan. 14, 2015 ;-- Am. 2020, Act 358, Imd. Eff. Dec. 30, 2020
Popular Name: Strategic Fund

125.2024 Contracts for management and operation of fund.

Sec. 24.

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The fund, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2025 Actions by fund; equal opportunity criteria; considerations when entering transaction.

Sec. 25.

All actions taken by the fund shall be necessary or convenient to achieve the purposes and objectives of this act or of the fund. The fund shall establish criteria to assure equal opportunity to women, minorities, and small businesses. When deciding whether to enter into a transaction, the fund shall consider whether:

(a) The project is economically sound.
(b) The project can be successfully completed.
(c) The project is located or will locate in this state.
(d) The project can be partially financed through ordinary means at reasonable terms.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2026 Staff and other support; cooperation of state agencies.

Sec. 26.

(1) If requested by the fund, the department of commerce shall provide staff and other support to the Michigan strategic fund sufficient to carry out its duties, powers, and responsibilities.

(2) All departments and agencies of state government shall provide full cooperation to the fund in the performance of its duties, powers, and responsibilities.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

CHAPTER 2A

125.2029 Definitions.

Sec. 29.

As used in this chapter:

(a) "Commissioner" means the Michigan film commissioner created in section 29b.
(b) "Council" means the Michigan film office advisory council created in section 29c.
(c) "Local film office" means an office, agency, bureau, or department of a political subdivision of this state that seeks to promote film production within the political subdivision and that is funded principally by the political subdivision.
(d) "Office" means the Michigan film office created in section 29a.
(e) "Promotion fund" means the Michigan film promotion fund created under section 29d.

History: Add. 2008, Act 75, Eff. May 4, 2008
Compiler's Notes: 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

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strategic fund to new board of directors, see E.R.O. No. 2014-6, compiled at MCL 125.1995.
Popular Name: Strategic Fund

125.2029a Michigan film office; creation in fund; successor office; duties; powers; budget, procurement, and management functions; administration by commissioner and president of fund; support staff; cooperation with departments, agencies, boards, commissions, and officers.

Sec. 29a.

(1) The Michigan film office is created in the fund. The office shall be the successor to any authority, powers, duties, functions, or responsibilities of the Michigan film office under former section 21 of the history, arts, and libraries act, 2001 PA 63.

(2) The office may do all of the following:

(a) Promote and market locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.

(b) Provide to interested persons descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.

(c) Provide technical assistance to the film, television, and digital media industry in locating and securing the use of locations, talent, crews, facilities, and services in this state.

(d) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state and local efforts to attract film, digital media, and television production in this state.

(e) Serve as this state's chief liaison with the film, digital media, and television production industry and with other governmental units and agencies for the purpose of promoting, encouraging, and facilitating film, digital media, and television production in this state.

(f) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(g) Assist film, digital media, and television producers with securing location authorization and other appropriate services connected with film, digital media, and television production in this state.

(h) Scout potential film locations for national and international film, digital media, and television prospects.

(i) Escort film, digital media, and television producers on location scouting trips.

(j) Serve as a liaison between film, digital media, and television producers, state agencies, local agencies, federal agencies, community organizations and leaders, and the film, digital media, and television industry in this state.

(k) Assist film, digital media, and television producers in securing permits to film at specific locations in this state and in obtaining needed services related to the production of a film, digital media, or a television program.

(l) Represent this state at film, digital media, and television industry trade shows and film festivals.

(m) Sponsor workshops or conferences on topics relating to filmmaking, including, but not limited to, screenwriting, film financing, and the preparation of communities to attract and assist film, digital media, and television productions in this state.

(n) Encourage cooperation between local, state, and federal government agencies and local film offices in the location and production of films, digital media, and television programming in this state.

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(o) Coordinate activities with local film offices.

(p) Facilitate cooperation from state departments and agencies, local governments, local film offices, federal agencies, and private sector entities in the location and production of films, digital media, and television programming in this state.

(q) Prepare, maintain, and distribute a directory of persons, firms, and governmental agencies available to assist in the production of films, digital media, and television programming in this state.

(r) Prepare, maintain, and distribute a digital library depicting the variety and extent of the locations within this state for film, digital media, and television productions.

(s) Prepare and distribute appropriate promotional and informational materials that do all of the following:

(i) Describe desirable locations in this state for film, digital media, and television production.

(ii) Explain the benefits and advantages of producing films, digital media, and television productions in this state.

(iii) Detail services and assistance available from state government, from local film offices, and from the film, digital media, and television industry in this state.

(t) Solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity. The film office shall disclose the identity and amount of all gifts, grants, and other donations on its website.

(u) Employ technical experts, other officers, agents, or employees, permanent or temporary, paid from the funds of the office. The office shall determine the qualifications, duties, and compensation of those the office employs.

(v) Contract for goods and services and engage personnel as necessary to perform the duties of the office under this chapter.

(w) Study, develop, and prepare reports or plans the office considers necessary to assist the office in the exercise of its powers under this chapter and to monitor and evaluate progress under this chapter.

(x) Exercise the duties and responsibilities vested in the office under this chapter and all of the following:

(i) Section 88d.

(ii) Section 88j(3)(e).

(iii) Section 4cc of the general sales tax act, 1933 PA 167, MCL 205.54cc.

(iv) Sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(y) Create and operate a film and digital media production assistance program to encourage film and digital media production throughout this state as provided in section 29h.

(z) All other things necessary or convenient to achieve the objectives and purposes of the office, this chapter, or other laws that relate to the purposes and responsibilities of the office.

(3) The enumeration of a power in this chapter shall not be construed as a limitation upon the general powers of the office. The powers granted under this chapter are in addition to those powers granted by any other law.

(4) The commissioner and the president of the fund shall cooperate in administering the budget, procurement, and related management functions of the office. The fund may provide the office with staff support and other services to assist the office in performing the functions and duties of the office.

(5) State departments, agencies, boards, commissions, and officers and local film offices shall cooperate with the office in the performance of the office's duties under this chapter.

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History: Add. 2008, Act 75, Eff. May 4, 2008 ;-- Am. 2011, Act 291, Imd. Eff. Dec. 21, 2011
Popular Name: Strategic Fund

125.2029b Michigan film commissioner; member of state classified service; terms and conditions of employment; agreement; term; oath of office; service as advisor; duties; meetings; exercise of powers, duties, functions, and responsibilities; rules.

Sec. 29b.

(1) The head of the office shall be the Michigan film commissioner. The commissioner shall be a member of the state classified service. The terms and conditions of the employment of the commissioner shall be governed by a senior executive service limited term employment agreement and the rules and regulations of the civil service commission governing the senior executive service. The term of the agreement shall not exceed 2 years and shall end on December 31 of an even-numbered year consistent with the rules and regulations of the civil service commission. The governor shall be the appointing authority for the commissioner. Before entering upon the duties of his or her office, the commissioner shall take and file the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963.

(2) The commissioner shall serve as an advisor to the governor on matters relating to films and other digital media. The commissioner may report directly to the governor and the president of the fund on matters relating to the office, to the council, and to films and digital media generally.

(3) The commissioner shall supervise, and be responsible for, the performance of the functions of the office under this chapter. The commissioner shall perform all duties vested in the commissioner under the laws of this state. The commissioner shall consult with the president of the fund on activities of the office affecting the fund.

(4) The commissioner shall attend the meetings of the council and provide the council and the president of the fund with regular reports and other information describing the activities of the office.

(5) Except as otherwise provided in this chapter, the commissioner shall exercise his or her powers, duties, functions, and responsibilities under this chapter independently of the fund.

(6) The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as the commissioner deems necessary to execute the duties and responsibilities of the office.

History: Add. 2008, Act 75, Eff. May 4, 2008
Popular Name: Strategic Fund

125.2029c Michigan film office advisory council; creation; membership; chairperson, vice-chairperson, and officers; terms; vacancy; compensation; duties; public meeting; quorum; writings; confidentiality; use of information for personal gain prohibited; adoption of code of ethics.

Sec. 29c.

(1) The Michigan film office advisory council is created in the office. The council shall consist of the following members:

(a) Fourteen individuals appointed by the governor as follows:

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(i) Five members associated with broad areas of film, digital media, and motion picture making, production of television programs and commercials, and related industries in Michigan.

(ii) Two members from film, television, digital media, or related industry unions.

(iii) One member representing theater owners based in this state.

(iv) One member representing local film offices or local units of government.

(v) One individual selected from a list of 3 or more nominees submitted by the speaker of the house of representatives.

(vi) One individual selected from a list of 3 or more nominees submitted by the senate majority leader.

(vii) Three other residents of this state, including at least 2 residents not active in the film, television, digital media, and related industries.

(b) The commissioner, who shall serve as an ex officio nonvoting member of the council.

(c) The president of the fund.

(2) The governor shall designate 1 member of the council to serve as chairperson of the council at the pleasure of the governor. The members of the council may elect a member of the council to serve as vice-chairperson of the council and may elect other members of the council as officers of the council as the council considers appropriate.

(3) Except as provided in subsection (4), the term of office of each member of the council appointed by the governor under subsection (1)(a) shall be 4 years.

(4) Of the members of the council initially appointed by the governor under subsection (1)(a), 4 shall be appointed for terms expiring on September 30, 2008, 4 shall be appointed for terms expiring on September 30, 2009, 3 shall be appointed for terms expiring on September 30, 2010, and 3 shall be appointed for terms expiring on September 30, 2011.

(5) If a vacancy occurs on the council other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

(6) Members of the council shall serve without compensation but, subject to available appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the council.

(7) The council may do 1 or more of the following:

(a) Advise the office, the fund, the governor, and the legislature on how to promote and market this state's locations, crews, facilities, and technical production facilities and other services used by film, television, digital media, and related industries.

(b) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state efforts to attract film, digital media, television, and related production to this state.

(c) Assist the office and the fund in promoting, encouraging, and facilitating film, digital media, television, and related production in this state.

(d) Develop strategies and methods to attract film, digital media, television, and related business to this state.

(e) Under direction of the office, provide assistance to film, digital media, television, and related service personnel who use this state as a business location.

(f) Sponsor and support official functions for film, digital media, television, and related industries.

(g) Assist in the establishment of film, digital media, and television ventures and such related matters as the office considers appropriate.

(h) Make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The council may also consult with outside experts in order to perform its duties,

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including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

(i) Provide other assistance or advice relating to the duties of the council under this chapter as requested by the commissioner.

(8) The council shall meet not less than 3 times per year and at the call of its chairperson.

(9) A meeting of the council shall be conducted as a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the date, time, and place of a public meeting of the council shall be given as prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A majority of the members of the council serving constitute a quorum for the transaction of the council's business. The council shall act by a majority vote of its serving members.

(10) A writing prepared, owned, used, in the possession of, or retained by the council when performing business of the council is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that such a writing may be kept confidential for up to 6 months after the date a request to inspect, obtain, or copy the writing is received, if, in the judgment of the chairperson of the council, disclosure of the record would compromise or otherwise undermine the ability of Michigan industry to compete in the promotion and marketing of Michigan's locations, crews, facilities, and technical production and other services.

(11) A member of the council shall not use for personal gain information obtained by the member while performing business of the council, nor shall a member of the council disclose confidential information obtained by the member while conducting council business, except as necessary to perform council business. The council shall adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The council shall require that any member of the council with a direct or indirect interest in any matter before the council disclose the member's interest to the council before the council takes any action on the matter.

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History: Add. 2008, Act 75, Eff. May 4, 2008
Compiler's Notes: For the transfer of the authority, powers, duties, functions, etc. of the Michigan film office advisory council to the department of labor and economic opportunity and the abolishment of the film office advisory council, see E.R.O. No. 2025-2, compiled at MCL 16.736.
Popular Name: Strategic Fund

125.2029d Michigan film promotion fund; creation within state treasury; receipt of money or other assets; investment; money remaining in fund at close of fiscal year; expenditure; transfer and deposit of funds.

Sec. 29d.

(1) The Michigan film promotion fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the promotion fund, including federal funds, other state revenues, gifts, bequests, and other donations, including, but not limited to, all of the following:

(a) Fees deposited in the promotion fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(b) Proceeds deposited in the promotion fund under section 88d.

(c) Funds appropriated to create and operate the film and digital media production assistance program.

(3) The state treasurer shall direct the investment of the promotion fund and shall credit to the promotion fund interest and earnings from promotion fund investments.

(4) Money in the promotion fund at the close of a fiscal year shall remain in the promotion fund and shall not lapse to the general fund.

(5) Money in the promotion fund may be expended, upon appropriation, to support the functions of the office under this chapter and other applicable law and for purposes authorized under this chapter.

(6) Beginning October 1, 2011, the fund shall transfer to and deposit in the promotion fund all money appropriated for Michigan strategic fund – film incentive funding under section 1201 of 2011 PA 63.

(7) For the fiscal year ending September 30, 2020 only, $37,126,100.00 of the money in the Michigan film promotion fund is transferred to and must be deposited into the general fund.

History: Add. 2008, Act 75, Eff. May 4, 2008 ;-- Am. 2011, Act 291, Imd. Eff. Dec. 21, 2011 ;-- Am. 2020, Act 199, Imd. Eff. Oct. 15, 2020
Popular Name: Strategic Fund

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125.2029e Michigan economic development corporation; joint exercise of power.

Sec. 29e.

The powers and duties of the fund under this chapter may be exercised and performed by the Michigan economic development corporation as a joint exercise of power authorized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, pursuant to the contractual interlocal agreement effective April 5, 1999, as 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, or under an intergovernmental agreement with local film offices or other governmental entities. This section does not authorize the office to exercise the powers and duties of the fund.

History: Add. 2008, Act 75, Eff. May 4, 2008
Popular Name: Strategic Fund

125.2029f Representation as employee or agent of office, commissioner, or council; authorization required; violation as misdemeanor; penalty.

Sec. 29f.

(1) A person who is not an agent or employee of the office, commissioner, or council shall not represent that the person is an employee or agent of the office, commissioner, or council without the express authorization of the commissioner.

(2) A person who violates this section is guilty of a misdemeanor and may be imprisoned for not more than 93 days and shall be fined not more than $5,000.00.

History: Add. 2008, Act 75, Eff. May 4, 2008
Popular Name: Strategic Fund

125.2029g Transfer of records, personnel, property, grants, and unexpended balances.

Sec. 29g.

(1) All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities vested in the office

under this chapter are transferred to the office. The state budget director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year ending September 30, 2008.

(2) The unexpended balances of appropriations transferred to the office under subsection (1) include, but are not limited to, any funds appropriated to the office under section 88j(3)(e) remaining in a work project on the effective date of the amendatory act that added this subsection.

History: Add. 2008, Act 75, Eff. May 4, 2008
Popular Name: Strategic Fund

125.2029h Film and digital media production assistance program; funding prohibited; applications; priority; provisions; submission of application; form; fee; agreement; determination; factors; award; fraudulent or false information; penalty; disclosure of information, records, or other data; performance dashboard; limitation for above the line personnel; hiring Michigan residents; waiver of Michigan resident hiring requirements; findings and declaration of legislature; limitation on use of annual appropriation; certification of certain information by commissioner; reversion of money to general fund; definitions.

Sec. 29h.

(1) The Michigan film office shall create and operate the film and digital media production assistance program. The film and digital media production assistance program may provide funds to eligible production companies for direct production expenditures or qualified personnel expenditures for state certified qualified productions. Beginning on the effective date of the amendatory act that added this sentence, the Michigan film office and the fund shall not provide funding under a new agreement, or increase funding through an amendment to an existing agreement, for direct production expenditures, Michigan personnel expenditures, crew personnel expenditures, or qualified personnel expenditures under this section.

(2) If the office receives applications that would exceed what the office can award in any year, the office may prioritize that application for funding in the subsequent year.

(3) The film and digital media production assistance program shall provide for all of the following:

(a) Funding shall be provided only to reimburse direct production expenditures or qualified personnel expenditures.

(b) To be eligible to apply for funding, the eligible production company shall have direct production expenditures or qualified personnel expenditures, or a combination of direct production expenditures and qualified personnel expenditures, of $100,000.00 or more.

(c) To be eligible to apply for funding, the eligible production company shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(d) Except as otherwise provided in this section, for state certified qualified production expenditures on or before December 1, 2014, funding as provided in the agreement if that agreement was entered into on or before December 1, 2014. Except as otherwise provided in this section, for state certified qualified production expenditures after December 1, 2014, an agreement under this section shall provide for funding equal to the sum of the following:

(i) 25% of direct production expenditures and qualified personnel expenditures.

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(ii) In addition to the expenditures described in subparagraph (i), 3% of direct production expenditures and qualified personnel expenditures at a qualified facility or 10% of direct production expenditures and qualified personnel expenditures at a postproduction facility for a qualified production produced at the facility.

(e) A television show may submit an application for 1 or more successive seasons, notwithstanding the fact that the successive seasons have not been ordered. The successive season's direct production expenditures and qualified personnel expenditures shall be based on the current season's estimated expenditures. Upon the completion of production of each season, a television show may submit an application for successive additional seasons. If a television show received funding under this section and completed the production of that television show season, the television show shall receive a preference for funding the immediately succeeding season for that television show.

(f) As a separate and distinct part of the film and digital media production assistance program, the office may create a program to directly support and promote qualified facilities and other infrastructure throughout this state.

(g) That not less than 10% of the funding awarded under this section is awarded for qualified productions that are motion pictures, documentaries, or television series with a budget of less than $15,000,000.00.

(4) An eligible production company intending to produce a qualified production in this state may submit an application for funding under this section to the Michigan film office. The request shall be submitted in a form prescribed by the office and shall be accompanied by an application fee equal to 0.2% of the funding requested but not less than $200.00 and not more than $5,000.00 and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. If an eligible production company is producing a qualified production at a qualified facility, a copy of the agreement between the eligible production company and the qualified facility shall be provided to the office before the office enters into an agreement to award funding under this section. The office shall process each application within 21 days after the application is complete as determined by the office. As part of the application, the company shall estimate direct production expenditures and qualified personnel expenditures for an identified qualified production. If the office determines to award funding under this section to an eligible production company, the office with the concurrence of the fund president or his or her designee shall enter into an agreement under this section. The agreement shall include, but is not limited to, all of the following:

(a) A requirement that the eligible production company commence work in this state on the identified qualified production within 90 days of the date of the agreement or else the agreement shall expire. However, upon request submitted by the company based on good cause, the office may extend the period for commencement of work in this state for up to an additional 90 days.

(b) A statement identifying the company and the qualified production that the company intends to produce in whole or in part in this state.

(c) A unique number assigned to the qualified production by the office.

(d) A requirement that the qualified production not depict obscene matter or an obscene performance.

(e) If the qualified production is a long-form narrative film production, a requirement that the qualified production include within its presentation worldwide for the life of the qualified production an acknowledgment as provided by the office that promotes the Pure Michigan

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tourism campaign or any successor campaign. If the qualified production is a television show, a requirement that the qualified production include within each broadcast of 30 minutes or longer an acknowledgment as provided by the office that promotes the Pure Michigan tourism campaign or any successor campaign. If the qualified production is a music video, a requirement that the music video include an acknowledgment as provided by the office that promotes the Pure Michigan tourism campaign or any successor campaign. If the qualified production is an interactive game, a requirement that the qualified production include with each unit distributed and online promotions an acknowledgment as provided by the office that promotes the Pure Michigan tourism campaign or any successor campaign. If the qualified production is a long-form narrative film production, the office also may require that, if the qualified production is distributed by digital video disc or other digital media for the secondary market, the qualified production include a video between 30 and 60 seconds long in a form approved by the office that promotes the Pure Michigan tourism campaign or any successor campaign.

(f) A requirement that the company provide the office with the information and independent certification the office deems necessary to verify direct production expenditures and qualified personnel expenditures, and eligibility for funding under this section, which may include a report of direct production expenditures and qualified personnel expenditures for the qualified production audited and certified by an independent certified public accountant.

(g) If determined to be necessary by the office, a provision for addressing expenditures in excess of those identified in the agreement.

(h) A requirement that residual payments to above the line personnel, personal service corporations, loan out companies, professional employer organizations, limited liability companies, corporations, or other entities for a qualified production are subject to taxation in this state under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713. With respect to residual payments not otherwise subject to withholding under section 703 of the income tax act of 1967, 1967 PA 281, MCL 206.703, the eligible production company, affiliate entity, or its successor company shall elect to either, for a period of not less than 12 years following theatrical release of the qualified production, withhold taxes from those residual payments and pay to this state the amount provided under section 51 of the income tax act of 1967, 1967 PA 281, MCL 206.51, or require above the line personnel paid directly or through, except as otherwise provided in this subdivision, personal services corporations, loan out companies, professional employer organizations, limited liability companies, corporations, or other entities for the services of above the line personnel receiving payments for direct production expenditures or qualified personnel expenditures under this section to register to do business under the laws of this state. To the extent that the production company elects not to withhold, it shall notify the above the line personnel of their registration obligations in writing at the time of engagement for their services. Residual payments shall include deferred, residual, or contingent compensation, royalties, or profit participation relating to the qualified production. A personal service corporation, loan out company, professional employer organization, limited liability company, corporation, or other entity is exempt from the requirement to be registered to do business under the laws of this state if it receives less than $250,000.00 for the above the line services of an actor during the period that the qualified production is produced in this state and any related residual payments are based solely on a collective bargaining agreement. As used in this subdivision, "loan out company" means a personal service corporation or other entity contracted with and retained by the production company to provide individual personnel, including artists, crew, actors, directors, and producers, for the performance of services used directly in a production, but not including entities retained by the production

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company to provide tangible property or outside contractor service, including catering, construction, trailers, equipment, and transportation.

(5) In determining whether to award funding under this section, the Michigan film office shall consider all of the following:

(a) The potential that, in the absence of funding, the qualified production will be produced in a location other than this state.

(b) The extent to which the qualified production may have the effect of promoting this state as a tourist destination.

(c) The extent to which the qualified production may have the effect of promoting economic development or job creation in this state.

(d) The extent to which state funding will attract private investment for the production of qualified productions in this state.

(e) The record of the eligible production company in completing commitments to engage in a qualified production.

(f) The extent to which the qualified production will employ Michigan residents.

(g) Whether the eligible production company will hold a premiere in this state for the qualified production.

(h) Whether the eligible production company will make film trailers and clips available to the office for the tourism campaign or any successor campaign to promote the qualified production and the Pure Michigan tourism campaign or any successor campaign.

(6) If the Michigan film office determines that an eligible production company has complied with the terms of an agreement entered into under this section, the office shall award funding as provided in this section. A person that willfully submits information under this section that the person knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of funding provided to the person under this section. A penalty collected under this section shall be deposited in the Michigan film promotion fund.

(7) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the applicant and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage. For purposes of this subsection, information or records that describe commercial and financial operations do not include that portion of information or records that include any expenses that qualify under this section as direct production expenditures or qualified personnel expenditures.

(8) The office shall produce a performance dashboard for the assistance authorized by this section. The performance dashboard shall be made available by the office on the fund's website and shall be updated at least annually. The performance dashboard shall include the following measures:

(a) Direct and indirect economic impacts in this state of the assistance authorized by this section.

(b) Direct and indirect job creation attributable to the assistance authorized by this section.

(c) Direct and indirect private investment in this state attributable to the assistance authorized by this section.

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(d) Any other measures considered relevant by the office or the Michigan film advisory council.

(e) The name of each eligible production company and the amount of each incentive disbursed for each state certified qualified production.

(9) Funding under this section for above the line personnel shall not exceed 30% of total funding under this section for each qualified production.

(10) To be eligible for funding under this section, except as otherwise provided in subsection (11), Michigan residents shall be hired to work on qualified productions as follows:

(a) Through September 30, 2017, at a ratio of not less than 1 Michigan resident for every nonresident hired.

(b) Beginning October 1, 2017 through September 30, 2020, at a ratio of not less than 1.5 Michigan residents for every nonresident hired.

(11) A producer may apply to the Michigan economic development corporation for a waiver of the Michigan resident hiring requirements described in subsection (10), based on the unavailability of qualified Michigan residents. The Michigan economic development corporation may waive the Michigan resident hiring requirement described in subsection (10) if the Michigan economic development corporation determines that there is an insufficient number of qualified Michigan residents for the qualified production.

(12) The legislature finds and declares that funding authorized under this section to encourage diversification of the economy, to encourage film production, to encourage investment, and to encourage the creation of jobs in this state is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits, film production, investment, and the creation of jobs resulting from this section shall accrue substantially within this state.

(13) The fund board may authorize the use of money appropriated for the program authorized by this section for administration of the program. However, the fund board shall not use more than 4% of the annual appropriation for administering the program authorized under this section.

(14) At the end of each fiscal year, the commissioner shall certify the total amount of unclaimed certificates of completion, agreements where work has not commenced as required in subsection (4), and agreements for qualified productions the commissioner reasonably believes will not be completed. Funding allocated for qualified productions described in the preceding sentence may be reallocated.

(15) Notwithstanding any other provision in section 29d, after September 30, 2016 after all payments and obligations under this section have been satisfied, the money remaining in the Michigan film promotion fund shall revert back to the general fund of this state.

(16) As used in this section:

(a) "Above the line personnel" means a producer, director, writer, actor, other than extras and stunt performers, or other similar personnel whose compensation is negotiated prior to the start of the production.

(b) "Below the line crew" means persons employed by an eligible production company for state certified qualified production expenditures made after production begins and before production is completed, including, but not limited to, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, cook, driver, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor,

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sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, stunt performer, and other similar personnel. Below the line crew does not include a producer, director, writer, actor, or other similar personnel.

(c) "Direct production expenditure" means a development, preproduction, production, or postproduction expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state. Direct production expenditure does not include out-of-state production costs that are made in this state even if the costs are passed through a third-party company in this state or payments made by an eligible production company to its parent company, affiliate, subsidiary, or joint venture partner except where the payments are for transactions entered into pursuant to arm's-length negotiations and which reflect a commercially reasonable price for the goods and services purchased. A direct production expenditure must have true economic substance within the state. Direct production expenditure does not include a prize payable to participants in a game show; an expenditure for entertainment, amusement, or recreation; or an expenditure of more than $2,500.00 for the purchase of artwork or jewelry used in a production. Direct production expenditure does not include a qualified personnel expenditure. Direct production expenditure includes payments to vendors doing business in this state to purchase or use tangible personal property in producing the qualified production or to purchase services relating to the production or development of the qualified production, including all of the following:

(i) Production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, makeup, makeup accessories, photography, sound synchronization, special effects, visual effects, audio effects, digital effects, film processing, music, sound mixing, editing, interactive game development and programming, and related services and materials.

(ii) Use of facilities or equipment, use of soundstages or studios, location fees, and related services and materials.

(iii) Catering, food, lodging, and related services and materials.

(iv) Use of vehicles, which may include chartered aircraft based in this state used for transportation in this state directly attributable to production of a qualified production, but may not include the chartering of aircraft for transportation outside of this state.

(v) Commercial airfare if purchased through a travel agency or travel company based in this state for travel to this state or within this state directly attributable to production or development of a qualified production.

(vi) Insurance coverage or bonding if purchased from an insurance agent based in this state.

(vii) Interest on a loan, if the entity from which the financing is obtained is a public, private, or institutional entity with the requisite level of physical presence in this state that is not related to or affiliated with the eligible production company or any above the line personnel or cast members, and whose principal business activity is the lending of money to individuals and businesses. In addition, the financing shall be a good faith loan, payable by the eligible production company, evidenced by an enforceable promissory note or other debt instrument with clear repayment obligations and bearing a market-related rate of interest.

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(viii) Other expenditures for production of a qualified production in accordance with generally accepted entertainment industry practices.

(d) "Eligible production company" or "company" means an entity in the business of producing qualified productions or for interactive games in the business of developing interactive games, but does not include an entity that is more than 30% owned, affiliated, or controlled by an entity or individual who is in default on a loan made by this state, a loan guaranteed by this state, or a loan made or guaranteed by any other state. For an interactive game, an eligible production company need not possess ownership of or legal control over all of the intellectual property rights or other rights necessary to complete the qualified production in its entirety nor be the same entity that distributes or publishes the interactive game.

(e) "Made in this state" means all of the following:

(i) Tangible personal property and services acquired by the eligible production company from a source within this state. If an item of tangible personal property is not available from a source within this state and a vendor with the requisite physical presence in this state that regularly sells or leases property of that kind obtains the property from an out-of-state vendor and sells or leases it to an eligible production company, that expenditure is considered made in this state and is a direct production expenditure and not an out-of-state production cost.

(ii) Services wholly performed within this state.

(f) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

(g) "Postproduction expenditure" means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, or addition of sound or visual effects. Postproduction expenditure includes direct expenditures for advertising, marketing, or related expenses.

(h) "Postproduction facility" means a permanent facility within this state equipped for the postproduction of motion pictures, television shows, or digital media production that meets all of the following requirements:

(i) Includes at least 3,000 square feet of contiguous space.

(ii) Includes at least 8 work stations.

(iii) Has been a qualified film and digital media infrastructure project from which an investment expenditure certificate was issued under section 457 of the Michigan business tax act, 2007 PA 36, MCL 208.1457, or has been the location of a state certified qualified production for which a postproduction certificate of completion was issued under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455, or both.

(i) "Producer" means an individual without regard to his or her actual title or screen credit involved in or responsible for any of the following:

(i) Funding for financing in whole or in part, or arranging for the funding, or financing, of the qualified production.

(ii) Obtaining the creative rights to or the intellectual property for development or production of the qualified production.

(iii) Hiring above the line personnel.

(iv) Supervising the overall production of the qualified production.

(v) Arranging for the exhibition of the qualified production.

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(j) "Qualified facility" means a permanent facility within this state equipped for the production of motion pictures, television shows, or digital media production that meets all of the following requirements:

(i) Includes more than 1 soundstage.

(ii) Includes not less than 3,000 square feet of contiguous, column-free space for production activities with a height of at least 12 feet.

(iii) Includes any grid and sufficient built-in electric service for shooting without the need of portable electric generators.

(iv) Has been a qualified film and digital media infrastructure project for which an investment expenditure certificate was issued under section 457 of the Michigan business tax act, 2007 PA 36, MCL 208.1457, or has been the location of a state certified qualified production for which a postproduction certificate of completion was issued under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455, or both.

(k) "Qualified personnel expenditure" means an expenditure made in this state directly attributable to the production or development of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation for personnel, talent, management, or labor, including both of the following:

(i) Payment of wages, benefits, or fees for talent, management, or labor.

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to taxation in this state on the portion of the payment qualifying for funding under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and are withheld and paid to this state in the amount provided under section 703 of the income tax act of 1967, 1967 PA 281, MCL 206.703.

(l) "State certified qualified production" or "qualified production" means single media or multimedia entertainment content created in whole or in part in this state for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games such as video games or wireless games, including console, computer, mobile, and online games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Qualified production also includes any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a production. Qualified production does not include any of the following:

(i) A production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

(ii) A production that includes obscene matter or an obscene performance.

(iii) A production that primarily consists of televised news or current events.

(iv) A production that primarily consists of a live sporting event.

(v) A production that primarily consists of political advertising.

(vi) A radio program.

(vii) A weather show.

(viii) A financial market report.

(ix) An awards show or other gala event production.

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(x) A production with the primary purpose of fund-raising.

(xi) A production that primarily is for employee training or in-house corporate advertising or other similar production.

(xii) A commercial.

History: Add. 2011, Act 291, Imd. Eff. Dec. 21, 2011 ;-- Am. 2014, Act 396, Imd. Eff. Dec. 26, 2014 ;-- Am. 2015, Act 117, Imd. Eff. July 10, 2015
Popular Name: Strategic Fund

Chapter 3

125.2031 Center for assistance to private enterprise; establishment and operation.

Sec. 31.

The fund shall establish and operate a center for assistance to private enterprise.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

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125.2032 Private enterprise assistance account; payments into account; transfer of money.

Sec. 32.

(1) The center for assistance to private enterprise shall be funded by an account, which shall be established and managed by the fund, to be known as the private enterprise assistance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives in repayment of loans made through the center for assistance to private enterprise; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the private enterprise assistance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the private enterprise assistance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2033 Loans, limitations.

Sec. 33.

Subject to the limitations provided by this chapter, the fund may utilize the money held in the private enterprise assistance account to make loans to private enterprise to finance economic development projects within this state which have the potential of creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2034 Loans, grants, or investments; limitations; condition.

Sec. 34.

(1) Subject to the limitations provided by this chapter, the fund may utilize the money held in the private enterprise assistance account to make loans or grants to, or invest in, a certified development company under sections 501 to 503 of the small business investment act of 1958, 15 U.S.C. 695 to 697, and the regulations promulgated under those sections; a small business lending company under the small business act, 15 U.S.C. 631, 632 to 634, 636, 637 to 639, 640 to 649, and the regulations promulgated under that act; a minority enterprise small business investment corporation or equivalent venture capital corporation; the Michigan business development corporation created under former Act No. 117 of the Public Acts of 1963; or a similar entity that will provide financing assistance to business firms.

(2) Loans made pursuant to this section shall be made on the condition that the recipient of the loan will utilize the money to assist economic development projects within this state which have the potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988
Popular Name: Strategic Fund

125.2035 Loans; use; recipients; terms and conditions.

Sec. 35.

(1) Loans made from the private enterprise assistance account may be used for any purpose consistent with the purposes and objectives of the fund and this chapter including, but not limited to, the acquisition, improvement, or rehabilitation of land and buildings; the acquisition of machinery, equipment, or services; working capital; or for any other purpose reasonably related to an economic development project.

(2) Loans made from the private enterprise assistance account may be made to any person or entity, public or private, organized for profit or not for profit, consistent with the provisions of sections 33 and 34 and other applicable provisions of law.

(3) Loans from the private enterprise assistance account may be made on such terms and conditions as the fund shall, in its sole discretion, determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act, which may include, but not be limited to, the pledging of adequate security.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2036 Loan for economic development project; legal assurance as to use of money.

Sec. 36.

(1) A loan shall not be made from the private enterprise assistance account for an economic development project pursuant to section 33 unless significant private sector financial support is associated with the economic development project.

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(2) A loan shall not be made from the private enterprise assistance account pursuant to section 34 unless the fund is legally assured that the money will be used to assist economic development projects which also will have significant private sector financial support.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2037 Paramount priority in making loans.

Sec. 37.

The fund shall give paramount priority in making loans from the private enterprise assistance account to economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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CHAPTER 3A

125.2038 Legislative findings and declaration; intent.

Sec. 38.

(1) The legislature finds and declares that the activities authorized under this chapter to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

History: Add. 2010, Act 36, Imd. Eff. Mar. 31, 2010
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2039 Michigan promotion fund; creation; administration; use; credit of amounts; investment; disbursement; borrowing money and issuing notes; appropriation.

Sec. 39.

(1) The Michigan promotion fund is created as a separate fund in the state treasury and shall be administered by the state treasurer.

(2) The Michigan promotion fund shall be used to promote economic development and job creation in this state through the promotion of tourism.

(3) The state treasurer shall credit to the Michigan promotion fund all amounts designated for the Michigan promotion fund by this chapter and section 21 of the use tax act, 1937 PA 94, MCL 205.111.

(4) The state treasurer shall direct the investment of Michigan promotion fund money in the same manner as all other funds are invested. The state treasurer shall credit to the Michigan promotion fund the interest and earnings from the fund.

(5) Money deposited, funds granted, or funds received as gifts or donations to the Michigan promotion fund shall be available for disbursement when deposited. The Michigan promotion fund is not required to maintain a minimum balance. Funds may be disbursed from the Michigan promotion fund at any time. The Michigan promotion fund shall not be used to promote business development.

(6) Money in the Michigan promotion fund at the close of the state fiscal year shall remain in the Michigan promotion fund and shall not lapse to the state general fund.

(7) Through December 31, 2010, the Michigan promotion fund may borrow money and issue notes to provide sufficient funds for achieving the Michigan promotion fund's purpose and objectives, including, but not limited to, amounts necessary to pay the costs for promoting economic development and job creation in this state through the promotion of tourism; for all other expenditures of the Michigan promotion fund incident to and necessary or convenient to carry out the Michigan promotion fund's purposes, objectives, and powers; and for any combination of these.

(8) For the fiscal year ending September 30, 2010, $9,500,000.00 is appropriated from the Michigan promotion fund to be used as provided in this chapter.

History: Add. 2010, Act 36, Imd. Eff. Mar. 31, 2010
Compiler's Notes: 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.
Popular Name: Strategic Fund

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Chapter 4

125.2041 "Public work" defined.

Sec. 41.

As used in this chapter, "public work" means the acquisition, construction, or improvement of public works; the acquisition of easements necessary for the public works; the acquisition of real and personal property and interests in real and personal property which are necessary for the public works; and the demolition of structures, site preparation, relocation costs, building rehabilitation and administrative costs, including, but not limited to, the cost of technical and economic feasibility studies or architectural, engineering, legal, and accounting fees, which are necessary for the public works.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2042 Center for assistance to local government; establishment and operation.

Sec. 42.

The fund shall establish and operate a center for assistance to local government.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2043 Local government assistance account; payments into account; transfer of money.

Sec. 43.

(1) The center for assistance to local government shall be funded by an account, which shall be established and managed by the fund, to be known as the local government assistance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives in repayment of loans made through the center for assistance to local government; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the local government assistance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the local government assistance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2044 Utilization of money; purposes.

Sec. 44.

Subject to the limitations provided by this chapter, the fund may utilize money held in the local government assistance account for 1 or more of the following purposes:

(a) To make loans to a municipality.

(b) To establish a reserve fund to insure or guarantee borrowings of a municipality.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2045 Loans, loan insurance, or guarantees; requirements.

Sec. 45.

Loans, loan insurance, or guarantees provided pursuant to section 44 shall be made only for public works which will assist an economic development project, including those portions of an endeavor devoted to the sale of goods at retail or housing if these portions are inseparable from the economic development project and the public work also assists those portions of the endeavor qualified as an economic development project, which has the potential of creating new jobs or retaining current jobs within this state and which is consistent with the purposes and objectives of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2046 Loans, loan insurance, or guarantees; limitation; lawful public improvement; prohibition; application.

Sec. 46.

(1) A loan, loan insurance, or a loan guarantee shall be provided pursuant to section 44 only for public works.

(2) A public work financed in whole or in part pursuant to section 44 shall be a public improvement which the municipality is empowered to provide for the public under law or its charter. However, a public work shall not include public systems of mass transportation that involve solely the transportation of individuals.

(3) A municipality shall apply for a loan, loan insurance, or loan guarantee pursuant to section 44 either in conjunction with any application the economic development project may make to the fund or with an affidavit of the economic development project attesting to the manner in which the public work will assist the economic development project.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2047 Borrowing or contracting for loan insurance and loan guarantees; debt limitation; approval; certain acts inapplicable.

Sec. 47.

A municipality is hereby authorized to borrow or contract for loan insurance and loan guarantees from the fund pursuant to this act, notwithstanding any charter provision to the contrary, or other provision of law. Any amount borrowed by a municipality pursuant to this act shall not be included in, or charged against, any statutory or charter debt limitation of the municipality. A municipality shall not be required to seek or obtain the approval of the electors to borrow money pursuant to this act. The borrowing shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, nor to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 2002, Act 556, Imd. Eff. July 26, 2002
Popular Name: Strategic Fund

125.2048 Loans, loan insurance, or loan guarantees; terms and conditions.

Sec. 48.

Loans, loan insurance, or loan guarantees provided from the local government assistance account may be on such terms and conditions as the fund, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this chapter.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2049 Loans, loan insurance, or loan guarantees; conditions.

Sec. 49.

A loan, loan insurance, or loan guarantee shall not be provided from the local government assistance account unless it is for a public work which will assist an economic development project and unless the fund finds that there is significant private sector financial support associated with the economic development project.

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History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2049a Paramount priority.

Sec. 49a.

The fund shall give paramount priority in providing loans, loan insurance, and loan guarantees from the local government assistance account to municipalities whose past borrowing practices evidence the ability and commitment to make timely payment of principal and interest installments for its obligations and for public works which assist economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

Chapter 5.

125.2051 Center for loan insurance; establishment and operation.

Sec. 51.

The fund shall establish and operate a center for loan insurance.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

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125.2052 Loan insurance account; payments into accounts; transfer of money.

Sec. 52.

(1) The center for loan insurance shall be funded by an account, which shall be established and managed by the fund, to be known as the loan insurance account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center; any money determined by the fund to be paid into the account from the economic development fund to which the fund succeeded in ownership pursuant to section 22; any money which the fund receives as fees or premiums for its provision of loan, lease, or debenture insurance; loan, lease, or debenture guarantees; or letters of credit; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the loan insurance account may be transferred into any other account established by the fund, unless the fund is otherwise obligated to retain the money in the loan insurance account or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2053 Powers of fund through center for loan insurance.

Sec. 53.

(1) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a loan or debenture of others, public or private.

(2) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a lease entered into by others, public or private.

(3) The fund, through the center for loan insurance, may procure insurance, a guarantee, or a letter of credit from any source for all or a part of a loan, debenture, or lease of others, public or private. The fund may procure insurance, a guarantee, or a letter of credit for either a single loan, debenture, or lease or for any combination of loans, debentures, or leases.

(4) The fund, through the center for loan insurance, may insure, guarantee, or issue letters of credit for all or a part of a revenue bond issued by the fund, another creature of the state, or by another entity or authority authorized by law to issue revenue bonds.

(5) The fund may procure insurance, a guarantee, or a letter of credit for all or a part of a revenue bond issue of the fund, another creature of the state, or by another entity or authority authorized by law to issue revenue bonds. The fund may procure insurance, a guarantee, or a letter of credit for either all or part of a single revenue bond issue or for all or a part of any combination of revenue bond issues.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2054 Contract of insurance.

Sec. 54.

To provide loan insurance pursuant to section 53, the fund may enter into a contract of insurance. The insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, shall not apply to such an insurance contract and the fund shall not be considered an insurer subject to the insurance code of 1956, Act No. 218 of the Public Acts of 1956, by virtue of entering into such a contract.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2055 Insurance, guarantees, or letters of credit; limitation; paramount priority.

Sec. 55.

(1) Insurance, guarantees, or letters of credit provided or procured pursuant to section 53 shall be provided or procured only for economic development projects within this state which otherwise are consistent with the purposes and objectives of the fund and this chapter, including the requirements of section 12.

(2) The fund shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to economic development projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2056 Insurance, guarantees, or letters of credit; legal assurance of use; terms and conditions; premiums or fees; guidelines.

Sec. 56.

(1) Insurance, guarantees, or letters of credit shall not be provided or procured pursuant to section 53 unless the fund is legally assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, will be used to assist economic development projects which also have significant private sector financial support.

(2) Insurance, guarantees, or letters of credit may be provided or procured on such terms and conditions as the fund, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act.

(3) The fund may charge the lender or the borrower, or both, a fee or premium for loan, debenture, or lease insurance, guarantee, or a letter of credit. Guidelines for premiums or fees charged by the fund for loan, debenture, or lease insurance guarantees, or letters of credit shall be established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2057 Agreements with lenders.

Sec. 57.

The fund may enter into agreements with lenders for participation in the center for loan insurance. The agreements may include, but need not be limited to:

(a) Authorization for the lender to determine, collect, and transmit to the fund a fee or premium charge within a specified range established consistent with the purposes and objectives of the fund.

(b) Specification of whether the premium charge shall be paid by the lender, the borrower, the fund, or by a combination thereof in specified proportions.

(c) The procedure by which a lender may make a claim upon the fund upon default by the borrower and the conditions under which a claim may be made.

(d) The maximum amount of claims a lender may make upon the fund, which amount may be equal to, greater than, or less than the proportion of the total premiums collected by the fund which is accounted for by premiums collected by the lender.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2058 Special fund; purpose.

Sec. 58.

The fund may establish a special fund or funds solely to secure some or all of its obligations within the center for loan insurance into which fees or premiums collected by the fund for loan, debenture, or lease insurance, guarantees, or letters of credit may be deposited.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

Chapter 6

125.2061 Definitions.

Sec. 61.

CAUTION! This document is from an archive and may contain outdated information.

As used in this chapter:

(a) "MESBIC" means a small business investment company licensed under section 301(d) of the small business investment act of 1958, 15 U.S.C. 681(d).

(b) "Minority" means a person who is black, hispanic, oriental, eskimo, or an American Indian.

(c) "Minority owned business" means a business which is at least 50% owned, controlled, and managed by minorities.

(d) "Minority venture capital company" means a business which makes investments solely in minority owned businesses.

(e) "Venture capital investment" means any of the following investments in a business:

(i) Common or preferred stock and equity securities without a repurchase requirement for at least 5 years.

(ii) A right to purchase stock or equity securities.

(iii) Any debenture or loan, whether or not convertible or having stock purchase rights, which are subordinated, together with security interests against the assets of the borrower, by their terms to all borrowings of the borrower from other institutional lenders, and that is for a term of not less than 3 years, and that has no part amortized during the first 3 years.

(iv) General or limited partnership interests.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2062 Center for minority venture capital; establishment and operation.

Sec. 62.

The fund shall establish and operate a center for minority venture capital.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2063 Certification of minority venture capital company and MESBIC; purpose; construction of certification; statement in documents; forwarding certification applications; qualifications for initial certification; compliance.

Sec. 63.

(1) The fund is empowered to certify a minority venture capital company and a MESBIC for the purpose of verifying that the business satisfies the qualifications provided by law for being an eligible recipient of investments that qualify for a credit under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, for an investment in a minority venture capital company or MESBIC certified under this chapter. The certification shall not be construed to impose liability on this state or to authorize the giving or lending of the credit of this state to any business enterprise. All documents promulgated by the department of commerce, the fund, or business enterprises in conjunction with this program shall include a statement reflecting the limited purpose of the certification and disclaiming the involvement of this state.

(2) Certification applications by a minority venture capital company or a MESBIC shall be forwarded to the fund. To qualify for its initial certification and to retain its certification, a minority venture capital company or a MESBIC shall comply with all of the following applicable requirements:

(a) Qualify as a minority venture capital company or as a MESBIC.

(b) If a minority venture capital company, has raised or has commitments for at least $1,000,000.00 to capitalize the minority venture capital company. Amounts which the minority venture capital company is or may be obligated to repay shall not be included as money which has been raised or committed to capitalize the minority venture capital company.

(c) Demonstrate that the professional staff which will manage the minority venture capital company or MESBIC possesses relevant experience in the administration and operation of a venture capital company.

(d) Either have invested at time of application or, if the minority venture capital company or MESBIC has not yet made investments, agree to invest and to retain an investment of 100% of its portfolio in businesses operating within this state.

(e) Either have invested at time of application or, if the minority venture capital company or MESBIC has not yet made investments or has not yet reached the applicable year of operation, agree to invest and to retain an investment of 50% of its paid-in capital by the end of the third year of operation and 70% of its paid-in capital by the end of the fifth year of operation.

(f) Agree to comply with the terms of this act and with its investment plan and management plan submitted pursuant to subdivision (g).

(g) Provide the information the fund determines to be necessary or appropriate for the fund to review in considering the application including, but not necessarily limited to, the following:

(i) A detailed investment plan describing the current and proposed activities of the minority venture capital company or MESBIC.

(ii) A management plan, including a description of the business experience and reputation of the professional staff that has been or is to be assembled, and a description of the current and proposed management structure.

(iii) A listing of the present or committed investors in the minority venture capital company or MESBIC and background information on the investors.

(h) If a minority venture capital company, agree to disclose to the fund and to allow the fund to approve or disapprove a contract entered into between the minority venture capital company and a minority owned business in which an officer or director of the minority venture capital company owns 10% or more.

(i) Agree to comply with the condition that, of the investments for which a request for certification is or will be filed under section 69a, not less than 50% shall be invested by persons who, if they receive a credit under section 36b of the single business tax act, Act No. 228 of the Public Acts of 1975, being section 208.36b of the Michigan Compiled Laws, would have that credit revoked if the minority venture capital company or MESBIC has its certification revoked within 6 years after the tax year for which the person received the credit.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988
Popular Name: Strategic Fund

125.2064 Considerations prior to certification.

Sec. 64.

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The fund shall also consider, prior to certifying a minority venture capital company or a MESBIC, all of the following:

(a) The current and proposed composition of the board of directors of the minority venture capital company or MESBIC and the relevant experience of the members of the board.

(b) Whether the minority venture capital company or MESBIC has a reasonable likelihood of being financially sound in the long run and capable of earning for its investors a reasonable rate of return.

(c) The current availability of minority venture capital in the geographic area in which the minority venture capital company or MESBIC will conduct business and the current availability of minority venture capital in the area for products or processes similar to those funded or to be funded by the minority venture capital company or MESBIC.

(d) The percentage of the minority venture capital company or MESBIC owned by minorities.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2065 Percentage of venture capital investments; encouraging certified MESBIC to meet investment requirements; "investment" defined.

Sec. 65.

(1) Sixty-five percent of investments of a certified minority venture capital company shall be venture capital investments.

(2) A certified MESBIC shall be encouraged to use its best efforts to meet the investment requirements imposed by subsection (1) on certified minority venture capital companies.

(3) For purposes of this section, section 61(d), and section 63(2)(d), (e), and (i), "investment" means financial assistance provided by a MESBIC or minority venture capital company, whether through loans, guarantees, venture capital investments, or commitments.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2066 Minority venture capital company as certified MESBIC.

Sec. 66.

A minority venture capital company certified under this chapter that thereafter becomes a MESBIC shall be considered a certified MESBIC under this chapter without separate application.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2067 Independent program audit.

Sec. 67.

A certified minority venture capital company and a certified MESBIC shall have an independent program audit annually performed by a certified public accountant. The fund may visit and examine a certified minority venture capital company or a certified MESBIC and may delegate the authority to visit and examine to the commissioner of the financial institutions bureau.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2068 Effective date and duration of certification; eligibility as recipient of investments; approval and effect of tax credit disqualification.

Sec. 68.

(1) Unless revoked, a certification provided under this chapter shall be effective and subject the minority venture capital company or MESBIC to the requirements of this chapter from the date of its certification until 6 years following the date of its tax credit disqualification pursuant to subsection (3).

(2) Unless the certification is revoked, from the date of its certification until the date the fund approves a tax credit disqualification for the minority venture capital company or MESBIC pursuant to subsection (3) a certified minority venture capital company and a certified MESBIC shall be an eligible recipient of investments that qualify for a credit under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, for an investment in a minority venture capital company or MESBIC certified under this chapter.

(3) Upon request of a certified minority venture capital company or a certified MESBIC the fund shall approve a tax credit disqualification for the minority venture capital company or MESBIC and thereafter the minority venture capital company or MESBIC shall not be an eligible recipient of investments that qualify under, and the fund shall not provide a tax credit certification pursuant to section 69a for credits under, Act No. 228 of the Public Acts of 1975.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2069 Revocation of certification; notice; remedying deficiencies and complying with requirements; determination.

Sec. 69.

If the fund finds that a certified minority venture capital company or a certified MESBIC has failed to comply with the provisions of this chapter or has substantially deviated from the management plan or investment plan submitted in connection with its certification, the fund shall notify the board of directors and officers of the minority venture capital company or MESBIC that the certification will be revoked 120 days after the date of mailing of the notice. The minority venture capital company or MESBIC may notify the fund before the expiration of the 120-day period of all efforts taken to remedy the deficiencies and comply with the requirements of this chapter. The fund shall be responsible for determining whether the minority venture capital company or MESBIC is once again in compliance and, if it determines that the compliance has not been achieved, then the certification shall stand revoked on the date established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2069a Tax credit certification; information; report.

Sec. 69a.

(1) Upon written request to the fund not later than 90 days following an investment, the fund shall certify the following for a person subject to the tax imposed under the single business tax act, Act No. 228 of the Public Acts of 1975, being sections 208.1 to 208.145 of the Michigan Compiled Laws, who seeks to claim the credit provided under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter:

(a) The date which the person made the investment.

(b) That the investment is in a certified minority venture capital company or MESBIC which has not been disqualified pursuant to section 68(3) as of the date of the investment.

(c) The amount of the investment in the certified minority venture capital company or MESBIC that was made after the effective date of the amendatory act providing for a tax credit under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter.

(d) The amount of the credit to which the person is entitled under Act No. 228 of the Public Acts of 1975 for an investment in a minority venture capital company or MESBIC certified under this chapter.

(2) A minority venture capital company or MESBIC certified under this chapter and a person requesting a tax credit certification of an investment pursuant to subsection (1) shall provide the fund with all information it requires to make the certification under subsection (1).

(3) A tax credit certification report for an investment certified under subsection (1) shall be sent by the fund to the requester and the department of treasury.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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Chapter 7

125.2071 Definitions.

Sec. 71.

As used in this chapter:

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

(b) "Research and development enterprise" means any person found by the fund to be engaged in a business which uses green chemistry as a design guidance, or the discovery of new substances and the refinement of known substances, processes, products, theories, and ideas, except for those persons whose businesses are directed primarily to the accumulation or analysis of commercial, financial, or mercantile data.

(c) "Research center fund" means that fund created by section 27 of former 1982 PA 70, to which the fund succeeds in ownership pursuant to section 76.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 2010, Act 271, Imd. Eff. Dec. 15, 2010
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2072 Center for research and development; establishment and operation.

Sec. 72.

The fund shall establish and operate a center for research and development.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2073 Research center fund; payments into fund; transfer of money.

Sec. 73.

(1) The center for research and development shall be funded by the research center fund.

(2) The fund shall pay into the research center fund any money appropriated or otherwise provided by this state for the purposes of the center for research and development; any money determined by the fund to be paid into the research center fund from the economic development fund; any money paid into the research center fund pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws; any money which the fund receives in return for investments made through the center for research and development; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the research center fund may be transferred into any other account or fund established or operated by the fund, unless the fund is otherwise obligated to retain the money in the research center fund or except if the money was appropriated by this state for the purposes of the center.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

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125.2074 Research center fund; use of money; purpose; obligations of present or emerging technologies; purposes of financial aid; terms and conditions of financial aid; minimum financial aid grant; payment; tax exemption.

Sec. 74.

(1) The fund may utilize the money held in the research center fund to provide financial aid to nonprofit research and development enterprises that perform or cause to be performed, or both, research and development in present and emerging technology and in the application of that technology to business and industry.

(2) The present or emerging technologies that are provided financial aid should serve as a foundation for future job growth or retention in this state, encourage economic stability or diversification in this state, and establish this state as a center of excellence in high technology.

(3) Financial aid under this act may be provided for the purposes of designing and constructing new facilities, designing and rehabilitating existing facilities, acquiring an interest in real or personal property, providing working capital, which may include salaries, rent, supplies, inventory, accounts receivable, mortgage payments, legal costs, utility costs, telephone, travel, and other incidental costs normally classified as working capital according to standard accounting principles. Working capital financing grants provided by the fund to a particular research and development enterprise shall not be granted for a period exceeding 10 years calculated from the effective date of the first grant to the expiration date of the last grant.

(4) Financial aid provided by the fund may be on those terms and conditions as the fund, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this act.

(5) The minimum financial aid grant under this act shall be $2,500,000.00 to be paid over the period of time as the fund shall specify in the grant unless this restriction is waived by a 2/3 vote of the members of the board.

(6) Personal property that is leased, owned, or used, or real property that is leased, subleased, or owned, by a nonprofit research and development enterprise that receives or has received financial benefit or support under this act, former 1982 PA 70, or section 117 of 2000 PA 291 in the amount of $1,000,000.00 or more or that has received financial benefit or support in the amount of $1,000,000.00 or more from an organization with tax-exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501, that received financial benefit or support directly or indirectly under this act or section 117 of 2000 PA 291 is exempt from taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, while the property is leased, subleased, owned, used, or occupied by that nonprofit research and development enterprise solely for the purpose of performing or coordinating research and development or, through December 31, 2024, supporting research and development in present and emerging technology and of the application of that technology to business and industry and provided that the research and development enterprise retains its tax-exempt status under section 501(c)(3) of the internal revenue code, 26 USC 501.

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History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 207, Imd. Eff. Dec. 22, 1987 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988 ;-- Am. 2006, Act 616, Imd. Eff. Jan. 3, 2007 ;-- Am. 2020, Act 216, Imd. Eff. Oct. 15, 2020
Popular Name: Strategic Fund

125.2075 Business plan.

Sec. 75.

In providing financial aid under this chapter, the fund shall require the preparation of a business plan following guidelines previously adopted by the fund and shall consider the amount of other capital funding and income sources available to assure the continued operation of the nonprofit research and development enterprise.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2076 Scope of succession to rights, properties, obligations, and duties of Michigan economic development authority; payments in research center fund.

Sec. 76.

The succession of the fund to all rights, properties, obligations, and duties of the Michigan economic development authority pursuant to section 21 shall include succession to the ownership and operation of the research center fund, of all distributions pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, to the Michigan economic development authority for deposit in the research center fund, and of all obligations, promises, covenants, commitments, and other requirements relating to the research center fund that were made by

the Michigan economic development authority. Payments into the research center fund pursuant to Act No. 327 of the Public Acts of 1982 shall continue to be made as provided by that act upon and after the fund succeeds to ownership and operation of the research center fund.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2077 Higher education coordination council; membership.

Sec. 77.

The fund shall appoint a higher education coordination council containing individuals representative of higher education institutions and having the necessary credentials to provide an inventory and advise the fund on the available research and development enterprises that are or will be established by higher education institutions and the application of that technology to business and industry.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 2006, Act 230, Imd. Eff. June 26, 2006
Popular Name: Strategic Fund

125.2078 Service station matching grant program.

Sec. 78.

(1) The fund shall create and administer a service station matching grant program to provide incentives to owners and operators of service stations to convert existing fuel delivery systems and to create new fuel delivery systems designed to provide E85 fuel and biodiesel blends.

(2) The service station matching grant program shall provide for all the following:

(a) That a grant shall not exceed 75% of the costs to convert an existing fuel delivery system to provide E85 fuel or biodiesel blend, not to exceed $3,000.00 per facility.

(b) That a grant shall not exceed 50% of the new construction costs to create a fuel delivery system to provide E85 fuel or biodiesel blend, not to exceed $12,000.00 per facility for E85 fuel and $4,000.00 per facility for biodiesel blend.

(c) A contractual provision requiring the grant recipient to repay a portion of the grant if the grant recipient stops using the fuel delivery system to provide E85 fuel or biodiesel blend within 3 years of receiving the grant, as determined by the fund. The portion of the grant to be repaid shall be calculated by multiplying the amount of the grant by a fraction, the numerator of which is the number of days that the fuel delivery system was not used to provide E85 fuel or biodiesel blend during that 3-year period and the denominator of which is 1,095.

(d) A single business entity is not eligible for more than 15% of the total amount of grants awarded each year under this subsection.

(e) The total amount of grants awarded each year under this subsection to facilities located in the same county shall not exceed 15% of the total amount of grants awarded each year under this subsection.

(3) The fund shall create and administer a bulk plant matching grant program to provide incentives to owners and operators of bulk plants to convert existing fuel delivery systems and to create new fuel delivery systems designed to provide biodiesel blends.

(4) The bulk plant matching grant program shall provide for all the following:

(a) That a grant shall not exceed 50% of the costs to convert an existing fuel delivery system to provide biodiesel blend, not to exceed $2,000.00 per bulk plant.

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(b) That a grant shall not exceed 50% of the new construction costs to create a fuel delivery system to provide biodiesel blend, not to exceed $15,000.00 per bulk plant.

(c) A contractual provision requiring the grant recipient to repay a portion of the grant if the grant recipient stops using the fuel delivery system to provide biodiesel blend within 3 years of receiving the grant, as determined by the fund. The portion of the grant to be repaid shall be calculated by multiplying the amount of the grant by a fraction, the numerator of which is the number of days that the fuel delivery system was not used to provide biodiesel blend during that 3-year period and the denominator of which is 1,095.

(5) The fund shall initially fund the service station matching grant program and the bulk plant matching grant program with a combined amount of $500,000.00, which may include federal sources, to be distributed on or before September 30, 2007.

(6) As used in this section:

(a) "Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D-6751, as approved by the department of agriculture.

(b) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, suitable for use as a fuel in a compression-ignition internal combustion diesel engine.

(c) "Bulk plant" means that term as defined in section 2 of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

(d) "E85 fuel" means a fuel blend containing between 70% and 85% denatured fuel ethanol and gasoline suitable for use in a spark-ignition engine and that meets American society for testing and materials D-5798 specifications.

(e) "Facility" means an establishment at which gasoline is sold or offered for sale to the public.

History: Add. 2006, Act 274, Imd. Eff. July 7, 2006
Popular Name: Strategic Fund

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125.2079 Location of renewable fuel plants; inventory of prime sites; availability on internet; assistance.

Sec. 79.

(1) The fund shall identify, publish, and market an inventory of prime sites for the location of renewable fuel plants with existing industrial facilities that have by-products that renewable fuel plants could use to produce energy in this state.

(2) The fund shall make the inventory available to the public on the internet not later than January 1, 2009.

(3) Local units of government and their economic development agencies may assist the fund in its duties under this section.

History: Add. 2008, Act 320, Imd. Eff. Dec. 18, 2008
Popular Name: Strategic Fund

Chapter 8

125.2081 “Economic development fund” defined.

Sec. 81.

As used in this chapter, "economic development fund" means that fund to which the fund succeeded in ownership pursuant to section 22.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2082 Center for product development; establishment and operation.

Sec. 82.

The fund shall establish and operate a center for product development.

History: 1984, Act 270, Eff. Mar. 29, 1985
Compiler's Notes: 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.
Popular Name: Strategic Fund

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125.2083 Product development program account; payments into account; transfer or deposit of money.

Sec. 83.

(1) The center for product development shall be funded by an account, which shall be established and managed by the fund, to be known as the product development program account.

(2) The fund shall pay into the account any money appropriated or otherwise provided by this state for the purposes of the center for product development; any money determined by the fund to be paid into the account from the economic development fund; any money which the fund receives in return for investments made through the center for product development; and any other money made available to the fund for the purposes of the center from any other source, public or private.

(3) Money in the product development program account may be transferred into any other account established by the fund unless the fund is otherwise obligated to retain the money in the product development program account or except if the money was appropriated by this state for the purposes of the center or represents interest earned from these appropriations while on deposit in the account. The fund may deposit money earned by the fund from royalties, rights, or other benefits pursuant to section 84 or 86a in any account established by the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988
Popular Name: Strategic Fund

125.2084 Product development program account; utilization of money; purpose; terms and conditions of financial aid; condition to financial aid.

Sec. 84.

(1) The fund may utilize the money held in the product development program account to provide financial aid to applicants when financial aid would not otherwise be available on

reasonable terms from other sources and shall enter into venture agreements whereby the fund will obtain royalties, rights, or other benefits from or in a targeted invention, product, device, or technique; a related or derivative invention, product, device, or technique; or other applicant revenues, which royalties, rights, and other benefits are obtained in exchange for the granting of financial aid to the applicant.

(2) Financial aid provided from the product development program account shall be for the purpose of financing any new process, technique, product, or device which is or may be exploitable commercially, which has advanced beyond the theoretical state, and which is capable of being or has been reduced to practice without regard to whether a patent has or could be granted.

(3) Financial aid provided and venture agreements made by the fund may be on the terms and conditions the fund, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this chapter, including the requirements of section 12.

(4) Financial aid provided and venture agreements made pursuant to this section shall be made on the condition that the benefits of increasing employment and tax revenues remain in the state.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988
Popular Name: Strategic Fund

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125.2085 Recipients of financial aid.

Sec. 85.

Financial aid provided from the product development program account may be made to any individual, partnership, profit or nonprofit corporation, college or university, or joint venture carrying on business or proposing to carry on business within this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2086 Amount of financial aid and terms of venture agreement; evaluation and examination.

Sec. 86.

In determining the amount of financial aid to be awarded and the terms of the venture agreement, the fund shall evaluate, among other things, the necessity of fund participation in the enterprise, the diversity of products and types of business concerns for which the fund has provided financial aid under this chapter, the availability of funding sources on reasonable terms in the traditional capital markets, the management structure and expertise of the enterprise, the state of development of the proposed product, process, technique, or device and the likelihood of its commercial feasibility, and the report and recommendations of the advisory panel created pursuant to section 87. The fund shall also examine, in determining the manner and extent of its participation, the extent to which the enterprise has a cooperative arrangement with a college or university in this state.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2086a Financial aid to nonprofit corporation; powers and duties of corporation; fund as party to venture agreement; provisions of venture agreement.

Sec. 86a.

(1) The fund may provide financial aid to a nonprofit corporation which has as its only purposes the same purposes as this chapter. Except as provided in subsection (2), a corporation receiving financial aid under this section has the same powers and duties provided in this chapter.

(2) The fund shall be made a party to a venture agreement made by a corporation receiving financial aid under this section. The venture agreement shall provide that the fund obtain royalties, rights, or other benefits from or in a targeted invention, product, device, or technique; a related or derivative invention, product, device, or technique; or other applicant revenues, which royalties, rights, or other benefits are obtained by the corporation in exchange for the granting of financial aid to an applicant.

History: 1984, Act 270, Eff. Mar. 29, 1985 ;-- Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988
Popular Name: Strategic Fund

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125.2087 Advisory panel; purpose; membership; report; recommendation.

Sec. 87.

An advisory panel shall be convened by the fund to consider proposals for venture agreements and financial aid from the product development program account. The panel shall be composed of 5 members appointed by the fund having skills and experience in providing capital to innovative business, in starting and operating such businesses, or in providing professional and technical services to or otherwise working with such businesses. The advisory panel shall report to the fund its analysis and recommendations on the proposal for financial aid and a venture agreement.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

CHAPTER 8A

125.2088 Legislative findings; intent; scope of activities.

Sec. 88.

(1) The legislature finds and declares that the activities authorized under this chapter to encourage diversification of the economy and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

125.2088a Definitions.

Sec. 88a.

As used in this chapter:

(a) "Advanced automotive, manufacturing, materials, information, and agricultural processing technology" means any technology that involves 1 or more of the following:

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

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

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

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

(v) A new technology, device, or system that enhances or improves the manufacturing process of wood, timber, or agricultural-based products.

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

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

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

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

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

(i) Computer hardware and software.

(ii) Data communications.

(iii) Information technologies.

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

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

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

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

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

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

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

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

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

(f) "Commercialization" means the transition from research to the actions necessary to achieve market entry and general market competitiveness of new innovative technologies, processes, and products and the services that support, assist, equip, finance, or promote a person or an entity with that transition.

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

(i) Life sciences technology.

(ii) Advanced automotive, manufacturing, materials, information, and agricultural processing technology.

(iii) Homeland security and defense technology.

(iv) Alternative energy technology.

(v) Any other innovative technology as determined by the fund board.

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

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

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

(i) Sensors, systems, processes, or equipment for communications, identification and authentication, screening, surveillance, tracking, and data analysis.

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

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

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

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

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

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

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

(iii) Provide recommendations to or assist the commercialization board in identifying high-quality activities for funding that are likely to result in the development and commercialization of competitive edge technology and job creation in this state. The recommendations shall include all materials used by the independent peer review expert in making the recommendation.

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

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

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

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

(i) Bioengineering.

(ii) Biomedical engineering.

(iii) Genomics.

(iv) Proteomics.

(v) Molecular and chemical ecology.

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

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

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

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

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

(E) Stem cell research with human embryonic tissue.

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

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

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

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

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

(q) "Qualified mezzanine fund" means a person or entity primarily engaged in making loans or investments ranging in size from $250,000.00 to $6,000,000.00 that is managed by 2 or more individuals with no less than 5 years' direct experience in mezzanine lending or capital investments and that holds investment capital or has commitments from investors other than the fund and at least 2 financial institutions.

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

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

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

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

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

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

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

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

(v) "Strategic economic investment and commercialization board" or "commercialization board" means, except as otherwise provided in this subdivision, the strategic economic investment and commercialization board created in section 88k. Beginning October 18, 2010, the strategic economic investment and commercialization board or the commercialization board means the fund board.

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

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2006, Act 639, Imd. Eff. Jan. 4, 2007 ;-- Am. 2011, Act 22, Imd. Eff. Apr. 27, 2011 ;-- Am. 2014, Act 505, Imd. Eff. Jan. 14, 2015

Compiler's Notes: 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.

Popular Name: Strategic Fund

125.2088b Programs created and operated by fund; expenditures or investments; use of appropriated or transferred money; fees; restriction; selection of vendors; expenditure of funds without further appropriation.

Sec. 88b.

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(1) The fund shall create programs authorized under this chapter. These programs shall be operated and administered by the authorized officers, employees, and agents of the fund, including the MEDC and its employees. Consistent with the requirements of this chapter, the fund board shall determine the annual allocation of money for programs authorized under this chapter and make authorized expenditures or investments from the investment fund of the 21st century jobs trust fund as authorized under this act for programs and activities authorized under this chapter.

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

(a) 21st century investments if those investments provide for repayment for breach of the written agreement or the failure to meet measurable outcomes.

(b) Grants and loans approved by the fund board under section 88k if those grants and loans provide for repayment for breach of the written agreement or the failure to meet measurable outcomes.

(c) Other programs or activities authorized under this chapter, any other chapter of this act, or as provided in an appropriation act if those programs or activities provide for repayment for breach of the written agreement or the failure to meet measurable outcomes.

(d) The Michigan innovation fund program as provided in section 88u.

(e) Grants, loans, or other economic assistance under section 88r and community revitalization incentives under chapter 8C if those grants, loans, other economic assistance, and community revitalization incentives provide for repayment for breach of the written agreement or the failure to meet measurable outcomes.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund may be used for the purposes of administering the programs and activities authorized under this chapter. However, the fund and the fund board shall not use more than 3% of the annual appropriation for administering the programs and activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional 1% for administration. The MEDC may charge actual and reasonable fees for costs associated with loans, grants, or other economic assistance under this chapter. These fees are in addition to the amount of the appropriation used for administering the programs and activities authorized under this chapter.

(4) Not more than 5% of the annual appropriation as provided by law from the 21st century jobs trust fund may be used for business development and business marketing costs. No funds may be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in this state.

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

(6) The fund board may select all vendors for all expenditures and for program awards under this chapter by issuing a request for proposal or an alternative competitive process as determined by the fund board. At a minimum, the request for proposal must require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the Internal Revenue Service or any other federal or state taxing body or court, disclose any litigation involving the entity, and maintain records and evidence

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pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review proposals if that person has a conflict of interest with any potential vendors as determined by the office of the chief compliance officer established in section 88i.

(7) The fund may use application fees received for programs and activities authorized under this chapter or chapter 8C for administering the programs and activities authorized under this chapter or chapter 8C. The restrictions on expenditures under subsection (3) do not apply to expenditure of application fee revenue under this subsection.

(8) Funds appropriated by law to the fund board or the fund may be expended by the fund board or fund without further appropriation regardless of the source of those funds.

(9) Money deposited in the 21st century jobs trust fund under section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, must be expended as provided in section 88u.

(10) As used in this section, "21st century jobs trust fund" means the 21st century jobs trust fund established in section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257.

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History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2008, Act 175, Imd. Eff. July 8, 2008 ;-- Am. 2009, Act 218, Imd. Eff. Jan. 5, 2010 ;-- Am. 2010, Act 271, Imd. Eff. Dec. 15, 2010 ;-- Am. 2011, Act 3, Imd. Eff. Mar. 11, 2011 ;-- Am. 2011, Act 250, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 145, Imd. Eff. May 30, 2012 ;-- Am. 2014, Act 505, Imd. Eff. Jan. 14, 2015 ;-- Am. 2024, Act 190, Eff. Apr. 2, 2025
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2088c Duties of fund board; definitions.

Sec. 88c.

(1) The fund board shall exercise the duties of a fiduciary with respect to 21st century investments consistent with the purposes of this chapter. The prudent investor rule shall be applied by the fund board and any agent of the fund board in the management of 21st century investments. The prudent investor rule as applied to 21st century investments means that in making 21st century investments, the fund board shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence would exercise in similar circumstances in a like position. The fund board shall maintain a reasonable diversification among 21st century investments consistent with the requirements of this chapter.

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

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

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

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

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

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

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

(c) Provision of money to a business enterprise to induce qualified businesses or small businesses to leave this state.

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

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

(5) Before adopting a resolution that establishes or substantially changes a 21st century investment program, including any fees, charges, or penalties attached to that program, the fund board shall give notice of the proposed resolution to the governor, to the clerk of the house of representatives, to the secretary of the senate, to members of the senate and house of representatives appropriation committees, and to each person who requested from the fund in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the fund's internet website at least 10 days prior to the date that the proposed resolution is considered by the fund board. The fund board shall hold a public hearing and offer a person an opportunity to present data,

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views, questions, and arguments. Members of the fund board or 1 or more persons designated by the fund board who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The fund board may act on the proposed resolution on the day of the public hearing. The fund board shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the governor, to the clerk of the house of representatives, to the secretary of the senate, and to members of the senate and house of representatives appropriation committees and shall be published on the fund's internet website.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2011, Act 251, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 145, Imd. Eff. May 30, 2012 ;-- Am. 2014, Act 503, Imd. Eff. Jan. 14, 2015.
Popular Name: Strategic Fund

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125.2088d Loan enhancement program; loan guarantee program; small business capital access program; Michigan film and digital media investment loan program; choose Michigan film and digital media loan fund; choose Michigan fund program; Michigan micro loan program; definitions.

Sec. 88d.

(1) The fund shall create and operate a loan enhancement program.

(2) As a separate and distinct part of the loan enhancement program, the fund may create a loan guarantee program that does all of the following:

(a) Provide a loan guarantee mechanism to financial institutions located in this state that provide commercial loans to qualified businesses, public authorities, and local units of government.

(b) Ensures that participating financial institutions do not refinance prior debt.

(c) Provide that a qualified business is only eligible for a loan guarantee under this section if it has a documented growth opportunity. As used in this subdivision, "documented growth opportunity" means a plant expansion, capital equipment investment, acquisition of intellectual property or technology, or the hiring of new employees to meet or satisfy a new business opportunity.

(d) Provide that a qualified business that engages primarily in retail sales is not eligible for a loan guarantee under this chapter unless the fund board makes a specific finding that the loan guarantee supports a new concept that has significant growth potential.

(e) Provide repayment provisions for a loan or a guarantee given to a qualified business that leaves Michigan within 3 years of the provision of the loan or guarantee or otherwise breaches the terms of an agreement with the fund.

(3) As a separate and distinct part of the loan enhancement program, the fund shall reestablish the small business capital access program that was previously operated by the fund for small businesses in a manner similar to how that program was operated before January 1, 2002. The small business capital access program shall operate on a market-driven basis and provide for premium payments by borrowers into a special reserve fund. The small business capital access program established by the board shall prohibit an officer, director, principal shareholder of a participating financial institution, or his or her immediate family members

from receiving a small business capital access program loan from the financial institution. A loan under the small business capital access program may be issued to an eligible production company or film and digital media private equity fund even if the eligible production company or film and digital media private equity fund is not a small business. A loan under the small business capital access program shall provide that the proceeds of a loan may only be used for a business purpose within this state and may not be used for any of the following:

(a) The construction or purchase of residential housing.

(b) To finance passive real estate ownership.

(c) To refinance prior debt from the participating financial institution that is not part of the small business capital access program.

(4) As a separate and distinct part of the loan enhancement program, the fund shall establish a Michigan film and digital media investment loan program to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office after a review by the investment advisory committee. If an investment is made under this section, not more than $15,000,000.00 may be loaned to any 1 eligible production company or film and digital media private equity fund for any 1 qualified production. The fund board may make an investment in a qualified production if all of the following are satisfied:

(a) The production is filmed wholly or substantially in this state.

(b) The eligible production company or the film and digital media private equity fund has shown to the satisfaction of the Michigan film office that a distribution contract or plan is in place with a reputable distribution company.

(c) The eligible production company or film and digital media private equity fund agrees that, while filming in this state, a majority of the below the line crew for the qualified production will be residents of this state.

(d) The eligible production company or film and digital media private equity fund posts a completion bond approved by the Michigan film office and has obtained no less than 1/3 of the estimated total production costs from other sources as approved by the chief compliance officer and the Michigan film office or has obtained a full, unconditional, and irrevocable guarantee of the repayment of the amount invested by the fund in favor of the investment fund that satisfies 1 or more of the following:

(i) The guarantee is from an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(ii) The guarantee is from a substantial subsidiary of an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(iii) The eligible production company or the film and digital media private equity fund provides a full, unconditional letter of credit from a bank with a credit rating of not less than A from a national rating agency.

(iv) The guarantee is from a substantial and solvent entity as determined by the investment advisory committee.

(e) The fund board may make a loan under this subsection at a market rate of interest for a qualified production of up to 80% of expected and estimated tax credits available to the eligible production company or film and digital media private equity fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459, if the eligible production company or the film and digital media private equity fund agrees to name the fund as its agent for the purpose of filing for the tax credits should the eligible production company not apply for the tax credits. The Michigan film office and the state treasurer shall

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determine the estimated amount of tax credits for purposes of this subsection. The fund board shall approve guidelines for the initiation of a loan and the terms of the loan under this subsection.

(f) A loan under this subsection may be converted to an equity investment by the fund board with the approval of the chief compliance officer and the Michigan film office.

(g) An eligible production company or film and digital media production company that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (5).

(h) Fifty percent of any earnings on a loan or investment under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(5) As a separate and distinct part of the loan enhancement program, the fund shall establish and operate the choose Michigan film and digital media loan fund to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds eligible for a tax credit under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of primary incentives, as determined by the fund board.

(d) The value of the loan may not exceed the value of the primary incentive that the eligible production company or film and digital media private equity fund is eligible to receive over 7 years, as discounted by the fund board. A loan authorized by the fund board may provide for a loan amount equal to a portion or all of the discounted value of the primary incentives, as discounted by the fund board.

(e) The eligible production company or film and digital media private equity fund is responsible for repayment of the loan regardless of actual primary incentive amounts received.

(f) The eligible production company or film and digital media private equity fund is responsible for loan preparation and closing costs.

(g) An eligible production company or film and digital media private equity fund that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (4).

(h) The eligible production company or film and digital media private equity fund also obtains an additional loan from an accredited financial institution or other approved lending market.

(i) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(j) Fifty percent of any earnings on a loan under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(6) As a separate and distinct part of the loan enhancement program, the fund shall operate the choose Michigan fund program to invest in loans from the investment fund to a qualified

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business. The choose Michigan fund program shall operate on an incentive basis and shall provide loans to qualified businesses to promote and enhance significant job creation or retention within this state. The choose Michigan fund shall not make a loan under this subsection after September 30, 2009. Notwithstanding any requirement imposed by the fund before April 1, 2008, to receive a loan under this subsection, the fund board may or may not require a qualified business to obtain an additional loan from an accredited financial institution or other approved lending market to obtain a loan under this subsection. At the discretion of the fund board, not more than 3 loans provided through the choose Michigan fund may be forgivable. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of any primary incentives, as determined by the fund board.

(d) Except as provided in subdivision (g), the qualified business is responsible for repayment of the loan regardless of any primary incentives received.

(e) The qualified business is responsible for loan preparation and closing costs.

(f) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(g) A loan under this subsection may be converted to an equity investment by the fund board.

(h) The loan shall be subject to repayment provisions. If the loan is with a qualified business that closes down or relocates outside of Michigan anytime within 3 years after the term of the loan, then the provisions of the loan shall also include, at a minimum, immediate repayment of any outstanding principal, payment of a default interest rate, and repayment of any amounts forgiven.

(i) In determining whether to forgive all or a portion of a loan to a qualified business, the fund shall consider the net economic impact of the project on the state's economy. The loan agreement between the fund and the qualified business shall clearly enumerate the terms, conditions and requirements under which all or a portion of the loan may be forgiven, including, but not limited to, job creation and investment in this state.

(7) As a separate and distinct part of the loan enhancement program, the fund shall operate the Michigan micro loan program to invest in, make loans to, or provide other economic assistance to support loans made by qualified micro loan lenders. The fund shall establish guidelines for the Michigan micro loan program that include, but are not limited to, all of the following:

(a) A provision that requires consideration of a guarantee by a person as determined by the fund to act as a guarantor, or that provides a surety agreement for the qualified micro loan lender's loan.

(b) A provision that the amount of a loan may not exceed the greater of $50,000.00 or small business administration micro loan amount limitations.

(c) A provision that requires a position of security for the benefit of the qualified micro loan lender, which may include security on assets of the borrower that are financed through the support of the Michigan micro loan program.

(d) A provision that requires consideration of the default rate of credit facilities extended by the qualified micro loan lender before approving support under the Michigan micro loan program.

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(e) A provision that provides that the qualified micro loan lender agrees to maintain a loan loss reserve in an amount as determined by the fund.

(8) As used in this section:

(a) "Below the line crew" means that term as defined under section 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1459.

(b) "Eligible production company" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(c) "Film and digital media private equity fund" means any limited partnership, limited liability company, or corporation organized and operating in the United States that satisfies all of the following:

(i) Has as its primary business activity the investment of funds in return for equity in qualified productions.

(ii) Holds out the prospect for capital appreciation from the investments.

(iii) Accepts investments only from accredited investors as that term is defined in section 2 of the federal securities act of 1963 and rules promulgated under that act.

(d) "Investment advisory committee" means the committee created within the department under section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(e) "Michigan film office" means the office created under chapter 2A.

(f) "Primary incentive" means a tax credit an eligible production company is eligible to receive under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(g) "Qualified micro loan lender" means a nonprofit entity, community development financial institution, regional revolving loan fund, or other organization making micro loans to qualified micro businesses as determined by the fund.

(h) "Qualified production" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

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History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2008, Act 80, Imd. Eff. Apr. 8, 2008 ;-- Am. 2008, Act 223, Imd. Eff. July 16, 2008 ;-- Am. 2008, Act 571, Imd. Eff. Jan. 16, 2009 ;-- Am. 2012, Act 221, Imd. Eff. June 28, 2012

Popular Name: Strategic Fund

125.2088e Private equity investment program.

Sec. 88e.

When creating programs for 21st century investments under this chapter, the fund shall create and operate a private equity investment program. The fund board shall authorize investments only in or alongside a qualified private equity fund. The private equity investment program shall do all of the following:

(a) Provide that the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk.

(b) Provide that the qualified private equity fund will have an amount at risk greater than the fund's investment.

(c) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for investments in businesses located in this state unless the investment opportunity requested by

the qualified private equity fund is targeted to a specific transaction that will save jobs and will not occur without the fund's investment as determined by the fund board.

(d) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program unless it agrees to make investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified private equity fund bears to the total amount in the qualified private equity fund.

(e) Provide that a qualified private equity fund is not eligible to participate in a private equity investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a private equity fund have the appropriate provisions to prohibit the actions described in this subdivision.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

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125.2088f Venture capital investment program.

Sec. 88f.

(1) When creating programs for 21st century investments under this chapter, the fund shall create and operate the venture capital investment program. The fund board shall authorize investments that must invest only in or alongside a qualified venture capital fund that invests primarily in early stage businesses in this state. The venture capital investment program must do all of the following:

(a) Provide that the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk and track actual return on investment performance comparison between venture capital investment and commercial loan enhancement investments on an ongoing basis in the annual report.

(b) Provide that the qualified venture capital fund will have an amount at risk greater than the fund's investment.

(c) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for venture capital investments in businesses located in this state.

(d) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program unless it agrees to make venture capital investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified venture capital fund bears to the total amount in the qualified venture capital fund.

(e) Provide that a qualified venture capital fund is not eligible to participate in a venture capital investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a venture capital fund have the appropriate provisions to prohibit the actions described in this subdivision.

(f) Provide that a qualified venture capital fund may make follow-up investments that were eligible for investment at the time of initial investment but that subsequently may not be characterized as an investment in an early stage business.

(2) The fund board may limit overhead rates for recipients of awards to reflect actual overhead, administrative fees, and management fees, to an amount as determined by the fund board, which overhead rates must not exceed 25% of the award. Start-up costs may be reimbursed as determined by the fund board.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2012, Act 221, Imd. Eff. June 28, 2012 ;-- Am. 2024, Act 190, Eff. Apr. 2, 2025
Popular Name: Strategic Fund

125.2088g Mezzanine investment program.

Sec. 88g.

When creating programs for 21st century investments under this chapter, the fund shall create and operate a mezzanine investment program. The fund board shall authorize investments in or alongside a qualified mezzanine fund under a mezzanine investment program providing for all of the following:

(a) That the return on investment that is sought is greater than the return on investment under the commercial loan portion of the loan enhancement program to reflect the greater risk.

(b) That the qualified mezzanine fund will have an amount at risk greater than the fund's investment.

(c) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program unless it operates a business development office in this state staffed with at least 1 full-time equivalent employee who is actively seeking opportunities for mezzanine investments in businesses located in this state.

(d) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program unless it agrees to make mezzanine investments in this state at a percentage rate that is not less than the percentage rate that the fund's investment in the qualified mezzanine fund bears to the total amount in the qualified mezzanine fund.

(e) That a qualified mezzanine fund is not eligible to participate in a mezzanine investment program if its investment strategy provides for the breakup and liquidation of businesses. The fund board shall make sure that the agreements with a qualified mezzanine fund have the appropriate provisions to prohibit the actions described in this subdivision.

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History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

125.2088h Jobs for Michigan investment fund; creation; duties of fund board.

Sec. 88h.

(1) The jobs for Michigan investment fund is created within the fund as a permanent fund authorized by section 19 of article IX of the state constitution of 1963. Money in the investment fund at the close of the fiscal year remains in the investment fund and does not lapse to the general fund. Money in the investment fund must not be transferred to another governmental entity or a separate legal entity and public body corporate established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized in this chapter.

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

(3) The investment fund must be invested as authorized under this chapter for the benefit of the people of this state and for the purpose of creating incentives for the following in this state:

(a) Retaining or creating jobs.

(b) Increasing capital investment activity.

(c) Increasing commercial lending activity.

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

(e) Revitalizing Michigan communities.

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

(5) The investment fund consists of all of the following:

(a) Any funds appropriated to, transferred to, or deposited in the investment fund from the 21st century jobs trust fund.

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

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

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

(ii) Section 410 of 2000 PA 292, commonly known as the health and aging research and development initiative or the Michigan life sciences corridor initiative, or any successor program.

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

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

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

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

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

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

(d) Any money appropriated to, transferred to, or deposited in the investment fund under section 88u.

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

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

(6) The net income of the investment fund may be expended by the fund only for purposes authorized under this chapter or chapter 8C. For purposes of this section, the net income of the investment fund must be computed annually as of the last day of the state fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.

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(7) The fund board is the trustees of the investment fund and shall direct the investment and reinvestment of the funds and assets of the investment fund as consistent with the objectives of this chapter or chapter 8C.

(8) The fund board or an officer of the fund may establish restricted subaccounts within the investment fund as necessary to administer the investment fund. The fund may contract with the state treasurer to assist the fund board in administering the investment fund. The fund may authorize money in the investment fund not invested as authorized under sections 88d, 88e, 88f, 88g, 88q, 88r, and 88u and chapter 8C to be managed by the state treasurer as part of the common cash fund of this state under 1967 PA 55, MCL 12.51 to 12.53. The state treasurer shall separately account for money managed by the state treasurer under this subsection. If authorized under this subsection, the state treasurer may invest the funds or assets of the investment fund in any investment authorized under 1855 PA 105, MCL 21.141 to 21.147, for surplus funds of this state, in any obligation issued by a state or political subdivision or instrumentality of the United States, or in any obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, that is not in default as to principal or interest.

(9) A member of the fund board or officer of the fund shall not gain from any investment of funds or assets of the investment fund. A member of the fund board or officer of the fund shall not have any direct or indirect interest in an investment of funds or assets of the investment fund. A member of the fund board or person connected with the investment fund directly or indirectly, for that person, or as an agent or partner of others, shall not borrow any of the funds or assets of the investment fund or in any manner use funds or assets of the investment fund except as authorized under this chapter. A member of the fund board or officer of the fund shall not become an endorser or surety or become in any manner an obligor for money loaned by or borrowed from the investment fund. Failure to comply with this subsection constitutes misconduct in office subject to removal under section 94. In addition to any other sanction, a person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(10) As used in this section, "21st century jobs trust fund" means the 21st century jobs trust fund established in section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257.

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History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005 ;-- Am. 2011, Act 251, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 145, Imd. Eff. May 30, 2012 ;-- Am. 2024, Act 190, Eff. Apr. 2, 2025
Popular Name: Strategic Fund

125.2088i Office of chief compliance officer.

Sec. 88i.

(1) The office of the chief compliance officer is created within the fund. The office shall exercise its powers and duties under this section independently of the fund.

(2) The office shall assist the fund board with the creation, implementation, monitoring, and enforcement of policies and procedures to prevent illegal, unethical, or improper conduct on the part of fund board members, commercialization board members and employees, or agents of the fund board and commercialization board in carrying out their duties under this chapter.

(3) The principal executive officer of the office is the chief compliance officer. The state administrative board shall be the appointing authority of the chief compliance officer.

(4) A person may not interfere with, prevent, or prohibit the chief compliance officer from carrying out his or her duties as established in this section and set by the state administrative board. The chief compliance officer is an employee for purposes of the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(5) All departments, state agencies, committees, commissioners, or officers of this state, the MEDC, and any political subdivision of this state, so far as is compatible with their duties, shall give the chief compliance officer any necessary assistance required by the chief compliance officer in the performance of the duties of the chief compliance officer. All departments, state agencies, committees, commissioners, or officers of this state, the MEDC, and any political subdivision of this state shall provide the chief compliance officer free access to any book, record, or document in their custody, relating to the matters within the scope of the chief compliance officer in the performance of his or her duties.

(6) The chief compliance officer shall do all of the following:

(a) Recommend policies and procedures, including, but not limited to, a conflict of interest policy, an investment policy, and an ethics policy to the fund board and the commercialization board that shall protect the state's assets consistent with the requirements of this chapter and applicable state and federal law. The chief compliance officer shall also assist in the design of the policies and procedures that will prevent violations from occurring, detect violations that have occurred, and correct such violations promptly.

(b) Assist employees and agents of the board and the commercialization board to ensure that they are in compliance with internal policies and procedures and with applicable state and federal law.

(c) Provide guidance to the board, the commercialization board, and employees of the board and the commercialization board on matters related to compliance with internal policies and procedures and with applicable state and federal law.

(d) Make recommendations to the board, the commercialization board, and employees of the board and the commercialization board regarding the appropriate evaluation, investigation, and resolution of issues and concerns regarding compliance with internal policies and procedures and with applicable state and federal law.

(e) Review and evaluate compliance with internal policies and procedures and with applicable state and federal law.

(f) Cooperate with the office of the auditor general as the auditor general carries out his or her duties.

(g) Report quarterly to the fund board and the state administrative board regarding compliance with internal policies and procedures and with applicable state and federal law.

(h) Contact persons receiving awards, investments, grants, and loans under this chapter to the extent necessary to carry out responsibilities under this chapter.

(i) Prepare a written annual report that evaluates compliance with internal policies and procedures and with applicable state and federal law, explains any compliance matters that arose during the previous year, and suggests revisions to agency policies and procedures. Copies of the report shall be provided to the governor, the clerk of the house of representatives, the secretary of the senate, the chairpersons of the senate and house of representatives committees on commerce, and the chairpersons of the senate and house of representatives committees on appropriations. The annual report shall also be published on the fund's internet website.

(j) Do all other things necessary to carry out the chief compliance officer's responsibilities under this section.

(7) As used in this section, "office" means the office of the chief compliance officer.

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History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

125.2088j Disbursements.

Sec. 88j.

(1) Upon request from the fund board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund to the fund in the amounts designated by the fund board at the time and as necessary to fund disbursements or reserves required for programs or activities authorized under this chapter or to fund investments authorized by the fund board from the investment fund. Funds appropriated or transferred to the fund shall not be transferred to another governmental entity or a separate legal entity and public body corporate established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, except as authorized under this chapter.

(2) For the fiscal year ending September 30, 2006, there is appropriated and transferred from the 21st century jobs trust fund to the fund $400,000,000.00 for the purposes of carrying out the purposes of this chapter.

(3) From the funds appropriated and transferred in subsection (2), the fund shall make the following commitments, dispersible as provided in subsection (1):

(a) $26,000,000.00 as a grant to the Michigan forest finance authority for purposes under part 505 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.50501 to 324.50522. The money shall be spent only as provided by the Michigan forest finance authority.

(b) $10,000,000.00, up to 1/2 in loans, to support the development and creation of a defense contract coordination center program to assist Michigan companies in securing more federal defense and homeland security procurement contracts. This program shall include, but is not limited to, providing low-interest rate loans to support the expansion of manufacturing operations in order to fulfill federal procurement contracts. The loan repayments shall return to the investment fund.

(c) $4,000,000.00 as follows:

(i) $3,000,000.00 for a private research institute that has received a specific federal appropriation prior to 2005 for the creation of a good manufacturing facility. The facility shall be used for the production of drugs approved for use in clinical trials, as approved by the United States food and drug administration, and shall work to market the core technology alliance for the purposes of commercialization and providing access to advanced technologies to researchers affiliated with universities, private research institutes, and biotech and pharmaceutical firms.

(d) $6,000,000.00 for an automotive technology business accelerator to provide for the research, development, and commercialization of innovative technologies and products. The funds shall be used to support international business development, encourage development of competitive edge technologies through the creation of early stage seed funds, and support the outreach and growth of technology based businesses and professionals.

(e) $2,000,000.00 for the Michigan film office to promote the filming of motion pictures in this state. No funds may be used to promote the filming of a motion picture that depicts obscene matter or an obscene performance. As used in this subdivision, "obscene matter or an obscene performance" means obscene material, the dissemination of which is a violation of 1984 PA 343, MCL 752.361 to 752.374. The Michigan film office created under section 21 of

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the history, arts, and libraries act, 2001 PA 63, MCL 399.721, shall use the funds in the following manner:

(i) To hire an independent firm to conduct a baseline study that will accurately demonstrate Michigan's status within the film industry and include recommendations of necessary improvements for Michigan to attract motion pictures.

(ii) To market and promote Michigan as a premiere location for filming motion pictures, commercials, and documentaries. Marketing and promoting include, but are not limited to, website development, promotional and research expenses, event and festival sponsorship, and advertising.

(iii) Assist in workforce development within the film industry by supporting on-the-job training of qualified crew members. Job training of film and media technicians includes, but is not limited to, technical training, practical training, and internship opportunities.

(f) $2,000,000.00 to implement the transfer of competitive edge technology research from institutions of higher education to the private sector as provided in this chapter.

(g) $15,000,000.00 for a Michigan promotion program to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures in this state. No funds may be used for any tourism marketing effort that includes the image of an elected state officer or a candidate for elective state office that is targeted to a media market in Michigan.

(h) $10,000,000.00 to the agricultural development fund created in section 2 of the Julian-Stille value-added act, 2000 PA 322, MCL 285.302, for grants and loans. The money shall not be spent until after April 1, 2006. As used in this subdivision, "specialty crop" means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

(i) $3,500,000.00 to implement the capital access program.

(j) $90,000,000.00 for life sciences technology as provided in this chapter.

(4) $16,000,000.00 of the appropriation made in subsection (2) may be expended for administrative costs related to the administration of programs or activities authorized under this chapter. However, the fund and the fund board shall not expend more than $12,000,000.00 for administration of programs or activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional $4,000,000.00 for administration.

(5) $20,000,000.00 of the appropriation made in subsection (2) may be expended for business development and business marketing costs. Not less than 80% of the funds committed for business development and business marketing costs shall be targeted to persons or entities outside of this state. No funds shall be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in this state. The fund board shall select all vendors for all marketing expenditures under this chapter by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals.

(6) Following the disbursements described in subsections (3), (4), and (5), the remaining money shall be allocated pursuant to section 88b(1).

(7) The appropriation authorized in subsection (2) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The

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following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide substantial economic benefits and job creation within this state and to create incentives for the diversification of the economy of this state through 21st century investments, grants and loans approved by the commercialization board under section 88k, and other programs or activities authorized under this chapter.

(b) The work project will be accomplished through the use of interagency agreements, grants, loans, investments, state employees, and contracts.

(c) The total estimated completion cost of the work project is $400,000,000.00.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Compiler's Notes: Subparagraph (3)(c)(ii), as added by 2005 PA 225, and which read "$1,000,000.00 to the core technology alliance to implement and fund a grant program for early drug discoveries." was vetoed by the governor November 21, 2005.The second sentence of subdivision (3)(h), as added by 2005 PA 225, and which read "Not less than $5,000,000.00 shall be awarded as specialty crop grants and loans.", was vetoed by the governor November 21, 2005.
Popular Name: Strategic Fund

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125.2088k Strategic economic investment and commercialization board; creation; powers, duties, and authority; award of grants and loans; duties of fund; standards for expenditures of money; reasons for selection of grant recipient.

Sec. 88k.

(1) The strategic economic investment and commercialization board is created within the fund. Through October 17, 2010, the commercialization board shall exercise its powers, duties, and decision-making authority under this section independently of the fund, the fund board, and the department of treasury. Beginning October 18, 2010, the fund board shall exercise all powers, duties, and decision-making authority of the strategic economic investment and commercialization board.

(2) The fund board shall award grants and loans under this section from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, and the investment fund only for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies to create jobs in this state.

(3) Subject to subsection (2), the fund shall establish a competitive process to award grants and make loans under this section for competitive edge technologies. The competitive process shall include, but is not limited to, the following:

(a) A provision that the applications must be reviewed by a joint-evaluation committee. Scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding may be given equal weight in the review and scoring process as determined by the fund board.

(b) A preference for proposals that can contribute to the development of economic diversification or the creation of employment opportunities in this state.

(c) A provision that out-of-state business must have a significant existing or proposed business presence in this state.

(d) A provision that the program will utilize contracts with measurable milestones, clear objectives, provisions to revoke awards for breach of contract or failing to meet measurable milestones, repayment of grants for breach of contract or for failing to meet measurable outcomes, and repayment provisions for loans given to qualified businesses that leave

Michigan within 3 years of the execution of the contract, that otherwise breach the terms of the contract, or that fail to meet measurable outcomes.

(e) A provision that the applicant leverage other resources as a condition of the grant or loan. If an applicant is seeking a grant or a loan under this section to match federal funds for small business innovation research or small business technology transfer programs, the grant or loan under this section shall not exceed 25% of the federal funds and must leverage third-party commercialization funding at both the phase I and phase II levels.

(f) Limit overhead rates, administrative fees, and management fees for recipients of awards to not more than 25% of the award.

(g) Except as provided in subdivision (e), a provision that grants can only be awarded to Michigan institutions of higher education, Michigan nonprofit research institutions, and Michigan nonprofit corporations.

(h) A preference for collaborations between institutions of higher education, Michigan nonprofit research institutions, Michigan nonprofit corporations, and qualified businesses.

(i) A provision authorizing the award of grants to institutions of higher education to serve as match to promote or secure the award and receipt of competitively awarded federal research grants related to competitive edge technologies. A matching grant shall not exceed 10% of the amount of the competitively awarded federal research grants received.

(j) A provision encouraging the redevelopment of existing scientific wet lab space for the commercialization of life science technology.

(k) A preference for proposals that meet 1 or more of the following:

(i) Forecast revenues within 2 years.

(ii) Have outside investments from investors with experience and management teams with experience in the industry targeted by the proposal.

(iii) Have outside directors with expertise in the industry targeted by the proposal.

(4) The fund board shall establish standards to ensure that money expended under this section will result in economic benefit to this state and ensure that a major share of the business activity resulting from the expenditures occurs in this state.

(5) When the fund board approves a grant or a loan under this section, the fund board shall state the specific objective reasons the applicant was selected over other applicants for a grant or loan under this section.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005 ;-- Am. 2012, Act 145, Imd. Eff. May 30, 2012 ;-- Am. 2014, Act 453, Eff. Jan. 14, 2015

Compiler's Notes: For transfer of powers and duties of strategic economic investment and commercialization board to Michigan strategic fund board, see E.R.O. No. 2010-4, compiled at MCL 125.1993.

Popular Name: Strategic Fund

125.2088l Commercialization board; membership; appointment; terms; vacancy; chairperson, vice-chairperson, and secretary; oath of office; compensation; reimbursement for expenses; organization; quorum; business conducted at public meetings.

Sec. 88l .

(1) The commercialization board shall consist of 19 members, as provided under subsections (2) and (3).

(2) The commercialization board shall include each of the 2 following voting ex officio members:

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(a) The director of the department of labor and economic growth or his or her designee from within the department of labor and economic growth.

(b) The state treasurer or his or her designee from within the department of treasury.

(3) The commercialization board shall include the following 17 members appointed by the governor with, except for the individuals described in subdivisions (c) and (d), the advice and consent of the senate:

(a) Seven members representing business with expertise, knowledge, skill, or experience in venture capital investments, business finance, bringing competitive edge technology products to market, or representing a qualified business.

(b) A member representing the Van Andel institute, a Michigan charitable trust, MICS 13607, or a successor organization.

(c) One member appointed from a list of 2 or more individuals selected by the majority leader of the senate representing qualified businesses or persons with business, technological, or financial experience related to competitive edge technology.

(d) One member appointed from a list of 2 or more individuals selected by the speaker of the house of representatives representing qualified businesses or persons with business, technological, or financial experience related to competitive edge technology.

(e) A member representing Michigan state university.

(f) A member representing the university of Michigan.

(g) A member representing Wayne state university.

(h) A member representing western Michigan university.

(i) A member representing Michigan technological university.

(j) A member representing a public university in Michigan other than Michigan state university, the university of Michigan, Wayne state university, western Michigan university, or Michigan technological university.

(k) A member representing automation alley, a Michigan nonprofit corporation incorporated on May 21, 1998, or a successor organization.

(4) Of the members of the commercialization board initially appointed under subsection (3), 5 members shall be appointed for terms expiring on December 31, 2006, 5 members shall be appointed for terms expiring on December 31, 2007, 5 members shall be appointed for terms expiring on December 31, 2008, and 2 members shall be appointed for terms expiring on December 31, 2009. After the expiration of the initial appointment terms provided for by this subsection, members of the commercialization board shall be appointed for terms of 4 years.

(5) For members of the commercialization board appointed under subsection (3), a vacancy on the commercialization board occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the commercialization board shall hold office until a successor has been appointed and qualified. A member of the commercialization board is eligible for reappointment. State employees are not eligible to serve as members appointed under subsection (3). As used in this subsection, "state employees" does not include an officer or employee of a state institution of higher education.

(6) The governor shall designate 1 of the members of the commercialization board to serve as its chairperson at the pleasure of the governor. The commercialization board shall select from among its members a member to serve as vice-chairperson and a member to serve as secretary.

(7) Upon appointment to the commercialization board under this section and upon the taking and filing of the constitutional oath of office prescribed in section 1 of article XI of the state constitution of 1963, a member shall enter the office and exercise the duties of the office.

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(8) Members of the commercialization board shall serve without compensation, but may be reimbursed for actual and necessary expenses.

(9) Upon the initial appointment of members under this section, the commercialization board shall organize and adopt its own policies, procedures, schedule of regular meetings, and a regular meeting date, place, and time.

(10) The commercialization board may act only by resolution approved by a majority of commercialization board members appointed and serving. A majority of the members of the commercialization board appointed and serving shall constitute a quorum for the transaction of business. The commercialization board shall meet in person or by means of electronic communication devices that enable all participants in the meeting to communicate with each other.

(11) The commercialization board shall conduct all business at public meetings 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 each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and shall be published on the fund's internet website.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005
Compiler's Notes: For transfer of powers and duties of strategic economic investment and commercialization board to Michigan strategic fund board, see E.R.O. No. 2010-4, compiled at MCL 125.1993.
Popular Name: Strategic Fund

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125.2088m Member, employee, or agent of commercialization board; conduct.

Sec. 88m.

(1) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323, members of the commercialization board are considered public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and public officers subject to 1973 PA 196, MCL 15.341 to 15.348. An officer or an employee of a state institution of higher education may at the same time also hold the public office of member of the commercialization board as authorized under section 88l(3)(d) and the officer or employee shall not be deemed to hold 2 or more incompatible offices at the same time. A member of the commercialization board shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. In discharging duties of the office, a member of the commercialization board when acting in good faith may rely upon the report of an independent expert or independent peer review expert or upon financial statements of the commercialization board represented to the member of the commercialization board by the officer of the commercialization board having charge of its books or accounts or stated in a written report by the auditor general.

(2) A member of the commercialization board shall not make or participate in making, or in any way attempt to use his or her position as a member of the commercialization board to influence, a matter before the fund board or the commercialization board regarding a loan, grant, or other expenditure under this chapter to his or her employer.

(3) An independent peer review expert shall not have any financial interest in a recipient of investment fund proceeds under this chapter.

(4) A member, employee, or agent of the commercialization board shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the commercialization 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 commercialization board-related work or duty of the member, employee, or agent of the commercialization board.

(5) A member of the commercialization board who has a conflict of interest related to any matter before the commercialization board shall disclose the conflict of interest before the commercialization board takes any action with respect to the matter, which disclosure shall become a part of the record of the commercialization 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 commercialization board's proceedings related to the matter.

(b) Participating in the commercialization 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 commercialization 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 commercialization 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.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005
Compiler's Notes: For transfer of powers and duties of strategic economic investment and commercialization board to Michigan strategic fund board, see E.R.O. No. 2010-4, compiled at MCL 125.1993.
Popular Name: Strategic Fund

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125.2088n Access to books and records by auditor general; separate audit; requirement that recipient provide information necessary for production of reports.

Sec. 88n.

(1) All contracts approved by the fund for 21st century investments and all contracts approved by the commercialization board or fund board for grants or loans under this chapter shall contain a provision that the auditor general has access to the books and records, including financial records and all other information and data relevant to the terms of the contract related to the use of the grant, loan, or 21st century investment.

(2) If the fund board or the commercialization board has a reasonable belief that a breach of contract has occurred, the fund has the right to have the recipient's annual financial statements separately audited by an independent certified public accountant at its sole cost and expense. If the audit reveals that a breach of contract has occurred, the recipient shall reimburse the fund for the fees and expenses incurred to perform the audit.

(3) As a condition of receiving funding under this chapter, the fund shall require a recipient to agree to provide to the fund the information necessary for the fund to produce the reports required under this section.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005 ;-- Am. 2014, Act 453, Eff. Jan. 14, 2015
Compiler's Notes: For transfer of powers and duties of strategic economic investment and commercialization board to Michigan strategic fund board, see E.R.O. No. 2010-4, compiled at MCL 125.1993.
Popular Name: Strategic Fund

125.2088o Technology transfer acceleration program.

Sec. 88o.

The fund shall create and operate a program to accelerate technology transfer from Michigan's institutions of higher education to the private sector for commercialization of competitive edge technologies and bioeconomy technologies. The technology transfer acceleration program shall include all of the following:

(a) Encourage and work with the state's public universities to identify the commercial potential in advanced technologies from individual institutions of higher education.

(b) Facilitate the bundling of inventions from individual institutions of higher education into packages that could be of interest to private sector firms looking for commercialization opportunities.

(c) Encourage business formation efforts in institution of higher education technology transfer offices to increase the number of institution of higher education related start-up companies.

(d) Work with institutions of higher education in encouraging the institutions to provide their faculty with incentives for participating in technology transfer and commercialization activities.

(e) Facilitate the use of the applied research expertise within institutions of higher education by qualified businesses.

History: Add. 2005, Act 215, Imd. Eff. Nov. 21, 2005 ;-- Am. 2008, Act 367, Imd. Eff. Dec. 23, 2008
Popular Name: Strategic Fund

125.2088p Michigan life sciences pipeline; establishment; purpose; commencement of operations; awards; selection of pipeline operator; request for proposals; contract; duration; report; "pipeline" defined.

Sec. 88p.

(1) The fund shall establish a Michigan life sciences pipeline to promote the development of businesses in this state engaged in providing goods and services related to the development and commercialization of life sciences. The pipeline shall begin operations not later than June 1, 2006. The pipeline shall do all of the following:

(a) Recruit Michigan-based businesses involved in life sciences research and commercialization and related goods and services to affiliate themselves with the pipeline as members.

(b) Market the services of the pipeline, its members, and life sciences research and commercialization in Michigan to develop and increase the amount of business activity for members of the pipeline.

(c) Otherwise assist members of the pipeline in developing life sciences research and commercialization activities in this state.

(d) Maintain and make available a list of members of the pipeline and services provided by members of the pipeline.

(e) At the discretion of the pipeline, charge members of the pipeline a reasonable fee based on the services provided by the pipeline.

(2) The fund shall encourage a recipient of expenditures under this chapter engaged in the development or commercialization of life sciences in this state to utilize goods or services provided by a member or members of the pipeline.

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(3) When making awards under the commercialization, research, and development program established by the commercialization board under section 88k to recipients engaged in the development or commercialization of life sciences in this state, the commercialization board shall provide additional weighting to an applicant that demonstrates a commitment to utilize or collaborate with a member or members of the pipeline when procuring goods or services, if the goods or services are reasonably available from a member or members of the pipeline.

(4) The fund shall select a person or entity to operate the pipeline by issuing a request for proposals. The person or entity selected to operate the pipeline shall demonstrate to the fund the proven ability to do all the following:

(a) Coordinate commercialization of life sciences research initiatives.

(b) Assist life sciences start-up companies.

(c) Market life sciences related activities and capabilities.

(d) Coordinate or operate programs that have a history of ongoing independent peer review.

(e) Have regulatory experience necessary for commercial approval of pharmaceutical and medical devices.

(f) Develop and implement a plan for operating the pipeline.

(5) The fund shall enter into a contract with a duration of not less than 4 years with the person or entity selected to operate the pipeline.

(6) Not later than 5 years after the effective date of the amendatory act that added this section, the person or entity selected to operate the pipeline shall report to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the house of representatives and senate standing committees on appropriations on the effectiveness of the pipeline in developing life sciences research and commercialization activities in this state.

(7) As used in this section, "pipeline" means the Michigan life sciences pipeline established in this section.

History: Add. 2005, Act 213, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

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125.2088q Center of innovation program; definitions.

Sec. 88q.

(1) The fund may create and operate a center of innovation program to promote the development, acceleration, and sustainability of competitive edge technology sectors in this state. The fund may enter into agreements with 1 or more qualified entities for the designation and operation of a center of innovation as provided in subsection (5). Prior to entering into an agreement under this section, 1 or more qualified entities may apply to the fund for an agreement for designation and operation of a center of innovation. The application shall be in a form determined by the fund and shall include information the fund determines necessary and appropriate.

(2) Grants, loans, or other economic assistance given for the centers of innovation program may be awarded to for-profit companies, benefit companies, nonprofit companies, universities, and national laboratories for all of the following purposes:

(a) Providing up to a 1-for-1 match for federal, collaborative partners, or third party funding of up to 50% of the total project costs.

(b) Supplementing in-kind contributions provided by a person or entity other than this state.

(c) Accelerating the commercialization of an innovative technology or process that will be ready to market within 5 years of the effective date of the agreement.

(d) Activities of the center, including, but not limited to, workforce development and technology demonstration.

(3) All of the funds allocated to the centers for innovation program shall be used to match federal, collaborative partners, or third party funding. The fund board may authorize investment terms in qualified entities as part of any agreement as provided in subsection (5). Not more than 25% of any grant, loan, or other economic assistance awarded, as determined by the fund board, can be used for administrative costs or overhead by the awardee or any subcontractor hired to implement any portion of the centers for innovation agreement. Grants, loans, or other economic assistance authorized by this section shall be disbursed pursuant to a timeline and progress disbursement schedule included as part of an agreement under this section.

(4) The fund board shall establish a standard process to evaluate applications for an agreement under this section and shall appoint a committee to assist in the review of applications. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review applications if that person has a conflict of interest with any potential applicants as determined by the office of the chief compliance officer established in section 88i. When determining whether to enter into an agreement under this section, the fund board shall consider all of the following:

(a) The potential that in the absence of an agreement the development, acceleration, and sustainability of competitive edge technology sectors addressed by the proposed center of innovation will occur in a location other than this state.

(b) The extent to which the proposed center of innovation will promote the development of competitive edge technology sectors in this state.

(c) The extent to which the proposed center of innovation will promote economic development or job creation in this state.

(d) The extent to which the proposed center of innovation could attract private investment or encourage commercialization in competitive edge technology sectors in this state.

(e) The extent to which the proposed center of innovation may leverage skills or resources in which this state possesses a competitive advantage, including, but not limited to, skills of workers, intellectual property, and natural resources.

(f) The extent to which the proposed center of innovation may encourage collaboration on commercialization and technology transfer among qualified entities in this state.

(g) The extent to which the proposed center of innovation may attract additional federal funding to this state or persons or entities within this state.

(h) The financial viability of the proposed center of innovation and the proposed business plan for the center of innovation, including, but not limited to, commitments of financial and other support for the proposed center and the potential availability of federal funding for the proposed center.

(i) The financial resources available to the fund board for operation of the centers of innovation program under this section.

(j) Any recommendations from the centers manager selected under subsection (6).

(5) If the fund board enters into an agreement with 1 or more qualified entities for the operation of a center of innovation, the agreement shall include participation by at least 1 qualified business and at least 1 institution of higher education or a national laboratory. An agreement shall include, but is not limited to, all of the following:

(a) The roles and responsibilities of the fund and the qualified entities participating in the agreement.

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(b) A governance structure for the center of innovation. The agreement may provide for representation of the fund in the governance of the center.

(c) The responsibilities of the fund and the qualified entities participating in the agreement, including, but not limited to, financial resources, technology, real property, personal property, or other resources contributed by the parties to the agreement.

(d) A commitment by the qualified entities participating in the agreement to collaborate on commercialization and technology transfer opportunities in competitive edge technology sectors in this state.

(e) A commitment by qualified entities that are institutions of higher education to provide incentives for faculty who participate in technology transfer and commercialization activities in competitive edge technology sectors and expansion of business formation efforts related to competitive edge technology sectors to increase the number of institution of higher education related start-up companies.

(f) A commitment to locate and retain commercialization opportunities resulting from the agreement or center of innovation within this state.

(g) A business plan for the center of innovation that identifies clear and measurable objectives, timelines, and deliverables for the center.

(h) The duration of the agreement and a mechanism for the dissolution of the center of innovation and the disposition of any assets. The fund board may revoke an agreement for the designation and operation of a center of innovation if a qualified entity that is a party to the agreement does not comply with the agreement.

(i) Negotiation of specific claw back and repayment provisions if performance to contract related to job creation, commercialization, or other metrics do not comply with the agreement. This provision shall be part of the public record and is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) The fund board may select a person or entity as a centers manager to assist the fund in the administration of the centers of innovation program authorized by this section. Costs associated with the administration of the centers of innovation program are subject to section 88b(5). The centers manager shall do all of the following as determined by the fund board:

(a) Provide administrative services related to the centers of innovation program.

(b) Act as contract manager on behalf of the fund for any agreement establishing a center of innovation under this section.

(c) Recommend to the fund board a plan for managing the centers of innovation program and implement any plan authorized by the fund board.

(d) Assist centers of innovation in developing a supply chain for competitive edge technology sectors.

(e) Evaluate and report to the fund board on the centers of innovation program and progress made toward commercialization of technology in competitive edge technology sectors in this state.

(f) Review applications submitted under subsection (1) and make recommendations to the fund board on the applications for approval of applications.

(g) Perform other functions related to the centers for innovation program authorized by this section as deemed necessary and appropriate by the fund board.

(7) As used in this section:

(a) "Centers manager" means a centers manager selected under subsection (6).

(b) "Competitive edge technology sectors" means sectors involving competitive edge technology.

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(c) "Qualified entity" means a qualified business, an institution of higher education, a Michigan nonprofit corporation, a national laboratory, or a political subdivision of this state.

History: Add. 2008, Act 175, Imd. Eff. July 8, 2008 ;-- Am. 2009, Act 144, Imd. Eff. Nov. 13, 2009 ;-- Am. 2012, Act 221, Imd. Eff. June 28, 2012
Popular Name: Strategic Fund

125.2088r Michigan business development program; posting certain information on website; finding and declaration of public purpose; definitions.

Sec. 88r.

(1) The fund shall create and operate the Michigan business development program to provide grants, loans, and other economic assistance to qualified businesses that make qualified investments in this state or provide qualified new jobs in this state.

(2) The Michigan business development program shall provide for all of the following:

(a) Grants, loans, and other economic assistance to assist qualified businesses in making qualified investments and providing new jobs in this state, with preference given to qualified businesses that need additional assistance for deal-closing and for second stage company gap financing.

(b) A detailed application, approval, and compliance process published and available on the fund's website. The detailed application, approval, and compliance process must, at a minimum, contain the following:

(i) A qualified business may apply for a grant, loan, or other economic assistance in a form and manner determined by the fund.

(ii) After receipt of an application, the fund may enter into a written agreement with the qualified business if the qualified business agrees to make certain qualified investments or create a certain number of new jobs in this state.

(iii) The written agreement must provide in a clear and concise manner all of the conditions imposed, including specific time frames, on the qualified business to receive a grant, loan, or other economic assistance under this section.

(iv) The written agreement must provide for a repayment provision of any grants, loans, or other economic assistance if the qualified business fails to comply with the provisions of the written agreement.

(v) The written agreement must provide for an audit provision that requires the fund to verify that established milestones for the project have been met.

(c) In any fiscal year, a qualified business shall not receive more than $10,000,000.00 for a project funded under this section.

(3) The fund shall not enter into a written agreement with a qualified business unless all of the following are met:

(a) The municipality makes a staff, financial, or economic commitment to the project as determined by the fund.

(b) The qualified business provides a business plan or demonstrates the need for the grant, loan, or other economic assistance.

(c) The qualified business agrees to provide the data described in the written agreement necessary for the fund to report to the legislature under this act.

(4) The fund shall post on its website or post on the website of the Michigan economic development corporation the name and location of each qualified business that received a grant, loan, or other economic assistance awarded under this section and the amount of the grant, loan, or other economic assistance.

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(5) Beginning February 1, 2012 and not less than every 3 months thereafter, the fund shall post on its internet website the name and location of a qualified business that received approval of a grant, loan, or other economic assistance under this section in the immediately preceding 3-month period.

(6) The legislature finds and declares that funding authorized under this section to encourage diversification of the economy, to encourage capital investment in this state, and to promote the creation of qualified new jobs in this state is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state.

(7) As used in this section:

(a) "Other economic assistance" means any other form of assistance allowed under this act that is not a grant or a loan.

(b) "Qualified business" means a business that is located in or operates in this state or will locate or will operate in this state as determined by the fund. A qualified business may include more than 1 business as determined by the fund board.

(c) "Qualified investment" means investment in this state related to a project subject to a written agreement under this section.

(d) "Qualified new job" means a job performed by an individual who is a resident of this state whose Michigan income taxes are withheld by an employer, or an employee leasing company or professional employer organization on behalf of the employer, or by an individual who is not a resident of this state and is employed by a business at a project location that is located in this state, provided that the business certifies in writing at the time of disbursement that not less than 75% of the employees of that business are residents of this state, that is in excess of the number of jobs maintained by the qualified business in this state prior to the expansion or location, as determined and verified by the fund.

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History: Add. 2011, Act 250, Imd. Eff. Dec. 13, 2011 ;-- Am. 2014, Act 506, Imd. Eff. Jan. 14, 2015 ;-- Am. 2018, Act 458, Eff. Mar. 29, 2019

Popular Name: Strategic Fund

125.2088s Critical industry program.

Sec. 88s.

(1) The fund shall create and operate the critical industry program. The fund shall use money transferred from the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254, or money appropriated to the program to make qualified investments to qualified businesses.

(2) The fund shall expend money allocated to the Michigan critical industry program only to provide qualified investments to qualified businesses for deal-closing, gap financing, or other economic assistance to create or retain qualified jobs as a result of a technological shift in product or production or make capital investments, or both, as determined by the fund board. The program must provide for a detailed application, approval, and compliance process that is also published and available on the fund's website.

(3) The fund shall consider and document at a minimum all of the following criteria to the extent reasonably applicable as reasonably determined by the fund board to the type of project proposed before entering into a written agreement for a qualified investment as provided under subsection (4):

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

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

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

(d) The applicant's financial need for a qualified investment from the critical industry program.

(e) The extent of reuse of vacant buildings, public or private, reuse of historic resources, and redevelopment of blighted property.

(f) Creation or retention of qualified jobs as a result of a technological shift in product or production at the project location and within this state.

(g) The level of other public funds including, but not limited to, the appropriation of federal or state funds and any federal or state tax credits.

(h) The level of any private funds, investments, or contributions into the project including, but not limited to, the qualified business's own investments in the project.

(i) Whether and how the project is financially and economically sound.

(j) Whether and how the project promotes sustainable development.

(k) Whether and how the project involves the rehabilitation of a historic resource.

(l) Whether and how the project addresses areawide redevelopment and the overall economic benefit to the existing supply chain.

(m) The level and extent of environmental contamination.

(n) Whether and how the project will compete with or affect existing Michigan businesses within the same industry.

(o) Whether and how the project's proximity to rail and utility will impact performance of the project and maximize energy and logistics needs in the community in which it is located and in this state.

(p) The risk of obsolescence of the project, products, and investments in the future.

(q) The overall return on investment to this state.

(r) Whether and how the project addresses food supply challenges.

(s) Any other additional criteria approved by the board that are specific to each individual project and are consistent with the purpose of this program.

(4) If the fund determines, after making the considerations under subsection (3), to award a qualified investment to a qualified business under this program, the fund shall enter into a written agreement with the qualified business that includes in a clear and concise manner all of the terms and conditions relating to the qualified investment as determined and documented by the fund board, including, but not limited to, the following:

(a) Specific time frames and benchmarks to be met before the qualified business receives a disbursement in installments under the critical industry program pursuant to the approved qualified investment.

(b) Specific terms relating to the required creation or retention of qualified jobs as a result of a technological shift in product or production at the project location and within this state, including measurable outcomes, proration of payments for partial performance, clawback and specific repayment provisions for breach of the agreement, or for failure to meet measurable outcomes.

(c) Specific penalties for noncompliance with the written agreement as determined by the fund.

(d) A provision that all money that is subject to a clawback or required to be repaid under a specific repayment provision must be paid within 90 days of notification by the fund. Any amounts not paid within that 90-day period are subject to a penalty of 1% per month, prorated on a daily basis.

(e) A provision that this state shall have a security interest as defined in section 1201(2)(ii) of the uniform commercial code, 1962 PA 174, MCL 440.1201, to the extent of the qualified

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investment. This provision does not apply if it conflicts with any contractual obligation of the qualified business or any federal or state bankruptcy or insolvency laws.

(f) A provision that the qualified business will provide the data described in the written agreement that are necessary for the fund to report to the legislature as required under this program.

(g) A provision that the qualified business may enter into direct agreements with workforce training providers, when appropriate, as determined by the fund to meet the workforce requirements of a qualified investment.

(5) If the fund receives a request to modify an existing written agreement for a qualified investment under this program, the fund must provide a copy of that requested modification 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 within 5 business days of the receipt of the modification request. In addition to the copy of the request for modification, the notice provided under this subsection must also include the specific provisions to be modified and the rationale for considering the modification. Before the fund modifies an existing written agreement for a qualified investment, the fund must give notice of the proposed amendments and publish them on the fund's internet website at least 1 business day prior to a public hearing on the proposed amendments. If the fund approves and modifies an existing written agreement under this subsection, the fund must provide a copy of that amended written agreement 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 within 1 business day of the modification.

(6) If the fund board seeks to make a determination as to whether a qualified investment approved under this program represents a fair exchange of value for value, the fund may consider the total value to this state of the qualified investment and the best interests of this state, including, but not limited to, any positive economic impact to this state likely to be generated by the qualified business pursuant to the written agreement for a qualified investment, especially economic impact resulting in the location of a high-economic-impact business facility in this state, increased capital investment in this state, and the creation or retention of qualified jobs as a result of a technological shift in product or production in this state.

(7) The fund board shall not disburse funds allocated to the program for a qualified investment to a qualified business if that qualified business has not fully repaid all money subject to clawback or required to be repaid under a specific repayment provision as provided in any written agreement under this act or if that qualified business is in default on any grant, loan, investment, or other economic assistance made or guaranteed by this state. All money paid to the fund pursuant to a clawback or specific repayment provision for a qualified investment under this program shall be deposited in the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254. The fund shall not use money allocated to the program for administrative purposes. Any money that is allocated to the program that remains unexpended, unallocated, or unobligated at the end of a fiscal year shall revert back to the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254.

(8) Not later than March 15 of each year, 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 a report on the activities of the critical industry program. The report must include the following:

(a) A list of qualified businesses that received a qualified investment.

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(b) The type of project or product approved for a qualified investment.

(c) The amount and type of qualified investment.

(d) For each separate form of qualified investment, all of the following:

(i) The number of qualified jobs committed or projected to be created or retained as a result of a technological shift in product or production when the qualified investment was applied for.

(ii) The actual number of qualified jobs created or retained as a result of a technological shift in product or production that are not temporary employees.

(iii) The average annual salary of the qualified jobs created or retained as a result of a technological shift in product or production that are not temporary employees.

(e) The duration of the qualified investment.

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

(g) Money or other revenue or property returned to the strategic outreach and attraction reserve fund, created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254, including any clawbacks and repayments due to a breach of the written agreement.

(9) If the fund fails to transmit the report as required in subsection (8) on or before March 15, the fund board shall not disburse funds for a qualified investment under this program until it transmits the report as required under subsection (8).

(10) The legislature finds and declares that funding provided under this program is for a public purpose and serves the health, safety, and general welfare of the residents of this state.

(11) As used in this section:

(a) "Critical industry program" or "program" means the critical industry program created in subsection (1).

(b) "Qualified business" means a business that is located in or operates in this state or will locate or will operate in this state as determined by the fund board. A qualified business may include more than 1 business as determined by the fund board.

(c) "Qualified investment" means a grant, loan, or other economic assistance for a project subject to a written agreement with a qualified business under this program. Qualified investment includes a grant, loan, or other economic assistance for creation or retention of qualified jobs as a result of a technological shift in product or production, infrastructure improvements, other capital investments, the purchase or acquisition of heavy machinery, or other assistance, including, but not limited to, an agreement providing for assistance via the transportation economic development fund created under section 2 of 1987 PA 231, MCL 247.902. Qualified investment also includes a grant, loan, or other economic assistance for job training opportunities or workforce development and education, or both.

(d) "Qualified job" means a job performed by an individual who is a resident of this state whose Michigan income taxes are withheld by an employer, or an employee leasing company or professional employer organization on behalf of the employer, or by an individual who is not a resident of this state and is employed by a business at a project location that is located in this state, as determined and verified by the fund.

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History: Add. 2021, Act 136, Eff. Dec. 27, 2021
Popular Name: Strategic Fund

125.2088t Michigan strategic site readiness program.

Sec. 88t.

(1) The fund shall create and operate the Michigan strategic site readiness program. The fund shall use the program money transferred from the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254, or money appropriated to the program to make grants, loans, or other economic assistance under this program.

(2) The fund shall expend money allocated to the Michigan strategic site readiness program only to provide grants, loans, and other economic assistance for eligible applicants to conduct eligible activities for the purpose of creating investment-ready sites to attract and promote investment in this state for eligible activities on, or related to, strategic sites and mega-strategic sites. The program must provide for a detailed application, approval, and compliance process that is also published and available on the fund's website. The detailed application, approval, and compliance process must, at a minimum, provide for all of the following:

(a) An eligible applicant may apply for a grant, loan, or other economic assistance in a form and manner determined by the fund.

(b) The fund shall establish separate application criteria for mega-strategic sites and for strategic sites that are not mega-strategic sites and for sites that have, and that do not have, a specifically identified end user.

(3) Before approving an application under this section, the fund shall consider and document, at a minimum, all of the following criteria to the extent reasonably applicable as reasonably determined by the fund board to the type of project proposed before entering into a written agreement for a grant, loan, or other economic assistance as provided under this program:

(a) The importance of the project or eligible activities to the community in which it is located.

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

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

(d) The amount of any other economic assistance or support provided by this state for the project.

(e) The amount of any other economic assistance or support provided by the federal government for the project including, but not limited to, federal appropriations or tax credits.

(f) The amount of any private funds or investments for the project including the applicant's own investments in the project.

(g) The applicant's financial need for a grant, loan, or other economic assistance under this program.

(h) The extent of reuse of vacant buildings, public or private, reuse of historic resources, and redevelopment of blighted property.

(i) Creation or retention of qualified jobs as a result of a technological shift in product or production at the project location and within this state.

(j) Whether and how the project is financially and economically sound.

(k) Whether and how the project converts abandoned public buildings to private use.

(l) Whether and how the project promotes sustainable development.

(m) Whether and how the project involves the rehabilitation of a historic resource.

(n) Whether and how the project addresses areawide redevelopment.

(o) Whether and how the project addresses underserved markets of commerce.

(p) The level and extent of environmental contamination.

(q) Whether and how the project will compete with or affect existing Michigan businesses within the same industry.

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(r) Whether and how the project's proximity to rail and utility will impact performance of the project and maximize energy and logistics needs in the community in which it is located and in this state.

(s) The risk of obsolescence of the project, products, and investments in the future.

(t) The overall return on investment to this state.

(u) Whether the proposed strategic site or mega-strategic site is incorporated into a strategic plan of a political subdivision of this state.

(v) Any other additional criteria approved by the fund board that are specific to each individual project and are consistent with the purpose of this program.

(4) If the fund determines, after the considerations under subsection (3), to provide a grant, loan, or other economic assistance to an eligible applicant under this program, the fund shall enter into a written agreement with the eligible applicant that includes in a clear and concise manner all of the terms and conditions related to the grant, loan, or other economic assistance as determined and documented by the fund board, including, but not limited to, the following:

(a) Specific dates and benchmarks for the eligible applicant to receive a grant, loan, or other economic assistance under this program, including conditions for the disbursement of funds in installments.

(b) For a grant, loan, or other economic assistance provided to a person identified as the end user of the site, a clawback and specific repayment provision if the person fails to comply with the provisions of the written agreement.

(c) A provision that all money that is subject to clawback or required to be repaid under a specific repayment provision must be paid within 90 days of notification by the fund. Any amounts not paid within that 90-day period are subject to a penalty of 1% per month, prorated on a daily basis.

(d) A provision that this state shall have a security interest as defined in section 1201(2)(ii) of the uniform commercial code, 1962 PA 174, MCL 440.1201, to the extent of the grant, loan, or other economic assistance provided under this program. This provision does not apply if it conflicts with any contractual obligation of the eligible applicant or any federal or state bankruptcy or insolvency laws.

(e) An audit provision that requires the fund to verify that the established benchmarks for the project have been met.

(5) In addition to the considerations under subsection (3), in determining whether to approve a grant, loan, or other economic assistance for a strategic site for which an end user has not been specifically identified, the fund shall consider and document, as reasonably determined by the fund board, at a minimum all of the following:

(a) The degree to which the proposed site demonstrates a high level of competitiveness for future development, considering and documenting all of the following:

(i) Whether the proposed site is currently assembled.

(ii) Whether the proposed site is under site control.

(iii) Whether the proposed site is of a size, configuration, location, and condition that makes the site substantially ready for marketing and competitive for development upon completion of the grant, loan, or other economic assistance proposed to be offered under this program and demonstrated matching contributions.

(b) Whether the proposed investment will result in the elimination of blight and the remediation of environmental contamination.

(c) The degree of local matching contributions.

(d) Whether the award will promote geographic equity in the distribution of funds between different areas of this state.

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(e) Whether the eligible applicant has pursued all available cost-containment measures.

(6) In determining whether to approve a grant, loan, or other economic assistance for a mega-strategic site for which an end user has not been specifically identified, the fund shall consider and document, in addition to the criteria in subsections (3) and (5)(a), at a minimum all of the following criteria related to the strategic basis for the investment and feasibility of the investment:

(a) Whether the proposed mega-strategic site is supported by a strategic analysis that supports the demand for that site.

(b) The feasibility of proposed land acquisition.

(c) Utility and transportation availability, and the feasibility of necessary utility and transportation improvements.

(d) Workforce availability and training capability.

(e) Environmental and topographical conditions, and the feasibility of necessary site improvements to address environmental and topographical conditions.

(7) In addition to the considerations under subsection (3), in determining whether to approve a grant, loan, or other economic assistance for a project for which an end user has been specifically identified, the fund shall consider and document, as reasonably determined by the fund board, all of the following:

(a) The strategic economic importance of the project to the community in which it is located and to this state.

(b) Whether the financial assistance is needed to secure the project in this state.

(c) The degree to which the project is a priority for the local governmental unit or local economic development corporation in the jurisdiction of which the site is located.

(d) The level of creation or retention of qualified jobs as a result of a technological shift in product or production.

(e) Whether the qualified jobs created or retained as a result of a technological shift in product or production equal or exceed the average wage for the county in which the project is located.

(f) The level of capital investment.

(g) The evidence of the end user's commitment to the site.

(8) If the fund receives a request to modify an existing written agreement for a grant, loan, or other economic assistance under this program, the fund must provide a copy of that requested modification 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 within 5 business days of the receipt of the modification request. In addition to the copy of the request for modification, the notice provided under this subsection must also include the specific provisions to be modified and the rationale for considering the modification. Before the fund modifies an existing written agreement for a grant, loan, or other economic assistance under this program, the fund must give notice of the proposed amendments and publish them on the fund's internet website at least 1 business day prior to a public hearing on the proposed amendments. If the fund approves and modifies an existing written agreement under this subsection, the fund must provide a copy of that amended written agreement 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 within 1 business day of the modification.

(9) In making an award for a mega-strategic site under this program that does not have a specifically identified end user, the fund, working in collaboration with the eligible applicant, shall prepare a mega-strategic site investment strategy and spending plan that details the sequence and cost of anticipated investments in the selected mega-strategic site, the

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benchmarks for bringing the mega-strategic site to a marketable condition, and the marketing strategy for the mega-site. Each plan must have the objective of establishing a certified mega-strategic site under a nationally recognized third-party certification program.

(10) The fund shall post on its website or post on the website of the Michigan economic development corporation, not less than every 3 months, the name of the eligible applicant or applicants, the location of each site that received a grant, loan, or other economic assistance under this program in that period, and the amount of the grant, loan, or other economic assistance.

(11) Notwithstanding anything to the contrary in this section, the program may make grants and provide technical assistance to local economic development corporations for the purpose of creating an inventory of development-ready sites, provided that the inventory shall utilize nationally recognized criteria to identify the readiness of those sites for investment, and provided further that the fund shall maintain a comprehensive inventory of those sites on its website. The inventory maintained on the website shall include in an interactive and user-friendly manner a listing of all local and state development-ready sites and any pictures, maps, and other documentation related to those sites.

(12) The fund board shall not disburse money from the program for a grant, loan, or other economic assistance to an eligible applicant if that eligible applicant has not fully repaid all money subject to clawback or required to be repaid under a specific repayment provision as provided in any written agreement under this act or if that eligible applicant is in default on any grant, loan, or other economic assistance made or guaranteed by this state. All money paid to the fund pursuant to a clawback or specific repayment provision for a grant, loan, or other economic assistance under this program shall be deposited in the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254. The fund shall not use money allocated to the program for administrative purposes. Any money that is allocated to the program that remains unexpended, unallocated, or unobligated at the end of the fiscal year shall revert back to the strategic outreach and attraction reserve fund created in section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254.

(13) Not later than March 15 of each year, 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 a report on the activities of the Michigan strategic site readiness fund. The report must include the following:

(a) A list of eligible applicants that received a grant, loan, or other economic assistance.

(b) The type of project or eligible activities approved for an award under this program.

(c) The amount and type of each award.

(d) The duration of the grant, loan, or other economic assistance.

(e) The amount of other financial assistance other than state resources.

(f) Money or other revenue or property returned to the strategic outreach and attraction reserve fund, including any clawbacks and repayments due to a breach of the written agreement.

(14) If the fund fails to transmit the report as required in subsection (13) on or before March 15, the fund board shall not disburse money for a grant, loan, or other economic assistance under this program until it transmits the report as required under subsection (13).

(15) The legislature finds and declares that funding provided under this program is for a public purpose and serves the health, safety, and general welfare of the residents of this state.

(16) As used in this section:

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(a) "Eligible activities" means, with respect to a site that is the subject of an application under this program, 1 or more of the following:

(i) Land acquisition and assembly.

(ii) Site preparation and improvement.

(iii) Infrastructure improvements that directly benefit the site, including, but not limited to, transportation infrastructure, water and wastewater infrastructure, and utilities necessary to service the site.

(iv) Any demolition, construction, alteration, rehabilitation, or improvement of buildings on the site.

(v) Environmental remediation.

(vi) Architectural, engineering, surveying, and similar professional fees.

(b) "Eligible applicant" means an applicant that is 1 or more of the following:

(i) A political subdivision of this state, including, but not limited to, a county, city, village, township, charter township, or instrumentality of a county, city, village, township, or charter township.

(ii) A local economic development corporation or similar entity.

(iii) A person who is the owner of the site for which the improvements are proposed, but who is not the end user of that site, provided that that person must apply jointly with an applicant under subparagraph (i) or (ii).

(iv) In the case of an application for a site for which a specific person has been identified as the end user, the person that is or will be the end user of that site.

(c) "End user" means the person, either directly or through an affiliate, that will establish and operate the manufacturing or other commercial enterprise that constitutes the end use of the improved site.

(d) "Mega-strategic site" means a strategic site that is or will be used for a large industrial project.

(e) "Michigan strategic site readiness program" or "program" means the Michigan strategic site readiness program created in subsection (1).

(f) "Qualified job" means a job performed by an individual who is a resident of this state whose Michigan income taxes are withheld by an employer, or an employee leasing company or professional employer organization on behalf of the employer, or by an individual who is not a resident of this state and is employed by a business at a project location that is located in this state, as determined and verified by the fund.

(g) "Strategic site" means a site, whether publicly or privately owned, that is, or subsequent to a proposed acquisition will be, used for manufacturing or other commercial use.

History: Add. 2021, Act 134, Eff. Dec. 27, 2021
Popular Name: Strategic Fund

125.2088u Michigan innovation fund program.

Sec. 88u.

(1) The fund shall create the Michigan innovation fund program to provide support in this state for investments under section 88h, qualified evergreen venture funds, qualified emerging evergreen funds, qualified venture capital funds, and qualified start-up support services. The Michigan innovation fund program shall be operated and administered by the authorized officers, employees, and agents of the fund, including the MEDC and its employees. Money

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deposited in the 21st century jobs trust fund under section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, must be expended by the fund to support the Michigan innovation fund program as provided in this section.

(2) Subject to subsection (5), the fund shall expend money deposited in the 21st century jobs trust fund under section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, each fiscal year through the fiscal year ending September 30, 2054, as follows:

(a) 5% for transfer to and deposit in the investment fund for investment under section 88h(3)(a), (d), or (e).

(b) 80% for grants to qualified evergreen venture funds for eligible activities.

(c) 8% for grants to 1 or more qualified emerging evergreen funds for eligible activities.

(d) 7% for grants to qualified nonprofits for qualified start-up support services.

(3) Money deposited in the 21st century jobs trust fund under section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, for grants under subsection (2)(b) or (c) must be awarded by the fund under this section not later than 182 days after the deposit of the money in the 21st century jobs trust fund. The fund shall award grants under subsection (2)(b) or (c) to all eligible applicants. For all grants made by the fund in a fiscal year under subsection (2)(b), the total amount of grants provided to qualified evergreen venture funds that invest in 2 or more industry sectors must be not less than 200% of the total amount of grants provided to qualified evergreen venture funds that invest in only 1 industry sector. The fund may enter into grant agreements to ensure compliance with this section. For a grant under subsection (2)(b) or (c), all of the following apply regarding a grant agreement under this subsection:

(a) The grant agreement must require a grant award to be committed by the recipient not later than 5 years after the receipt of the grant by the recipient.

(b) The grant agreement may permit not more than 15% of the amount of the grant award to be used for both of the following:

(i) Administration of the grant award by the recipient.

(ii) Technical assistance related to investments made by the qualified evergreen venture fund or qualified emerging evergreen fund, including, but not limited to, coaching, mentoring, and programming to support business founders.

(c) The grant agreement must require at least 5% of the grant money invested to be invested in geographically disadvantaged business enterprises.

(d) The grant agreement must require a grant award recipient to report annually, by April 15 of each year, on its activities under this section on a standard form that is prescribed by the fund and the annual report must be published on the fund's website and on the recipient's website. Except as otherwise provided in subsection (4), an annual report required under this subdivision must include all of the following information:

(i) A list of investments made with grant award proceeds during the immediately preceding calendar year that includes all of the following:

(A) The name of the recipient of each investment.

(B) The date of each investment.

(C) The amount of each investment.

(D) The physical address of the recipient of each investment.

(E) A description of the type of investment.

(F) A description of the industry or economic sector in which the recipient operates.

(G) An indication of whether the investment is a new investment in the recipient or a follow-on investment.

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(H) An indication of the number of jobs created or jobs retained, or both, as a result of the investment.

(ii) A summary of expenditures for administration and operations that includes a summary of administrative and operational costs incurred, including, but not limited to, any professional fees and expenses incurred.

(iii) The amount, the date, and a description of any returns received from each investment made with grant proceeds.

(e) A grant agreement must include a provision that requires the recipient of the grant to use returns from the investment of money using grant proceeds as follows:

(i) Not more than 15% may be used for expenses described in subdivision (b)(i) or (ii).

(ii) Not less than 85% must be reinvested.

(f) A grant agreement must include a provision that requires the recipient of the grant to notify the fund within 90 days after there is a change in that recipient's senior leadership team.

(g) A grant agreement must include a provision that if the recipient of a grant realizes an earned return on an investment under this section that exceeds $8,000,000.00 within 15 years after the initial investment, then the recipient shall, not later than 1 year after the return realized exceeds the cap under this subdivision, distribute an amount equal to 10% of that return to the state treasurer for deposit to the general fund in this state.

(4) A grant award recipient is not required to provide information in an annual report under subsection (3)(d) if the information is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) It is the intent of the legislature that grants and investments under this section are for the public purpose of encouraging economic development and job creation in this state. The fund shall not enter into any new grant agreements or make new commitments to recipients under this section after December 31, 2054.

(6) Not later than 90 days after receipt of notification from a grant recipient of a change in the recipient's senior leadership team, the fund must conduct a performance review of all investments made by that recipient and submit a report to the senate and house appropriations subcommittees on general government, the senate and house fiscal agencies, the senate and house policy offices, and the state budget office on those investments and include any considerations the fund deems relevant regarding the change in leadership.

(7) Not later than January 1, 2030, the fund shall conduct a formal review of the Michigan innovation fund program and submit a report to the senate and house appropriations subcommittees on general government, the senate and house fiscal agencies, the senate and house policy offices, and the state budget office on the performance and effectiveness of the Michigan innovation fund program.

(8) As used in this section:

(a) "Eligible activity" means all of the following:

(i) An investment through an investment instrument in an early-stage start-up company that is located in this state and engaged in 1 or more competitive edge technologies. As used in this subparagraph, "investment instrument" includes, but is not limited to, convertible notes, simple agreements for future equity (SAFEs), and an equity investment as that term is defined in 12 CFR 1805.104.

(ii) Technical assistance related to an investment described in subparagraph (i).

(iii) Grants related to the activities described in subparagraphs (i) and (ii).

(b) "Evergreen fund" means an investment plan or program of a Michigan nonprofit corporation that is exempt from taxation under section 501(c)(6) of the internal revenue code of 1986, 26 USC 501, or an investment fund that meets all of the following requirements:

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(i) Is organized for the purpose of investing in private debt or equity with limited restrictions on or no provision for investor withdrawal and redemption rights.

(ii) Operates on an open-end basis without a definitive closing date or fixed end date.

(iii) Permits capital to be raised on an ongoing basis and the reinvestment of investment returns.

(c) "Geographically disadvantaged business enterprise" means a person that meets 1 or more of the following requirements:

(i) Is certified as a HUBZone small business concern by the United States Small Business Administration.

(ii) Has a principal place of business located within a qualified opportunity zone within this state.

(iii) More than half of its employees have a principal residence located within a qualified opportunity zone within this state.

(d) "Qualified emerging evergreen fund" means any of the following:

(i) A public institution of higher education or a Michigan nonprofit corporation that is exempt from taxation under section 501(c)(3) or (6) of the internal revenue code of 1986, 26 USC 501, that administers, manages, or operates 1 or more evergreen funds if at least 1 of those evergreen funds meets both of the following requirements:

(A) Is organized to provide early stage venture capital funding to entities within this state.

(B) Has a principal office located in a county with a population of more than 600,000 and less than 700,000.

(ii) A Michigan nonprofit corporation that meets both of the following requirements:

(A) Is organized for the purpose of enhancing the vitality of the communities affected by this state's Upper Peninsula by leveraging local resources with capital and expertise and fostering economic opportunity throughout the area.

(B) Administers, manages, or operates 1 or more evergreen funds.

(iii) A Michigan nonprofit corporation that meets all of the following requirements:

(A) Is organized to provide early stage venture capital funding to entities within this state.

(B) Has a principal office located in a county with a population of more than 90,000 and less than 99,000.

(C) Administers, manages, or operates 1 or more evergreen funds and grants.

(e) "Qualified evergreen venture fund" means a qualified higher education institution or a Michigan nonprofit corporation that is exempt from taxation under section 501(c)(3) or (6) of the internal revenue code of 1986, 26 USC 501, that administers, manages, or operates 1 or more evergreen funds if at least 1 of those evergreen funds meets all of the following requirements:

(i) Provides early-stage venture capital funding to entities within this state.

(ii) Has been actively operating in this state for not less than 3 years.

(iii) Has 4 years or more experience in making early-stage venture capital investments and in mentoring start-up companies.

(iv) Before January 1, 2024, has not less than $15,000,000.00 in deployable capital or invested not less than $15,000,000.00.

(f) "Qualified higher education institution" means an institution of higher education specified in section 4 of article VIII of the state constitution of 1963. Qualified higher education institution also includes both of the following:

(i) A Michigan nonprofit corporation that is incorporated under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, and meets all of the following requirements:

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(A) The corporation is incorporated for the purpose of providing support for the objects and purposes of an institution of higher education specified in section 5 of article VIII of the state constitution of 1963.

(B) The corporation is incorporated for the purpose of assisting in an exclusively educational and charitable manner in the accomplishment of the educational purposes of an institution of higher education specified in section 5 of article VIII of the state constitution of 1963.

(C) The name of the corporation or an assumed name of the corporation under section 212(3) of the nonprofit corporation act, 1982 PA 162, MCL 450.2212, includes the word "foundation".

(ii) A Michigan corporation that is incorporated under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, and meets all of the following requirements:

(A) An institution of higher education specified in section 4 of article VIII of the state constitution of 1963 is the only shareholder of the corporation and owns all of the shares of the corporation.

(B) The name of the corporation or an assumed name of the corporation under section 217 of the business corporation act, 1972 PA 284, MCL 450.1217, includes the words "biosciences" and "research".

(g) "Qualified nonprofit" means a nonprofit corporation that provides programming, technical assistance, or other support that promotes the growth and development of start-up companies and their founders in this state, and entities in this state that administer, manage, or operate funds that invest in start-up companies in this state.

(h) "Qualified start-up support services" means 1 or more of the following:

(i) Activity that supports the growth of the venture capital talent pool in this state and the development of the next generation of venture capital fund leadership in this state, including, but not limited to, a venture capital fellows program.

(ii) Activity that supports the creation and growth of start-up companies in this state.

(iii) Activity that supports the professional development and growth of the founders of start-up companies in this state, including, but not limited to, mentoring and coaching.

(i) "21st century jobs trust fund" means the 21st century jobs trust fund established in section 7 of the Michigan trust fund act, 2000 PA 489, MCL 12.257.

History: Add. 2024, Act 190, Eff. Apr. 2, 2025
Popular Name: Strategic Fund

CHAPTER 8B

125.2089 Legislative findings; intent; scope of activities.

Sec. 89.

(1) The legislature finds and declares that the activities authorized under this chapter to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

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History: Add. 2008, Act 100, Imd. Eff. Apr. 18, 2008
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2089a Michigan promotion program; establishment; tourism promotion explained; funding; use of appropriation provided from 21st century jobs trust fund.

Sec. 89a.

(1) The board shall establish a Michigan promotion program to promote tourism in Michigan and pay business development and marketing costs to promote business development in Michigan. Tourism promotion shall include, but is not limited to, cultural, vacation, recreational, leisure, hunting-related, motor sports entertainment-related, and agriculture-related travel across this state that includes activities that promote tourism in all 4 seasons.

(2) The funding provided under this chapter for tourism promotion is intended to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures and development of the tourism industry in this state.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purpose of administering the program authorized under this chapter.

History: Add. 2008, Act 100, Imd. Eff. Apr. 18, 2008
Popular Name: Strategic Fund

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125.2089b Michigan promotion program; appropriation and transfer of funds; appropriation as work project; carrying forward unencumbered or unallotted funds; compliance with MCL 18.1451a.

Sec. 89b.

(1) For the fiscal year ending September 30, 2008, there is appropriated and transferred from the general fund to the 21st century jobs trust fund $60,000,000.00 and there is appropriated from the 21st century jobs trust fund to the fund $50,000,000.00 for carrying out the purposes of this chapter. Not more than 1/4 of the total amount appropriated from the net proceeds described in section 8(2) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, shall be used to promote business development in this state.

(2) Upon request from the board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund established under section 7(1)(b) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, any other available funds under this act, funds otherwise appropriated for expenditure under this chapter, or as authorized in section 88b(2)(d), in the amounts designated by the board at the time and as necessary to fund disbursements required for the Michigan promotion program.

(3) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide economic benefits and job creation within this state through the promotion of tourism.

(b) The work project will be accomplished through the use of interagency agreements, grants, state employees, and contracts.

(c) The total estimated completion cost of the project is $50,000,000.00.

(d) The expected completion date is December 31, 2010.

History: Add. 2008, Act 98, Imd. Eff. Apr. 18, 2008 ;-- Am. 2010, Act 271, Imd. Eff. Dec. 15, 2010
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2089c Selection of vendors; request for proposal; evaluation of proposals; establishment of standard process; appointment of committee to review proposals; use of funds; limitation.

Sec. 89c.

(1) The fund board shall select vendors for Michigan promotion program expenditures under this chapter exceeding $250,000.00 by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed for at least 5 years. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. Members of any committee or individuals working on behalf of the Michigan strategic fund, paid or unpaid, shall have no conflict of interest as determined by the office of the chief compliance officer established in section 88i. This subsection does not apply to a contract that was in existence on March 25, 2008 or to the extension of a contract in which the right to extend was in existence on or before March 25, 2008.

(2) No funds may be used for any Michigan promotion program effort that includes a reference to or the image or voice of an elected official, appointed state employee, state employee governed by a senior executive service limited term employment agreement, or a candidate for elective office, and that is targeted to a media market in this state.

History: Add. 2008, Act 98, Imd. Eff. Apr. 18, 2008 ;-- Am. 2014, Act 505, Imd. Eff. Jan. 14, 2015
Popular Name: Strategic Fund

125.2089d Repealed. 2014, Act 454, Eff. Jan. 14, 2015.

Compiler's Notes: The repealed section pertained to information to be reported to legislature.

CHAPTER 8C

125.2090 Community revitalization; findings and declarations.

Sec. 90.

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The legislature finds and declares that any activity under this chapter to promote community revitalization will accelerate private investment in areas of historical disinvestment, contribute to Michigan's reinvention as a vital, job-generating state, foster redevelopment of functionally obsolete properties, reduce blight, support the rehabilitation of historic resources, and protect the natural resources of this state and is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits resulting from this chapter occur substantially within this state.

History: Add. 2011, Act 252, Imd. Eff. Dec. 13, 2011
Popular Name: Strategic Fund

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125.2090a Definitions.

Sec. 90a.

As used in this chapter:

(a) "Community revitalization grant" or "grant" means a grant that is approved under section 90b and that is subject to requirements in section 90c.

(b) "Community revitalization incentive" means a community revitalization grant, a community revitalization loan, or other economic assistance.

(c) "Community revitalization loan" or "loan" means a loan that is approved under section 90b and that is subject to the requirements in section 90d.

(d) "Eligible investment" means 1 or more of the following, subject to a written agreement under this section, including investment that occurred prior to the approval of the application, to the extent that the project has not been completely reimbursed to or been paid for on behalf of the person requesting a community revitalization incentive under this chapter:

(i) Any demolition, construction, alteration, rehabilitation, or improvement of buildings.

(ii) Site improvements.

(iii) The addition of machinery, equipment, or fixtures to the approved project.

(iv) Architectural, engineering, surveying, and similar professional fees but not certain soft costs of the eligible investment as determined by the board, including, but not limited to, developer fees, appraisals, performance bonds, closing costs, bank fees, loan fees, risk contingencies, financing costs, permanent or construction period interest, legal expenses, leasing or sales commissions, marketing costs, professional fees, shared savings, taxes, title insurance, bank inspection fees, insurance, and project management fees.

(e) "Eligible property" means property that meets 1 or more of the following conditions:

(i) Is determined to be a facility. As used in this subparagraph, "facility" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(ii) Is a historic resource. As used in this subparagraph, "historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space either manmade or natural, individually listed or located within and contributing to a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(iii) Is blighted property. As used in this subparagraph, "blighted property" means property that meets any of the following criteria:

(A) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(B) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(C) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(D) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(E) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state.

(F) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(G) Has substantial subsurface demolition debris buried on site so that the property is unfit for its intended use.

(iv) Is functionally obsolete property. As used in this subparagraph, "functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property as determined by a Michigan advanced assessing officer or a Michigan master assessing officer.

(v) Is a parcel that is adjacent or contiguous to property described in subparagraphs (i) through (iv) if the development of the adjacent or contiguous parcel is estimated to increase the taxable value of the property described in subparagraphs (i) through (iv).

(vi) Through September 30, 2022, is used for a neighborhood and commercial corridor food initiative.

(vii) Any other property as determined by the fund board if the development of the property will promote community revitalization consistent with the findings and declarations in section 90.

(f) "Federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67" means the nationally recognized federal standards that guide work undertaken on historic resources.

(g) "Neighborhood and commercial corridor food initiative" means property that will be used primarily as a retail supermarket, grocery store, produce market, or delicatessen that is located in a downtown area or in a development area as defined in section 2 of the corridor improvement authority act, 2005 PA 280, MCL 125.2872, as determined by the board, that offers unprocessed USDA-inspected meat and poultry products or meat products that carry the USDA organic seal, fresh fruits and vegetables, and dairy products for sale to the public.

(h) "Other economic assistance" means any other form of assistance allowed under this act that is not a community revitalization loan or community revitalization grant.

History: Add. 2011, Act 252, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 395, Imd. Eff. Dec. 19, 2012 ;-- Am. 2014, Act 506, Imd. Eff. Jan. 14, 2015 ;-- Am. 2017, Act 239, Imd. Eff. Dec. 21, 2017
Compiler's Notes: 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.
Popular Name: Strategic Fund

125.2090b Michigan community revitalization program; community revitalization incentives; placement of funds in 21st century jobs trust fund; application; criteria; approval or denial; limitation on amount of loans, grants, and other economic assistance; written agreement; use of annual appropriation from 21st century jobs trust fund; fees; community revitalization incentives for neighborhood and commercial corridor food initiatives; findings and declaration.

Sec. 90b.

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

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

(3) Funds appropriated for programs under this chapter must be placed in the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.262.

(4) Subject to section 88c, the fund shall review all applications for community revitalization incentives. As part of the application, the applicant shall include documentation establishing that the project is located on eligible property and a project description that includes a project pro-forma. The fund shall consider the following criteria to the extent reasonably applicable as reasonably determined by the fund board or its designee to the type of project proposed when approving a community revitalization incentive:

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

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

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

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

(e) The extent of reuse of vacant buildings, reuse of historic resources, and redevelopment of blighted property.

(f) Creation of jobs.

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

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

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

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

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

(l) Whether the project promotes sustainable development.

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

(n) Whether the project addresses areawide redevelopment.

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

(p) The level and extent of environmental contamination.

(q) If the rehabilitation of the historic resource will meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, when applied after engaging in discussions with the state historic preservation office.

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

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

(5) An application shall be approved or denied not more than 90 days after receipt of the application that is considered administratively complete by the board or its designee. If the application is neither approved nor denied within 90 days after being considered administratively complete, it must be considered by the fund board, or its president if delegated, for action at, or by, the next regularly scheduled board meeting. If an application is

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approved, the fund shall determine the amount of community revitalization incentives for the project based on the fund's review of the application and the criteria specified in subsection (4).

(6) Except as otherwise provided in this subsection, the amount of community revitalization incentives that the board may approve for a single project shall not exceed 25% of a project's eligible investment up to $10,000,000.00. However, in a city, village, or township with a population of 15,000 or less based on the most recent federal decennial census, the amount of community revitalization incentives that the board may approve for a single project shall not exceed 50% of a project's eligible investment up to $10,000,000.00. A community revitalization loan shall not exceed $10,000,000.00, and a community revitalization grant shall not exceed $1,500,000.00. However, a combination of loans, grants, and other economic assistance under this chapter shall not exceed $10,000,000.00 per project. The board may not approve $10,000,000.00 per project in community revitalization incentives to more than 3 projects per fiscal year. The board shall approve not less than 5 projects of $1,000,000.00 or less per project per fiscal year. If, after reviewing all applications in a fiscal year, the fund determines that less than 5 projects warranted an award of $1,000,000.00 or less, this subsection does not apply. Notwithstanding any other limitation in this subsection, each year, of the community revitalization projects approved by the board, the board may approve up to 3 single projects that shall not exceed 50% of a project's eligible investment up to $10,000,000.00 for community revitalization loans and grants for the specific purpose of historic preservation. Beginning for the 2017-2018 fiscal year and through the 2021-2022 fiscal year, except as otherwise provided in subsection (9), not less than 5% of community revitalization incentives shall be awarded to neighborhood and commercial corridor food initiatives.

(7) When the board approves an application and determines the amount of community revitalization incentives, the board shall enter into a written agreement with the applicant. The written agreement must provide in a clear and concise manner all of the conditions imposed, including specific time frames, on the applicant to receive the community revitalization incentive under this chapter. The written agreement must provide for the secured status of any loan, repayment, and penalties if the applicant fails to comply with the provisions of the written agreement as determined by the board. The applicant shall agree to provide the data described in the written agreement that is necessary for the fund to report to the legislature under this chapter.

(8) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.262, may be used for the purposes of administering the programs and activities authorized under this chapter. However, the fund and the fund board shall not use more than 3% of the annual appropriation for administering the programs and activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional 1% for administration. The MEDC may charge actual and reasonable fees for costs associated with the community revitalization incentive authorized under this chapter. These fees are in addition to an amount of the appropriation used for administering the programs and activities authorized under this chapter.

(9) The application process for community revitalization incentives for neighborhood and commercial corridor food initiatives must provide that applications for neighborhood and commercial corridor food initiatives must be received on or before June 1 for that fiscal year. If there are insufficient approved applications in a fiscal year for community revitalization incentives for neighborhood and commercial corridor food initiatives, then the remaining

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allocated funds may be used for community revitalization incentives that are not for neighborhood and commercial corridor food initiatives as determined by the board. In addition, a new neighborhood and commercial corridor food initiative, as determined by the board, is not eligible for a community revitalization incentive if it is located within 1 mile of an existing retail supermarket, grocery store, or produce market, as determined by the board, that offers unprocessed USDA-inspected meat and poultry products or meat products that carry the USDA organic seal, fresh fruits and vegetables, and dairy products for sale to the public.

(10) The legislature finds and declares that funding authorized under this section is intended to encourage diversification of the economy, to encourage capital investment in this state, to promote the creation of qualified new jobs in this state, and to promote the investment in brownfield and historic preservation projects that reclaim previously used property that is less likely to be revitalized without the investment.

History: Add. 2011, Act 252, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 145, Imd. Eff. May 30, 2012 ;-- Am. 2012, Act 395, Imd. Eff. Dec. 19, 2012 ;-- Am. 2014, Act 506, Imd. Eff. Jan. 14, 2015 ;-- Am. 2017, Act 239, Imd. Eff. Dec. 21, 2017 ;-- Am. 2018, Act 423, Imd. Eff. Dec. 20, 2018

Compiler's Notes: 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 powers and duties of the state historic preservation office relating to the identification, certification, and preservation of historical sites from the Michigan state housing development authority to the Michigan strategic fund, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular Name: Strategic Fund

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125.2090c Community revitalization grant; application; assignment; form; determination; issuance of grant proceeds.

Sec. 90c.

Upon satisfying a milestone established in a written agreement for which the board has approved a community revitalization grant under section 90b, the applicant may apply to the fund for a grant disbursement as specified in the written agreement. All or a portion of the rights or obligations of the applicant under the written grant agreement may be assigned by the applicant to 1 or more assignees with prior written approval of, and on terms and conditions acceptable to, the fund. The board, or its designee, shall develop and implement the use of an application form and assignment form to be used under this section. Within 90 days of receipt of an application for disbursement, the fund or its designee shall then determine whether the project is in compliance with the terms of the written agreement and, if applicable, after engaging in discussions with the state historic preservation officer, is in compliance, or when completed will be in compliance, with the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67. If the fund or its designee determines that the project is in compliance with the written agreement and, if applicable, after engaging in discussions with the state historic preservation officer, is in compliance, or when completed will be in compliance, with the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, the fund shall issue the grant proceeds to the applicant or, if the grant has been assigned, to the assignee.

History: Add. 2011, Act 253, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 395, Imd. Eff. Dec. 19, 2012 ;-- Am. 2014, Act 506, Imd. Eff. Jan. 14, 2015
Popular Name: Strategic Fund

125.2090d Milestone; application for loan disbursement; assignment; distribution; repayment provision; posting information on internet website.

Sec. 90d.

(1) Upon satisfying a milestone established in a written agreement for which the board has approved a community revitalization loan under section 90b, the applicant may apply to the fund for a loan disbursement as specified in the written agreement. All or a portion of the rights or obligations of the applicant under the written loan agreement may be assigned by the applicant to 1 or more assignees with prior written approval of, and on terms and conditions acceptable to, the fund. The board, or its designee, shall develop and implement the use of an application for disbursement form and assignment form to be used under this subsection. Within 90 days of receipt or disbursement of an application for disbursement, the fund or its designee shall determine whether the project is in compliance with the written agreement and, if applicable, after engaging in discussions with the state historic preservation officer, is in compliance, or when completed will be in compliance, with the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67. If the fund or its designee determines that the project is in compliance with the written agreement and, if applicable, after engaging in discussions with the state historic preservation officer, is in compliance, or when completed will be in compliance, with the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR 67, the fund shall distribute the loan proceeds to the applicant or, if the loan proceeds have been assigned, to the assignee.

(2) Each written agreement for a community revitalization loan shall contain a repayment provision.

(3) The proceeds from repayment of community revitalization loans under subsection (2) shall be paid into the investment fund described in section 88h and expended exclusively for community revitalization incentives under this chapter.

(4) Beginning February 1, 2012 and not less than every 3 months thereafter, the fund shall post on its internet website the name and location of a person who received approval of community revitalization investment under this chapter in the immediately preceding 3-month period.

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History: Add. 2011, Act 253, Imd. Eff. Dec. 13, 2011 ;-- Am. 2012, Act 395, Imd. Eff. Dec. 19, 2012 ;-- Am. 2014, Act 506, Imd. Eff. Jan. 14, 2015
Popular Name: Strategic Fund

CHAPTER 8D

125.2090g Definitions.

Sec. 90g.

As used in this chapter:

(a) "Authorized business" means an eligible business that has met the requirements of this chapter and with which the fund has entered into a written agreement for withholding tax

capture revenues pursuant to this chapter and section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f.

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

(c) "Certified new job" means a full-time job created by an authorized business at a facility in this state that is in excess of the number of full-time jobs that authorized business maintained in this state prior to the expansion or location and the number of full-time jobs that the authorized business acquired through a merger or acquisition that were located in this state prior to the expansion or location, as determined by the fund. Pursuant to a written agreement between the authorized business, the fund, and the primary supplier, certified new jobs for an authorized business described in subdivision (d)(i) may, as determined by the fund, include the number of those new jobs created by the primary supplier of that authorized business as a result of the new or increased business activity with that authorized business as determined by the fund.

(d) "Eligible business" means a business other than a retail establishment, professional sports stadium, casino, or that portion of an eligible business used exclusively for retail sales that proposes to create 1 or more of the following:

(i) A minimum of 3,000 certified new jobs in this state with an average annual wage that is equal to or greater than the prosperity region average wage.

(ii) A minimum of 500 certified new jobs in this state with an average annual wage that is equal to or greater than the prosperity region average wage.

(iii) A minimum of 250 certified new jobs in this state with an average annual wage that is equal to 125% or more of the prosperity region average wage.

(e) "Facility" means a site or sites within this state in which an authorized business creates certified new jobs.

(f) "Full-time job" means a full-time job as determined by the fund performed by an individual whose income and social security taxes are withheld by 1 or more of the following:

(i) An authorized business.

(ii) An employee leasing company.

(iii) A professional employer organization on behalf of the authorized business.

(g) "Good jobs for Michigan fund" means the good jobs for Michigan fund created in section 90j.

(h) "Municipality" means that term as defined in section 4.

(i) "Primary supplier" means an entity that creates not fewer than 25 new jobs in this state and that provides both of the following to an authorized business pursuant to a written agreement under this chapter:

(i) A minimum of $5,000,000.00 in tangible personal property annually as determined by the fund.

(ii) A minimum of 10% of the tangible personal property used by the authorized business annually as determined by the fund.

(j) "Prosperity region" means each of the 10 prosperity regions identified by the department of technology, management, and budget on the effective date of the amendatory act that added this section.

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(k) "Prosperity region average wage" means the average annual wage for the prosperity region where the facility is located based on the most recent data made available by the Michigan bureau of labor market information and strategic initiatives.

(l) "Withholding tax capture revenues" means the amount of income tax withheld under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, each calendar year that is attributable to individuals employed within certified new jobs. The state treasurer shall develop methods and processes that are necessary for each authorized business to report the amount of withholding under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals employed within certified new jobs.

(m) "Written agreement" means a written agreement made between the eligible business and the fund pursuant to this chapter.

History: Add. 2017, Act 109, Eff. Aug. 25, 2017
Popular Name: Strategic Fund

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125.2090h Good jobs for Michigan program; creation and operation by fund; transfer of dedicated portion of withholding tax capture revenues to businesses; application; requirements; determination of amount and duration; limitation; factors; written agreement; contents; execution; maximum amount of total withholding tax capture revenue; limitation on number of written agreements.

Sec. 90h.

(1) The fund shall create and operate the good jobs for Michigan program to authorize the transfer of the dedicated portion of withholding tax capture revenues to authorized businesses that provide certified new jobs in this state. The fund shall develop and use a detailed application, approval, and compliance process published and available on the fund's website.

(2) An eligible business may apply to the fund to enter into a written agreement which authorizes the payment of withholding tax capture revenues under this chapter.

(3) The fund may request information, in addition to that contained in an application, as may be needed to permit the fund to discharge its responsibilities under this chapter.

(4) After receipt of an application, the fund may enter into an agreement with an eligible business for withholding tax capture revenues under this chapter if the fund determines that all of the following are met:

(a) The eligible business proposes to create and maintain the minimum number of certified new jobs at a facility in this state and to pay an average annual wage that is described in section 90g(d).

(b) In addition to the jobs specified in subdivision (a), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the fund.

(c) The plans for the expansion or location are economically sound.

(d) The expansion or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(e) The withholding tax capture revenues offered under this chapter and paid from the good jobs for Michigan fund is an incentive to expand or locate the eligible business in this state and address the competitive disadvantages with sites outside this state.

(f) An industry-recognized regional economic model cost-benefit analysis reveals that the payment of withholding tax capture revenues under this chapter to an eligible business will result in an overall positive fiscal impact to the state.

(g) The eligible business will create the requisite number of certified new jobs within not more than 5 years after entering into the written agreement as determined by the fund.

(h) The eligible business will maintain the number of certified new jobs throughout the duration of the period of time that the authorized business receives withholding tax capture revenues paid from the good jobs for Michigan fund. However, if the authorized business fails to maintain the requisite number of certified new jobs as provided in the written agreement, the authorized business will forfeit the withholding tax capture revenues for that calendar year.

(i) That the local governing body of the municipality in which the facility is located approves the expansion or new location by resolution.

(5) If the fund determines that the eligible business satisfies all of the requirements of subsection (4), subject to subsection (6), the fund shall determine the amount and duration of the withholding tax capture revenues to be authorized under this chapter and shall enter into a written agreement as provided in this section. The duration of the withholding tax capture revenues must not exceed 5 or 10 years, whichever is applicable based on the average annual wage of the certified new jobs, from the date the authorized business creates the certified new jobs as provided in the written agreement. Subject to subsection (6), in determining the maximum amount and maximum duration of the withholding tax capture revenues authorized, the fund shall consider the following factors, if applicable:

(a) The number of certified new jobs to be created.

(b) The degree to which the average annual wage of the certified new jobs exceeds the prosperity region average wage.

(c) Whether there is a disadvantage to the eligible business if it were to expand or locate in this state versus a site outside this state.

(d) The potential impact of the expansion or location on the economy of this state.

(e) The estimated cost of the reimbursement of withholding tax capture revenues under this chapter, the staff, financial, or economic assistance provided by the municipality, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(f) Whether the expansion or location will occur in this state without the payment of withholding tax capture revenues offered under this chapter.

(g) Whether the eligible business has made a written commitment to fund some portion of costs for applicable training of the individuals who will perform the full-time jobs that leads to a professional or technical certification for these individuals.

(h) That the eligible business will make a good-faith effort to employ, if qualified, Michigan residents at the facility.

(6) The fund shall determine the duration and amount of the withholding tax capture revenues. In determining the duration of the withholding tax capture revenues, the fund shall provide a duration of up to 5 years for eligible businesses described in section 90g(d)(ii) and up to a duration of 10 years for eligible businesses described in section 90g(d)(i) or (iii). In determining the amount of the withholding tax capture revenue payments, the fund may approve a payment of not more than 50% of the withholding tax capture revenues for an eligible business described in section 90g(d)(ii) and a payment of up to 100% of the withholding tax capture revenues for an eligible business described in section 90g(d)(i) or (iii). The amount of withholding tax capture revenues certified to be paid to an authorized business shall be reduced by 5%, which shall be retained by the fund for additional administrative expenses under this chapter as provided under section 90i.

(7) A written agreement between an eligible business and the fund must include, but need not be limited to, all of the following:

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(a) A description of the business expansion or location that is the subject of the written agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement from the eligible business that the eligible business would not have added certified new jobs without the withholding tax capture revenue payments authorized under this chapter.

(d) An estimate of the amount of withholding tax capture revenues expected to be generated for each calendar year of the duration of the written agreement.

(e) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business, the loss or reduction of future withholding tax capture revenue payments under this chapter, or a repayment of withholding tax capture revenues received pursuant to this chapter.

(f) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the repayment of withholding tax capture revenues received under this chapter plus a penalty equal to 10% of the withholding tax capture revenue payments received pursuant to this chapter.

(g) A method for measuring and verifying full-time jobs before and after an expansion or location of an authorized business in this state.

(h) A provision that the authorized business that is certified under section 90i(2) for a payment from the good jobs for Michigan fund shall file the required returns and reports under this chapter and part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, with the department of treasury, and shall provide any other information reasonably requested by the fund or the department of treasury.

(i) A maximum amount of withholding tax capture revenues that the authorized business may claim before reduction of the 5% payment described in section 90i for administrative expenses.

(8) Upon execution of a written agreement as provided in this chapter, an eligible business is an authorized business. The fund shall provide a copy of each written agreement to the department of treasury. Upon execution of the written agreement, the transfer and payment of withholding tax capture revenues as specified in this chapter and in the written agreement is binding on this state. The state treasurer shall calculate, based on the written agreements received pursuant to this subsection, the amount of withholding tax capture revenues collected as a result of the certified new jobs created pursuant to those written agreements for each calendar year and the percentage of that amount that needs to be transferred from the general fund and deposited, in accordance with section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f, into the good jobs for Michigan fund, where the fund shall issue payments to the authorized business in the manner provided in section 90i.

(9) The fund shall not commit, and the department of treasury shall not disburse, an amount of total withholding tax capture revenues that exceeds $200,000,000.00, which includes the 5% payment for administrative expenses as provided in section 90i. The fund shall not execute more than 15 new written agreements each calendar year for authorized businesses. If the fund approves fewer than 15 written agreements in a calendar year, then any unused written agreements shall carry forward into future calendar years, and shall be in addition to the annual limit that is otherwise applicable. For purposes of this subsection, "total withholding tax capture revenues" means the aggregate amount of withholding tax capture revenues that may be distributed to authorized businesses under all written agreements.

(10) The fund shall not designate an authorized business or enter into a new written agreement on or after December 31, 2019.

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History: Add. 2017, Act 109, Eff. Aug. 25, 2017
Popular Name: Strategic Fund

125.2090i Withholdings certificate; issuance; contents; request for payment; failure of authorized business to satisfy and maintain jobs and other conditions; forfeiture of payment; assignment or transfer of written agreement; retention of amount to pay for administrative expenses; identification of authorized business and disclosure of amount an duration of payments; publication of information on website.

Sec. 90i.

(1) Subject to the limitations under section 90h(9), an authorized business is eligible to receive withholding tax capture revenue payments as provided in this chapter.

(2) Except as otherwise provided under subsection (3), the fund shall issue a withholdings certificate each calendar year to an authorized business that states the following:

(a) That the eligible business is an authorized business.

(b) The amount of withholding tax capture revenues to be paid from the good jobs for Michigan fund for the designated calendar year.

(c) The authorized business's federal employer identification number or the Michigan treasury number assigned to the authorized business.

(3) The fund shall provide the department of treasury with a copy of each withholdings certificate issued under this section. Upon receipt of a withholdings certificate, an authorized business may request a payment from the good jobs for Michigan fund by filing a copy of the withholdings certificate with the fund. The fund shall issue the withholding tax capture revenue payment from the good jobs for Michigan fund within 90 days of receipt of the request for payment from the authorized business.

(4) If the authorized business subsequently fails to satisfy and maintain the minimum number of certified new jobs as required under this chapter or any other conditions included in the written agreement, the authorized business forfeits its withholding tax capture revenue payment for the calendar year that the authorized business fails to comply with this chapter or the written agreement. The forfeiture of a withholding tax capture revenue payment under this subsection does not extend the duration of the original written agreement. Accordingly, if the duration of the written agreement has not expired, an authorized business that satisfies all of the terms of the written agreement after a forfeiture under this subsection is entitled to certification for withholding tax capture revenue payments for those subsequent calendar years.

(5) In the event of a proposed reorganization, merger, or other change of ownership of the authorized business for which reimbursement will continue pursuant to a written agreement, the approval of the fund is required prior to the assignment or transfer of the written agreement.

(6) The fund shall retain an amount equal to 5% of the withholding tax capture revenue payments authorized for that year for the fund. The board shall use the amount described in this subsection to pay for the additional administration expenses under this chapter.

(7) As a condition of being an authorized business, an authorized business authorizes the fund to identify the authorized business and disclose the amount and duration of the withholding tax capture revenue payments. The fund shall publish the information described in this subsection on the fund's website and include this information in the report required under section 9.

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History: Add. 2017, Act 109, Eff. Aug. 25, 2017
Popular Name: Strategic Fund

125.2090j Good jobs for Michigan fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining in fund; use.

Sec. 90j.

(1) The good jobs for Michigan fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit all amounts deposited pursuant to section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f, to the fund and shall credit to the fund any interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The good jobs for Michigan fund may be used only for 1 or more of the following purposes:

(a) To make withholding tax capture revenue payments in accordance with a written agreement to an authorized business within 90 days after receipt of a request for payment and a copy of the withholding certificate issued under section 90i.

(b) To distribute an amount equal to 5% of the withholding tax capture revenue payments certified under section 90i to the Michigan strategic fund to pay for administration expenses.

History: Add. 2017, Act 109, Eff. Aug. 25, 2017
Popular Name: Strategic Fund

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CHAPTER 8E

125.2090l Definitions.

Sec. 90l.

As used in this chapter:

(a) "Affiliate" means an entity that, directly or indirectly, through 1 or more intermediaries, controls, is controlled by, or is under common control with another entity. For the purposes of this subdivision, an entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or law.

(b) "Closing date" means the date on which a rural jobs and capital investment fund has received a grant, loan, or other type of economic assistance.

(c) "Earned job factor" means an amount equal to $7,500.00 for factor 1 jobs with an hourly wage rate of at least 125% of the federal minimum wage, $15,000.00 for factor 2 jobs with an hourly wage rate of at least 150% of the federal minimum wage, $25,000.00 for factor 3 jobs with an hourly wage rate of at least 200% of the federal minimum wage, and $35,000.00 for factor 4 jobs with an hourly wage rate of at least 125% of the federal minimum wage and employ veterans, senior citizens, ex-offenders, citizens with disabilities, or any citizen concurrently in a Michigan department of health and human services assistance program.

(d) "Full-time equivalent employees" means the number of salaried employment positions plus the quotient obtained by dividing the total number of hours for which employees with an hourly wage rate of at least 150% of the federal minimum wage were compensated for employment over the preceding 12-month period by 2,080 with respect to hourly employees.

(e) "Growth investment" means any capital or equity investment in a qualified business or any loan to a qualified business with a stated maturity at least 1 year after the date of issuance. A secured loan or the provision of a revolving line of credit to a qualified business is a growth investment only if the rural jobs and capital investment fund obtains an affidavit from the president or chief executive officer or equivalent position of the qualified business attesting that the qualified business sought and was denied similar financing from a commercial bank.

(f) "Investment authority" means the amount stated on the certificate under section 90m certifying the rural jobs and capital investment fund. A rural jobs and capital investment fund's investment authority shall be composed of equal amounts of grants, loans, or other types of economic assistance by the fund and private contributions.

(g) "New full-time equivalent employees" means the number of jobs performed by an individual who is employed for consideration for at least 35 hours of work each week based in this state and for whom the company, an employee leasing company, or a professional employer organization on behalf of the company, or other entity authorized under this act, withholds income and United States Social Security taxes.

(h) "Principal business operations" means the operations of a business are located at the place or places where at least 60% of its employees work or where employees that are paid at least 60% of its payroll work. A business that has agreed to relocate or hire new employees using the proceeds of a growth investment to establish its principal business operations in a qualified rural local governmental unit in the state shall be considered to have its principal business operations in this new location provided it satisfies this definition within 180 days after receiving the growth investment, unless the fund agrees to a later date. A business located in this state that has agreed to hire new employees in a qualified rural local governmental unit using the proceeds of a growth investment to establish its principal business operations in that qualified rural local governmental unit shall be considered to have its principal business operations in a qualified rural local governmental unit provided it hires the necessary employees within 180 days after receiving the growth investment or a later date, if agreed to by the fund.

(i) "Private contributions" means an investment of cash in a rural jobs and capital investment fund to match dollar-for-dollar the grants, loans, or other types of economic assistance up to the investment authority of the rural jobs and capital investment fund. A rural jobs and capital investment fund's private contributions shall be composed of not less than 10% of equity investments.

(j) "Qualified business" means an operating business that, at the time of the initial investment in the business by a rural jobs and capital investment fund, has fewer than 150 employees and is engaged in industries assigned a North American Industry Classification System code within sectors 11, 21, 23, 31 through 33, 42, 48, 49, 54, except 541110 through 541219, 56, 62, and 81 or, if not engaged in any of these industries, the fund determines that the investment will be beneficial to the rural area, the economic growth of this state, and the industry is not assigned a North American Industry Classification System code within sector 51.

(k) "Qualified rural local governmental unit" means a county in this state with a population of 225,000 or less.

(l) "Repayment amount" means an amount equal to 50% of a rural jobs and capital investment fund's investment authority, minus the sum of the product of new full-time equivalent employees reported to the fund for each of the rural jobs and capital investment fund's annual reports submitted pursuant to section 90p and the appropriate earned job factor rate.

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(m) "Rural jobs and capital investment fund" means an entity approved by the fund under section 90m that meets all of the following:

(i) The entity or 1 or more of its affiliates are regulated by the Securities and Exchange Commission and meet either of the following:

(A) Is a rural business investment company under 7 USC 2009cc or a small business investment company under 15 USC 681.

(B) Is registered as an investment adviser under 15 USC 80b-1 to 80b-21.

(ii) As of the date of the application, the entity or its affiliates have invested at least $100,000,000.00 in nonpublic companies located in counties throughout the United States with a population less than 50,000.

(iii) As of the date of the application, the entity or its affiliates have received equity investments from investors who are not affiliates of the applicant in an amount equal to at least $100,000,000.00.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018 ;-- Am. 2020, Act 373, Eff. Mar. 24, 2021
Popular Name: Strategic Fund

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125.2090m Rural jobs and capital investment fund; application; qualifications; duties.

Sec. 90m.

(1) Beginning 90 days after the effective date of the amendatory act that added this chapter, and in each subsequent year through 2029, the fund shall accept applications for approval as a rural jobs and capital investment fund. The application shall include all of the following:

(a) The total investment authority sought by the applicant.

(b) A copy of the applicant's license showing that the entity or its affiliate is a rural business investment company under 7 USC 2009cc or a small business investment company under 15 USC 68.

(c) Evidence that as of the date of the application, the entity or its affiliates have invested at least $100,000,000.00 in nonpublic companies located in counties throughout the United States with a population less than 50,000.

(d) Evidence that as of the date of the application, the entity or its affiliates have received equity investments from investors who are not affiliates of the applicant in an amount equal to least at $100,000,000.00.

(e) A nonrefundable application fee of $10,000.00.

(2) The fund shall make application determinations within 60 business days from the receipt of an administratively complete application as determined by the fund, in the order in which the applications are received. The fund shall consider applications received on the same day to have been received simultaneously. The fund shall not approve more than $30,000,000.00 in investment authority in a calendar year, through 2029. If requests for investment authority received simultaneously would result in the limitation provided in this subsection being exceeded, the fund shall proportionally allot the investment authority and grants, loans, or other types of economic assistance among the approved applications. Upon approval of an application, the fund and the rural jobs and capital investment fund shall execute a written agreement setting forth the terms and conditions of the grants, loans, or other types of economic assistance.

(3) The fund may deny an application submitted under this section only for the following reasons:

(a) The applicant does not satisfy all the criteria described in this section.

(b) The fund has already approved the maximum amount of investment authority allowed under this section.

(4) If the fund denies an application, the applicant may provide additional information to the fund within 5 days of the notice of denial. The fund shall review and reconsider the application and additional information within 30 days. A reconsidered application shall retain the original date of receipt provided under this section for purposes of priority.

(5) A rural jobs and capital investment fund shall do all of the following:

(a) Within 60 days after receiving the approval issued under this section, collect private contributions equal to 50% of the rural jobs and capital investment fund's investment authority.

(b) Within 65 days after receiving the approval issued under this section, send to the fund documentation sufficient to prove that the amounts described in subdivision (a) have been collected.

(6) If the rural jobs and capital investment fund fails to fully comply with subsection (5), the rural jobs and capital investment fund's approval is forfeited, and the fund shall first award the corresponding investment authority to existing applicants who received investment authority lower than the amount requested under this section and then to new applicants.

(7) The fund shall disperse the grants, loans, or other types of economic assistance to the rural jobs and capital investment fund upon receipt and approval of the documentation described in subsection (5)(b) within 21 business days.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

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125.2090n Rural jobs and capital investment creation fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining in fund; use.

Sec. 90n.

(1) The rural jobs and capital investment creation fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the rural jobs and capital investment creation fund. The state treasurer shall direct the investment of the rural jobs and capital investment creation fund. The state treasurer shall credit to the rural jobs and capital investment creation fund interest and earnings from rural jobs and capital investment creation fund investments.

(3) Money in the rural jobs and capital investment creation fund at the close of the fiscal year shall remain in the rural jobs and capital investment creation fund and shall not lapse to the general fund.

(4) The fund shall be the administrator of the rural jobs and capital investment creation fund for auditing purposes.

(5) The fund shall expend money from the rural jobs and capital investment creation fund, upon appropriation, only to make grants, loans, or other types of economic assistance to rural jobs and capital investment funds in this state.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

125.2090o Demand for repayment; conditions; growth investments; notification.

Sec. 90o.

(1) The fund shall demand immediate repayment of the grants, loans, or other types of economic assistance issued under this chapter if any of the following occurs with respect to the rural jobs and capital investment fund before it is certified to exit the program as provided in this chapter:

(a) The rural jobs and capital investment fund does not invest all its investment authority in growth investments in this state within 3 years of the closing date with 100% of its investment authority invested in growth investments in qualified businesses with principal business operations located in qualified rural local governmental units.

(b) The rural jobs and capital investment fund, after satisfying subdivision (a), fails to maintain growth investments at the levels required by subdivision (a) until the sixth anniversary of the closing date. For the purposes of this subdivision, an investment is maintained even if the investment is sold or repaid so long as the rural jobs and capital investment fund reinvests an amount equal to the capital returned or recovered by the rural jobs and capital investment fund from the original investment, exclusive of any profits realized, in other growth investments in this state within 12 months of the receipt of that capital. Amounts received by a rural jobs and capital investment fund pursuant to periodic repayments shall be treated as continually invested in growth investments if the amounts are reinvested in 1 or more growth investments by the end of the following calendar year. A rural jobs and capital investment fund is not required to reinvest capital returned from growth investments after the fifth anniversary of the closing date, and those growth investments shall be considered held continuously by the rural jobs and capital investment fund through the sixth anniversary of the closing date.

(c) The rural jobs and capital investment fund, before exiting the program in accordance with this chapter, makes a distribution or payment that results in the rural jobs and capital investment fund having less than 100% of its investment authority invested in growth investments in this state or available for investment in growth investments and held in cash and other marketable securities.

(d) The rural jobs and capital investment fund makes a growth investment in a qualified business that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest, makes a loan to, or makes an investment in the rural jobs and capital investment fund, an affiliate of the rural jobs and capital investment fund, or an investor in the rural jobs and capital investment fund. This section does not apply to investments in public-traded securities. For purposes of this subdivision, a rural jobs and capital investment fund will not be considered an affiliate of a business solely because of its growth investment.

(e) The rural jobs and capital investment fund invests in any industry assigned a North American Industry Classification System code within sector 51.

(2) No more than $5,000,000.00 in growth investments in a qualified business, including growth investments in affiliates of the qualified business, shall count toward the requirements of subsection (1)(a) and (b).

(3) Before demanding repayment under this section, the fund shall notify the rural jobs and capital investment fund of the reasons for the pending repayment. The rural jobs and capital investment fund shall have 90 days from the date the notice was dispatched to correct any violation outlined in the notice to the satisfaction of the fund and avoid repayment of the grants, loans, or other types of economic assistance.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

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125.2090p Annual report; compliance.

Sec. 90p.

(1) A rural jobs and capital investment fund shall submit an annual report to the fund on or before the last day of February of each year until the rural jobs and capital investment fund has exited the program in accordance with this chapter. The annual report shall provide documentation as to the rural jobs and capital investment fund's growth investments and include all of the following:

(a) A bank statement evidencing each growth investment.

(b) The name, location, and industry of each qualified business receiving a growth investment, including either the determination letter set forth in section 90o or evidence that the business was a qualified business at the time the growth investment was made.

(c) The number of new full-time equivalent employees and the corresponding earned job factor at the qualified business in this state.

(d) The number of full-time equivalent employees at the qualified business on the date of receipt of the initial growth investment in this state.

(e) Any other information required by the fund.

(2) Within 60 days of receipt of an annual report, the fund shall provide written confirmation to the rural jobs and capital investment fund of the new full-time equivalent employees the rural jobs and capital investment fund has been credited for that year.

(3) By the fifth business day after the third anniversary of the closing date, a rural jobs and capital investment fund shall submit a report to the fund evidencing its compliance with the investment requirements of this chapter.

(4) The fund may adopt rules necessary to implement this chapter.

(5) The fund shall submit an annual report to each house of the legislature on or before April 1, 2020. The annual report shall include all of the following:

(a) The name and number of all the rural jobs and capital investment funds approved to participate in the program.

(b) The amount of investment authority awarded to each rural jobs and capital investment fund.

(c) Any investments made by the rural jobs and capital investment funds, including the location of the investments.

(d) Whether the rural jobs and capital investment funds are in compliance with this chapter.

(e) Any other information required by the fund.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

125.2090q Annual fee.

Sec. 90q.

(1) The fund shall charge an annual fee of 0.5% of the investment authority authorized for that rural jobs and capital investment fund.

(2) The initial annual fee is due and payable to the fund within 1 business day of receipt of a grant, loan, or other type of economic assistance. After the initial annual fee, an annual fee is due and payable to the fund on or before that last day of February of each year.

(3) An annual fee is not required once a rural jobs and capital investment fund has exited the program in accordance with this chapter.

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History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

125.2090r Withdrawal from rural jobs and capital investment program.

Sec. 90r.

(1) On or after the sixth anniversary of the closing date, a rural jobs and capital investment fund may exit the program and no longer be subject to the provisions of this chapter. The fund shall respond to the application within 30 days of receipt and include a calculation of any repayment amount due.

(2) No distributions other than those permitted by section 90o(1)(b) may be made with respect to the equity interests of the rural jobs and capital investment fund more than the sum of the amount of equity capital invested into the rural jobs and capital investment fund with respect to the equity interests and an amount equal to any projected increase in the federal or state tax liability of holders of those interests related to the ownership of the rural jobs and capital investment fund until the rural jobs and capital investment fund has made payments to the fund equal to the repayment amount.

History: Add. 2018, Act 423, Imd. Eff. Dec. 20, 2018
Popular Name: Strategic Fund

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Chapter 9

125.2091 Liberal construction; broad interpretation.

Sec. 91.

This act shall be construed liberally to effectuate the legislative intent and the purpose of the act as complete and independent authority for the performance of each and every act and thing authorized in the act and all powers granted in the act shall be broadly interpreted to effectuate such intent and purposes and not as to limitation of powers.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2092 Repeal of MCL 125.1701 to 125.1770 and MCL 125.1901 to 125.1934.

Sec. 92.

The following acts and parts of acts are repealed:

(a) Effective upon the expiration of 180 days after the effective date of this act, Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws.

(b) Effective upon the expiration of 180 days after the effective date of this act, Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2093 Severability.

Sec. 93.

If any section, subsection, paragraph, clause, or provision of this act shall be adjudged unconstitutional or ineffective, no other section, subsection, paragraph, clause, or provision of this act shall on account thereof be deemed invalid or ineffective and the inapplicability or invalidity of any section, subsection, paragraph, clause, or provision of this act in any 1 or more instances or under any 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

History: 1984, Act 270, Eff. Mar. 29, 1985
Popular Name: Strategic Fund

125.2094 Duties of governor.

Sec. 94.

(1) The governor shall inquire into the administration of this act.

(2) The governor may remove or suspend any appointive public officer for violations of this act. The governor may request the MEDC to remove or suspend any MEDC corporate employee for violations of this act.

(3) The governor may remove or suspend any elective public officer for violation of this act that constitutes gross neglect of duty, corrupt conduct in office, misfeasance, or malfeasance.

(4) This section does not apply to any public officer of the legislative branch or the judicial branch of state government.

(5) The governor shall report the reasons for any removal or suspension under this section to the clerk of the house of representatives and the secretary of the senate.

History: Add. 2005, Act 225, Imd. Eff. Nov. 21, 2005
Popular Name: Strategic Fund

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