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House Bill 5651 (Substitute H-1 as passed by the House)
House Bill 5652 (Substitute H-2 as passed by the House)
House Bill 5653 (Substitute H-5 as passed by the House)
Sponsor: Representative Greg VanWoerkom (H.B. 5651)
Representative Jason Hoskins (H.B. 5652)
Representative Alabas Farhat (H.B. 5653)
House Committee: Economic and Small Business
Senate Committee: Economic and Community Development

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CONTENT

House Bill 5653 (H-5) would amend the Michigan Strategic Fund Act to do the following:

- Require the Michigan Strategic Fund (MSF) to create the Michigan Innovation Fund Program (Program) to provide support in the State for investments in qualified evergreen venture funds, qualified emerging evergreen funds, qualified venture capital funds, and qualified start-up support services.
- Provide that money deposited in the 21st Century Jobs Trust Fund would have to be spent by the MSF to support the Program and prescribe how that money could be spent each fiscal year until the fiscal year ending September 30, 2054.
- Prescribe requirements for grant agreements between the MSF and a qualified evergreen venture fund or a qualified emerging evergreen fund.
- Require, by January 1, 2030, the MSF to conduct a formal review of the 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 Program.

House Bill 5652 (H-2) would amend the Michigan Early Stage Venture Investment Act to do the following:

- Require the articles of incorporation for a Michigan early stage venture investment corporation to include a provision that, if a Michigan early stage venture investment corporation had one or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30, 2024, the board of the corporation would have to enter into an agreement with the Department of Treasury to distribute \$60.0 million of the earned returns for deposit into the 21st Century Jobs Trust Fund.
- Provide that, on dissolution of a Michigan early stage venture investment corporation, the property remaining after debts and obligations would transfer to the General Fund (GF).

House Bill 5651 (H-1) would amend the Michigan Trust Fund Act to specify that the 21st Century Jobs Fund would be funded, in addition to current sources, by amounts deposited in accordance with the Michigan Early Stage Venture Investment Act, as amended by **House Bill 5652 (H-2)**.

The bills are tie-barred.

House Bill 5653 (H-5)

Generally, Chapter 8a of the Act authorizes activities to diversify the State's economy and create jobs. More specifically, Chapter 8a authorizes the following programs:

- A loan enhancement program which, in turn, contains a loan guarantee program, the Small Business Capital Access Program, a Michigan film and digital media investment loan program, the Choose Michigan Film and Digital Media Loan Fund, the Choose Michigan Fund Program, and the Michigan Micro Loan Program.
- A private equity investment program.
- The Venture Capital Investment Program.
- A mezzanine investment program.
- A technology transfer acceleration program.
- A center of innovation program.
- The Michigan Business Development Program.
- The Critical Industry Program.
- The Michigan Strategic Site Readiness Program.

The Act requires the MSF to create and operate programs authorized by the Act. The bill would instead require the MSF to create programs authorized by the Act and require the authorized officers, employees, and agents of the MSF, including the MEDC and its employees to operate and administer the programs.

Currently, money transferred or appropriated by law to the MSF for the purposes of carrying out Chapter 8a (or 8c, which concerns the MSF's Community Revitalization Program) must be spent or invested by the MSF as authorized by law for, among other purposes, the promotion of tourism in the State. The bill would delete this provision, and instead, money transferred or appropriated by law to the MSF to carry out Chapters 8a or 8c would have to be spent to fund the Michigan Innovation Fund Program.

Michigan Innovation Fund Program

The bill would require the MSF to create the Michigan Innovation Fund Program to provide support in the State for investments in qualified evergreen venture funds, qualified emerging evergreen funds, qualified venture capital funds, and qualified start-up support services. The Program would have to be operated and administered by the authorized officers, employees, and agents of the MSF, including the MEDC and its employees. Money deposited in the 21st Century Jobs Trust Fund would have to be spent by the MSF to support the Program.

The MSF would have to spend money deposited in the 21st Century Jobs Trust Fund each fiscal year through the fiscal year ending September 30, 2054, as follows:

- 5% for transfer to and deposit in the investment fund for investment in retaining or creating jobs, encouraging the development and commercialization of competitive edge technologies, and revitalizing Michigan communities.
- 80% for grants to qualified evergreen venture funds for eligible activities.
- 8% for grants to one or more qualified emerging evergreen funds for eligible activities.
- 7% for grants to qualified nonprofits for qualified start-up support services.

Money deposited in the 21st Century Jobs Trust Fund for grants made to qualified evergreen venture funds or grants to one or more qualified emerging evergreen funds would have to be awarded by the MSF not later than 182 days after the deposit into the 21st Century Jobs Trust

Fund. The MSF would have to award these grants to all eligible applicants. For all grants made to qualified evergreen venture funds by the MSF in a fiscal year, the total amount of grants provided to qualified evergreen venture funds that invested in two or more industry sectors could not be less than 200% of the total amount of grants provided to qualified evergreen venture funds that invested in only one industry sector.

The MSF could enter into grant agreements to ensure compliance. For a grant to a qualified evergreen venture fund or a qualified emerging evergreen fund, all the following would apply to a grant agreement:

- The grant agreement would have to require a grant award to be committed by the recipient not later than five years after the receipt of the grant by the recipient.
- The grant agreement could permit not more than 15% of the amount of the grant award to be used for the administration of the grant award by the recipient, and technical assistance related to investments made by the qualified evergreen venture fund or qualified emerging evergreen fund, including coaching, mentoring, and programming to support business founders.
- The grant agreement would have to require at least 5% of the grant money invested to be invested in geographically disadvantaged business enterprises.
- The grant agreement would have to require a grant award recipient to report annually, by April 15 of each year, on its activities on a standard form that was prescribed by the MSF and the annual report would have to be published on the MSF's website and on the recipient's website.¹
- A grant agreement would have to include a provision that required the recipient of the grant to notify the MSF within 90 days after there was a change in that recipient's senior leadership team.
- A grant agreement would have to include a provision that if the recipient of a grant realized an earned return on an investment that exceeded \$8.0 million within 15 years after the initial investment, then the recipient would have to, not later than one year after the return realized exceeded the cap, distribute an amount equal to 10% of that return to the State Treasurer for deposit to the State's GF.

Additionally, a grant agreement would have to include a provision that required the recipient of the grant to use returns from the investment of money using grant proceeds as follows. Firstly, not more than 15% could be used for the following expenses: 1) administration of the grant award by the recipient, and 2) technical assistance related to investments made by the qualified evergreen venture fund or qualified emerging evergreen fund, including coaching, mentoring, and programming to support business founders. Secondly, not less than 85% would have to be reinvested.

A grant award recipient would not have to provide information in an annual report if the information were exempt from disclosure under the Freedom of Information Act (FOIA).

The bill provides that it is the intent of the Legislature that grants and investments under the bill would be for the public purpose of encouraging economic development and job creation in the State. The MSF could not enter into any new grant agreements or make new commitments to recipients through the Program after December 31, 2054.

¹ An annual report would have to include all the following information: a list of investments made with grant award proceeds during the immediately preceding calendar year, a summary of expenditures for administration and operations that included a summary of administrative and operational costs incurred, including any professional fees and expenses incurred, and the amount, the date, and a description of any returns received from each investment made with grant proceeds.

Not later than 90 days after receipt of notification from a grant recipient of a change in the recipient's senior leadership team, the MSF would have to 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 MSF deemed relevant regarding the change in leadership.

By January 1, 2030, the MSF would have to 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.

Definitions

"Eligible activity" would mean all the following:

- An investment through an investment instrument in an early-stage start-up company that is located in the State and engaged in one or more competitive edge technologies.²
- Technical assistance related to an investment.
- Grants related to these activities.

"Evergreen fund" would mean 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 or an investment fund that meets all the following requirements:

- 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.
- Operates on an open-end basis without a definitive closing date or fixed end date.
- Permits capital to be raised on an ongoing basis and the reinvestment of investment returns.

"Geographically disadvantaged business enterprise" would mean a person that meets one or more of the following requirements:

- Is certified as a HUBZone small business concern by the United States Small Business Administration.
- Has a principal place of business located within a qualified opportunity zone within the State.
- More than half of its employees have a principal residence located within a qualified opportunity zone within the State.

"Qualified emerging evergreen fund" would mean any of the following:

- 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, that administers, manages, or operates one or more evergreen funds if at least one of those evergreen funds meets both of the following requirements: 1) is organized to provide early

² "Investment instrument" would include, but would not be limited to, convertible notes, simple agreements for future equity (SAFEs), and an equity investment as that term is defined in 12 CFR 1805.104: an investment made by a community development financial institution (CDFI) that, in the judgment of the CDFI Fund, supports or enhances activities serving the CDFI's Investment Area(s) or a Targeted Population(s).

stage venture capital funding to entities within the State, and 2) has a principal office located in a county with a population of more than 600,000 and less than 700,000.

- A Michigan nonprofit corporation that meets both of the following requirements: 1) 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, or 2) administers, manages, or operates one or more evergreen funds.
- A Michigan nonprofit corporation that meets all of the following requirements: 1) is organized to provide early stage venture capital funding to entities within the State, or 2) has a principal office located in a county with a population of more than 90,000 and less than 99,000.
- Administers, manages, or operates one or more evergreen funds and grants.

"Qualified evergreen venture fund" would mean 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 that administers, manages, or operates one or more evergreen funds if at least one of those evergreen funds meets all the following requirements:

- Provides early-stage venture capital funding to entities within the State.
- Has been actively operating in the State for at least three years.
- Has four years or more experience in making early-stage venture capital investments and in mentoring start-up companies.
- Before January 1, 2024, has not less than \$15.0 million in deployable capital or invested not less than \$15.0 million.

"Qualified higher education institution" means an institution of higher education specified in section 4 of Article VIII of the State Constitution. Qualified higher education institution also includes both of the following:

- A Michigan nonprofit corporation that is incorporated under the Nonprofit Corporation Act, and meets all of the following requirements: 1) 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, 2) 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, and 3) the name of the corporation or an assumed name of the corporation under section 212(3) of the Nonprofit Corporation Act, includes the word "foundation".
- A Michigan corporation that is incorporated under the Business Corporation Act and meets all of the following requirements: 1) an institution of higher education specified in Section 4 of Article VIII of the State Constitution is the only shareholder of the corporation and owns all of the shares of the corporation, 2) the name of the corporation or an assumed name of the corporation under section 217 of the Business Corporation Act, includes the words "biosciences" and "research".

"Qualified nonprofit" would mean 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 the State, and entities in the State that administer, manage, or operate funds that invest in start-up companies in the State.

"Qualified start-up support services" would mean one or more of the following:

- Activity that supports the growth of the venture capital talent pool in the State and the development of the next generation of venture capital fund leadership in the State, including a venture capital fellows program.
- Activity that supports the creation and growth of start-up companies in the State.
- Activity that supports the professional development and growth of the founders of start-up companies in the State, including mentoring and coaching.

House Bill 5652 (H-2)

Among other things, the Michigan Early Stage Venture Investment Act prescribes the contents for the articles of incorporation of a Michigan early stage venture investment corporation. For example, the article must include a provision requiring the corporation to be governed by a board of directors.

The bill would require the articles to include a provision that, if, on June 30, 2024, a Michigan early stage venture investment corporation had one or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30, 2024, the board of the corporation would have to enter into an agreement with the Department of Treasury to distribute to the State Treasurer \$60.0 million of the earned returns for deposit in the 21st Century Jobs Trust Fund (see **House Bill 5651 (H-1)**) The remainder of the earned returns for deposit would have to be deposited into the GF.

For each year after December 31, 2024, if a corporation had one or more Michigan early stage venture investment funds with realized earned returns on investments as of June 30 of that year, the board of the corporation would have to enter into an agreement with the Department of Treasury to distribute the earned returns as of June 30 of that year to the State Treasurer for deposit in the GF.

Currently, the Act allows a Michigan early stage venture investment corporation to create a Michigan early stage venture investment fund, which expires on January 1, 2030. The bill would delete this provision. Instead, it would provide that a Michigan early stage venture investment fund would expire on the date determined by the board of the corporation that established the Michigan early stage venture investment fund, which would have to be *after* January 1, 2030.

Finally, the Act specifies that on dissolution of a Michigan early stage venture investment fund, the property remaining after providing for debts and obligations of the Michigan early stage venture investment fund must be distributed, with the first \$140.0 million deposited into the GF and any remaining going to the 21st Century Jobs Trust Fund. The bill would delete this provision. Instead, the property remaining would have to be deposited to the GF.

House Bill 5651 (H-1)

Among other things, the Act creates the 21st Century Jobs Fund in the Department of Treasury. Currently, the Fund consists of 1) donations of money made to the Fund from any source, 2) the net proceeds of the sale of tobacco settlement revenues to the Tobacco Settlement Finance Authority under the Michigan Tobacco Settlement Finance Authority Act, and 3) amounts appropriated from the General Fund.³

Under the bill, the 21st Century Jobs Fund *also* would be funded by amounts deposited in accordance with the Michigan Early Stage Venture Investment Act (see **House Bill 5652 (H-2)**).

³ For more information, see MCL 125.2089b.

This money could be transferred and disbursed only for the purpose of the Michigan Innovation Fund Program (see **House Bill 5653 (H-5)**).

MCL 12.257 & 12.258 (H.B. 5651)
125.2237 et al. (H.B. 5652)
125.2088b et al. (H.B. 5653)

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bills would have a fiscal impact on the State and no fiscal impact on local units of government. The bills would transfer \$60.0 million from the Michigan Early State Venture Investment Fund to the Michigan Innovation Fund Program, created within the 21st Century Jobs Trust Fund. The remaining dollars in the Michigan Early State Venture Investment Fund would be deposited to the General Fund until all funds were exhausted. The Fiscal Year (FY) 2024-25 budget for the Department of Labor and Economic Opportunity (PA 121 of 2024), appropriated \$60.0 million to the Michigan Innovation Fund. The \$60.0 million would support evergreen venture funds, venture capital funds, and other qualified supports.

Under current law, \$140.0 million would be transferred from the Michigan Early State Venture Investment Fund to the General Fund on January 1, 2030, with any remaining dollars deposited into the 21st Century Jobs Trust Fund. The bills would reduce the amount in current law assumed to be deposited to the General Fund by \$60.0 million. There is estimated to be \$125.0 million of realized earnings returned to the Michigan Early State Venture Investment Fund. This would mean there is an additional \$65.0 million deposited into the General Fund in FY 2024-25 than was assumed under current law, which would have otherwise occurred on January 1, 2030.

After the initial deposits were made under the bills, on June 30 of each year, if any funds had been received in the Michigan Early State Venture Investment Fund, those dollars would be transferred to the General Fund. After January 1, 2030, any remaining funds would be transferred to the General Fund and the Michigan Early State Venture Investment Fund would expire.

Any funds that were returned from investment would be deposited into the 21st Century Jobs Trust Funds and are available for appropriation. If an agreement resulted in an investment's earnings exceeding \$8.0 million or more within 15 years of the initial investment of a grant, then the amount exceeding \$8.0 million would be deposited to the General Fund. It is unknown if this scenario would ever occur. Funds could be appropriated from the 21st Century Jobs Trust Fund until September 30, 2054. The bills do not specify directly what would happen to any remaining dollars in the Fund after September 30, 2054.

The bills would not provide for any administrative dollars to the MSF to the Michigan Innovation Fund program. The MSF would have to fund the administration, oversight, and reporting with existing dollars unless appropriated by the Legislature. The bills would have no fiscal impact on the Department of Treasury.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.