

SUBSTITUTE FOR
HOUSE BILL NO. 5653

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 88b, 88f, and 88h (MCL 125.2088b, 125.2088f,
and 125.2088h), section 88b as amended by 2014 PA 505, section 88f
as amended by 2012 PA 221, and section 88h as amended by 2012 PA
145, and by adding section 88u.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88b. (1) The fund shall create ~~and operate~~ programs
2 authorized under this ~~act. The~~ **chapter. These programs shall be**
3 **operated and administered by the authorized officers, employees,**
4 **and agents of the fund, including the MEDC and its employees.**
5 **Consistent with the requirements of this chapter, the** fund board
6 shall determine the annual allocation of money for programs

1 authorized under this ~~act~~ **chapter** and make authorized expenditures
2 or investments from the investment fund of the 21st century jobs
3 trust fund ~~created in the Michigan trust fund act, 2000 PA 489, MCL~~
4 ~~12.251 to 12.260,~~ as authorized under this act for programs and
5 activities authorized under this ~~act~~ **chapter**.

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

10 (a) 21st century investments ~~as long as~~ **if** those investments
11 provide for repayment for breach of the written agreement or the
12 failure to meet measurable outcomes.

13 (b) Grants and loans approved by the ~~commercialization~~ **fund**
14 board under section 88k ~~as long as~~ **if** those grants and loans
15 provide for repayment for breach of the written agreement or the
16 failure to meet measurable outcomes.

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

22 (d) ~~For promotion of tourism in this state. For fiscal year~~
23 ~~2010-2011 only, \$20,000,000.00 for the promotion of tourism in this~~
24 ~~state from funds appropriated in the jobs for Michigan investment~~
25 ~~program - 21st century jobs fund line in section 109 of 2010 PA 191~~
26 ~~with not less than \$1,500,000.00 to be used for the 2010-2011~~
27 ~~winter advertisement buy. For all funds used for promotion of~~
28 ~~tourism in this state under this subdivision, the fund shall report~~
29 ~~to the legislature at the same time and in the same manner as~~

1 ~~provided in section 89d.~~ **The Michigan innovation fund program as**
2 **provided in section 88u.**

3 (e) Grants, loans, or other economic assistance under section
4 88r and community revitalization incentives under chapter 8C ~~as~~
5 ~~long as if~~ those grants, loans, other economic assistance, and
6 community revitalization incentives provide for repayment for
7 breach of the written agreement or the failure to meet measurable
8 outcomes.

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

22 (4) Not more than 5% of the annual appropriation as provided
23 by law from the 21st century jobs trust fund ~~created in the~~
24 ~~Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260,~~ may be
25 used for business development and business marketing costs. No
26 funds may be used for any business development and business
27 marketing effort that includes a reference to or the image or voice
28 of an elected state officer or a candidate for elective state
29 office and that is targeted to a media market in ~~Michigan.~~ **this**

1 **state.**

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

9 (6) The fund board may select all vendors for all expenditures
10 and for program awards under this chapter by issuing a request for
11 proposal or an alternative competitive process as determined by the
12 fund board. At a minimum, the request for proposal ~~shall~~**must**
13 require the responding entities to disclose any conflict of
14 interest, disclose any criminal convictions, disclose any
15 investigations by the ~~internal revenue service~~**Internal Revenue**
16 **Service** or any other federal or state taxing body or court,
17 disclose any litigation involving the entity, and maintain records
18 and evidence pertaining to work performed. The fund board shall
19 establish a standard process to evaluate proposals submitted as a
20 result of a request for proposal and appoint a committee to review
21 the proposals. The fund or the fund board shall not appoint or
22 designate any person paid or unpaid to a committee to review
23 proposals if that person has a conflict of interest with any
24 potential vendors as determined by the office of the chief
25 compliance officer established in section 88i.

26 (7) ~~Application~~**The fund may use application** fees received for
27 programs and activities authorized under this chapter or chapter 8C
28 ~~may be used by the fund~~ for administering the programs and
29 activities authorized under this chapter or chapter 8C. The

1 restrictions on expenditures under subsection (3) do not apply to
2 expenditure of application fee revenue under this subsection.

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

6 (9) **Money deposited in the 21st century jobs trust fund under**
7 **section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL**
8 **12.257, must be expended as provided in section 88u.**

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

12 Sec. 88f. (1) When creating programs for 21st century
13 investments under this chapter, the fund shall create and operate
14 the venture capital investment program. The fund board shall
15 authorize investments that ~~shall~~**must** invest only in or alongside a
16 qualified venture capital fund that invests primarily in early
17 stage businesses **in this state**. The venture capital investment
18 program ~~shall~~**must** do all of the following:

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

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

27 (c) Provide that a qualified venture capital fund is not
28 eligible to participate in a venture capital investment program
29 unless it operates a business development office in this state

1 staffed with at least 1 full-time equivalent employee who is
 2 actively seeking opportunities for venture capital investments in
 3 businesses located in this state. ~~unless the investment opportunity~~
 4 ~~requested by the qualified venture capital fund is targeted to a~~
 5 ~~specific transaction involving a competitive edge technology that~~
 6 ~~will not occur without the fund's investment as determined by the~~
 7 ~~fund board.~~

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

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

20 ~~(f) Coordinate with the Michigan early stage venture~~
 21 ~~investment fund as defined in section 3 of the Michigan early stage~~
 22 ~~venture investment act of 2003, 2003 PA 296, MCL 125.2233, to~~
 23 ~~ensure that a continuum of venture capital is available in this~~
 24 ~~state.~~

25 ~~(g) Provide that 80% of the funds allocated to a venture~~
 26 ~~capital investment program shall focus on competitive edge~~
 27 ~~technologies.~~

28 **(f)** ~~(h)~~ Provide that a qualified venture capital fund may make
 29 follow-up investments that were eligible for investment at the time

1 of initial investment but that subsequently may not be
2 characterized as an investment in an early stage business.

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

8 Sec. 88h. (1) The jobs for Michigan investment fund is created
9 within the fund as a permanent fund authorized by section 19 of
10 article IX of the state constitution of 1963. Money in the
11 investment fund at the close of the fiscal year ~~shall remain~~
12 **remains** in the investment fund and ~~shall~~**does** not lapse to the
13 general fund. Money in the investment fund ~~shall~~**must** not be
14 transferred to another governmental entity or a separate legal
15 entity and public body corporate established under the urban
16 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
17 124.512, except as authorized in this chapter.

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

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

- 27 (a) Retaining or creating jobs.
28 (b) Increasing capital investment activity.
29 (c) Increasing commercial lending activity.

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

3 (e) Revitalizing Michigan communities.

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

7 (5) The investment fund ~~shall consist~~ **consists** of all of the
8 following:

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

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

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

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

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

29 (iii) Section 410 of 2001 PA 80, commonly known as the health

1 and aging research and development initiative or the Michigan life
2 sciences corridor initiative, or any successor program.

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

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

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

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

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

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

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

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

23 (6) The net income of the investment fund may be expended by
24 the fund only for purposes authorized under this chapter or chapter
25 8C. ~~pursuant to an appropriation authorized by law. As used in~~ **For**
26 **purposes of** this section, the net income of the investment fund
27 ~~shall~~ **must** be computed annually as of the last day of the state
28 fiscal year in accordance with generally accepted accounting
29 principles, excluding any unrealized gains or losses.

1 (7) The fund board ~~shall be~~ **is** the trustees of the investment
 2 fund and shall direct the investment and reinvestment of the funds
 3 and assets of the investment fund as consistent with the objectives
 4 of this chapter or chapter 8C.

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

26 (9) A member of the fund board or officer of the fund shall
 27 not gain from any investment of funds or assets of the investment
 28 fund. A member of the fund board or officer of the fund shall not
 29 have any direct or indirect interest in an investment of funds or

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

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

18 **Sec. 88u. (1) The fund shall create the Michigan innovation**
19 **fund program to provide support in this state for investments under**
20 **section 88h, qualified evergreen venture funds, qualified emerging**
21 **evergreen funds, qualified venture capital funds, and qualified**
22 **start-up support services. The Michigan innovation fund program**
23 **shall be operated and administered by the authorized officers,**
24 **employees, and agents of the fund, including the MEDC and its**
25 **employees. Money deposited in the 21st century jobs trust fund**
26 **under section 7(1)(c) of the Michigan trust fund act, 2000 PA 489,**
27 **MCL 12.257, must be expended by the fund to support the Michigan**
28 **innovation fund program as provided in this section.**

29 **(2) Subject to subsection (5), the fund shall expend money**

1 deposited in the 21st century jobs trust fund under section 7(1)(c)
2 of the Michigan trust fund act, 2000 PA 489, MCL 12.257, each
3 fiscal year through the fiscal year ending September 30, 2054, as
4 follows:

5 (a) 5% for transfer to and deposit in the investment fund for
6 investment under section 88h(3)(a), (d), or (e).

7 (b) 80% for grants to qualified evergreen venture funds for
8 eligible activities.

9 (c) 8% for grants to 1 or more qualified emerging evergreen
10 funds for eligible activities.

11 (d) 7% for grants to qualified nonprofits for qualified start-
12 up support services.

13 (3) Money deposited in the 21st century jobs trust fund under
14 section 7(1)(c) of the Michigan trust fund act, 2000 PA 489, MCL
15 12.257, for grants under subsection (2)(b) or (c) must be awarded
16 by the fund under this section not later than 182 days after the
17 deposit of the money in the 21st century jobs trust fund. The fund
18 shall award grants under subsection (2)(b) or (c) to all eligible
19 applicants. For all grants made by the fund in a fiscal year under
20 subsection (2)(b), the total amount of grants provided to qualified
21 evergreen venture funds that invest in 2 or more industry sectors
22 must be not less than 200% of the total amount of grants provided
23 to qualified evergreen venture funds that invest in only 1 industry
24 sector. The fund may enter into grant agreements to ensure
25 compliance with this section. For a grant under subsection (2)(b)
26 or (c), all of the following apply regarding a grant agreement
27 under this subsection:

28 (a) The grant agreement must require a grant award to be
29 committed by the recipient not later than 5 years after the receipt

1 of the grant by the recipient.

2 (b) The grant agreement may permit not more than 15% of the
3 amount of the grant award to be used for both of the following:

4 (i) Administration of the grant award by the recipient.

5 (ii) Technical assistance related to investments made by the
6 qualified evergreen venture fund or qualified emerging evergreen
7 fund, including, but not limited to, coaching, mentoring, and
8 programming to support business founders.

9 (c) The grant agreement must require at least 5% of the grant
10 money invested to be invested in geographically disadvantaged
11 business enterprises.

12 (d) The grant agreement must require a grant award recipient
13 to report annually, by April 15 of each year, on its activities
14 under this section on a standard form that is prescribed by the
15 fund and the annual report must be published on the fund's website
16 and on the recipient's website. Except as otherwise provided in
17 subsection (4), an annual report required under this subdivision
18 must include all of the following information:

19 (i) A list of investments made with grant award proceeds during
20 the immediately preceding calendar year that includes all of the
21 following:

22 (A) The name of the recipient of each investment.

23 (B) The date of each investment.

24 (C) The amount of each investment.

25 (D) The physical address of the recipient of each investment.

26 (E) A description of the type of investment.

27 (F) A description of the industry or economic sector in which
28 the recipient operates.

29 (G) An indication of whether the investment is a new

1 investment in the recipient or a follow-on investment.

2 (H) An indication of the number of jobs created or jobs
3 retained, or both, as a result of the investment.

4 (ii) A summary of expenditures for administration and
5 operations that includes a summary of administrative and
6 operational costs incurred, including, but not limited to, any
7 professional fees and expenses incurred.

8 (iii) The amount, the date, and a description of any returns
9 received from each investment made with grant proceeds.

10 (e) A grant agreement must include a provision that requires
11 the recipient of the grant to use returns from the investment of
12 money using grant proceeds as follows:

13 (i) Not more than 15% may be used for expenses described in
14 subdivision (b) (i) or (ii).

15 (ii) Not less than 85% must be reinvested.

16 (f) A grant agreement must include a provision that requires
17 the recipient of the grant to notify the fund within 90 days after
18 there is a change in that recipient's senior leadership team.

19 (g) A grant agreement must include a provision that if the
20 recipient of a grant realizes an earned return on an investment
21 under this section that exceeds \$8,000,000.00 within 15 years after
22 the initial investment, then the recipient shall, not later than 1
23 year after the return realized exceeds the cap under this
24 subdivision, distribute an amount equal to 10% of that return to
25 the state treasurer for deposit to the general fund in this state.

26 (4) A grant award recipient is not required to provide
27 information in an annual report under subsection (3) (d) if the
28 information is exempt from disclosure under the freedom of
29 information act, 1976 PA 442, MCL 15.231 to 15.246.

1 (5) It is the intent of the legislature that grants and
2 investments under this section are for the public purpose of
3 encouraging economic development and job creation in this state.
4 The fund shall not enter into any new grant agreements or make new
5 commitments to recipients under this section after December 31,
6 2054.

7 (6) Not later than 90 days after receipt of notification from
8 a grant recipient of a change in the recipient's senior leadership
9 team, the fund must conduct a performance review of all investments
10 made by that recipient and submit a report to the senate and house
11 appropriations subcommittees on general government, the senate and
12 house fiscal agencies, the senate and house policy offices, and the
13 state budget office on those investments and include any
14 considerations the fund deems relevant regarding the change in
15 leadership.

16 (7) Not later than January 1, 2030, the fund shall conduct a
17 formal review of the Michigan innovation fund program and submit a
18 report to the senate and house appropriations subcommittees on
19 general government, the senate and house fiscal agencies, the
20 senate and house policy offices, and the state budget office on the
21 performance and effectiveness of the Michigan innovation fund
22 program.

23 (8) As used in this section:

24 (a) "Eligible activity" means all of the following:

25 (i) An investment through an investment instrument in an early-
26 stage start-up company that is located in this state and engaged in
27 1 or more competitive edge technologies. As used in this
28 subparagraph, "investment instrument" includes, but is not limited
29 to, convertible notes, simple agreements for future equity (SAFEs),

1 and an equity investment as that term is defined in 12 CFR
2 1805.104.

3 (ii) Technical assistance related to an investment described in
4 subparagraph (i).

5 (iii) Grants related to the activities described in
6 subparagraphs (i) and (ii).

7 (b) "Evergreen fund" means an investment plan or program of a
8 Michigan nonprofit corporation that is exempt from taxation under
9 section 501(c)(6) of the internal revenue code of 1986, 26 USC 501,
10 or an investment fund that meets all of the following requirements:

11 (i) Is organized for the purpose of investing in private debt
12 or equity with limited restrictions on or no provision for investor
13 withdrawal and redemption rights.

14 (ii) Operates on an open-end basis without a definitive closing
15 date or fixed end date.

16 (iii) Permits capital to be raised on an ongoing basis and the
17 reinvestment of investment returns.

18 (c) "Geographically disadvantaged business enterprise" means a
19 person that meets 1 or more of the following requirements:

20 (i) Is certified as a HUBZone small business concern by the
21 United States Small Business Administration.

22 (ii) Has a principal place of business located within a
23 qualified opportunity zone within this state.

24 (iii) More than half of its employees have a principal residence
25 located within a qualified opportunity zone within this state.

26 (d) "Qualified emerging evergreen fund" means any of the
27 following:

28 (i) A public institution of higher education or a Michigan
29 nonprofit corporation that is exempt from taxation under section

1 501(c)(3) or (6) of the internal revenue code of 1986, 26 USC 501,
2 that administers, manages, or operates 1 or more evergreen funds if
3 at least 1 of those evergreen funds meets both of the following
4 requirements:

5 (A) Is organized to provide early stage venture capital
6 funding to entities within this state.

7 (B) Has a principal office located in a county with a
8 population of more than 600,000 and less than 700,000.

9 (ii) A Michigan nonprofit corporation that meets both of the
10 following requirements:

11 (A) Is organized for the purpose of enhancing the vitality of
12 the communities affected by this state's Upper Peninsula by
13 leveraging local resources with capital and expertise and fostering
14 economic opportunity throughout the area.

15 (B) Administers, manages, or operates 1 or more evergreen
16 funds.

17 (iii) A Michigan nonprofit corporation that meets all of the
18 following requirements:

19 (A) Is organized to provide early stage venture capital
20 funding to entities within this state.

21 (B) Has a principal office located in a county with a
22 population of more than 90,000 and less than 99,000.

23 (C) Administers, manages, or operates 1 or more evergreen
24 funds and grants.

25 (e) "Qualified evergreen venture fund" means a qualified
26 higher education institution or a Michigan nonprofit corporation
27 that is exempt from taxation under section 501(c)(3) or (6) of the
28 internal revenue code of 1986, 26 USC 501, that administers,
29 manages, or operates 1 or more evergreen funds if at least 1 of

1 those evergreen funds meets all of the following requirements:

2 (i) Provides early-stage venture capital funding to entities
3 within this state.

4 (ii) Has been actively operating in this state for not less
5 than 3 years.

6 (iii) Has 4 years or more experience in making early-stage
7 venture capital investments and in mentoring start-up companies.

8 (iv) Before January 1, 2024, has not less than \$15,000,000.00
9 in deployable capital or invested not less than \$15,000,000.00.

10 (f) "Qualified higher education institution" means an
11 institution of higher education specified in section 4 of article
12 VIII of the state constitution of 1963. Qualified higher education
13 institution also includes both of the following:

14 (i) A Michigan nonprofit corporation that is incorporated under
15 the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
16 450.3192, and meets all of the following requirements:

17 (A) The corporation is incorporated for the purpose of
18 providing support for the objects and purposes of an institution of
19 higher education specified in section 5 of article VIII of the
20 state constitution of 1963.

21 (B) The corporation is incorporated for the purpose of
22 assisting in an exclusively educational and charitable manner in
23 the accomplishment of the educational purposes of an institution of
24 higher education specified in section 5 of article VIII of the
25 state constitution of 1963.

26 (C) The name of the corporation or an assumed name of the
27 corporation under section 212(3) of the nonprofit corporation act,
28 1982 PA 162, MCL 450.2212, includes the word "foundation".

29 (ii) A Michigan corporation that is incorporated under the

1 business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098,
2 and meets all of the following requirements:

3 (A) An institution of higher education specified in section 4
4 of article VIII of the state constitution of 1963 is the only
5 shareholder of the corporation and owns all of the shares of the
6 corporation.

7 (B) The name of the corporation or an assumed name of the
8 corporation under section 217 of the business corporation act, 1972
9 PA 284, MCL 450.1217, includes the words "biosciences" and
10 "research".

11 (g) "Qualified nonprofit" means a nonprofit corporation that
12 provides programming, technical assistance, or other support that
13 promotes the growth and development of start-up companies and their
14 founders in this state, and entities in this state that administer,
15 manage, or operate funds that invest in start-up companies in this
16 state.

17 (h) "Qualified start-up support services" means 1 or more of
18 the following:

19 (i) Activity that supports the growth of the venture capital
20 talent pool in this state and the development of the next
21 generation of venture capital fund leadership in this state,
22 including, but not limited to, a venture capital fellows program.

23 (ii) Activity that supports the creation and growth of start-up
24 companies in this state.

25 (iii) Activity that supports the professional development and
26 growth of the founders of start-up companies in this state,
27 including, but not limited to, mentoring and coaching.

28 (i) "21st century jobs trust fund" means the 21st century jobs
29 trust fund established in section 7 of the Michigan trust fund act,

1 **2000 PA 489, MCL 12.257.**

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 102nd Legislature are
4 enacted into law:

5 (a) House Bill No. 5651.

6 (b) House Bill No. 5652.