

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 61

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending the title and sections 218, 401e, and 414b (MCL 550.1218, 550.1401e, and 550.1414b), the title as amended by 1994 PA 169, section 218 as added by 2002 PA 559, section 401e as added by 1996 PA 516, and section 414b as added by 2006 PA 413, and by adding sections 201a, 220, 400, 401m, 410b, 501c, and 620 and part 6A.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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TITLE

An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities;

1 to prescribe certain conditions for the transaction of business by  
 2 those corporations in this state; to define the relationship of  
 3 health care providers to nonprofit health care corporations and to  
 4 specify their rights, powers, and immunities with respect thereto;  
 5 to provide for a Michigan caring program; to provide for the  
 6 regulation and supervision of nonprofit health care corporations by  
 7 the commissioner of insurance; to prescribe powers and duties of  
 8 certain other state officers with respect to the regulation and  
 9 supervision of nonprofit health care corporations; to provide for  
 10 the imposition of a regulatory fee; to regulate the merger or  
 11 consolidation of certain corporations; to prescribe an expeditious  
 12 and effective procedure for the maintenance and conduct of certain  
 13 administrative appeals relative to provider class plans; to provide  
 14 for certain administrative hearings relative to rates for health  
 15 care benefits; **TO PROVIDE FOR THE CREATION OF AND THE POWERS AND**  
 16 **DUTIES OF CERTAIN NONPROFIT CORPORATIONS FOR THE PURPOSE OF**  
 17 **RECEIVING AND ADMINISTERING FUNDS FOR THE PUBLIC WELFARE;** to  
 18 provide for certain causes of action; to prescribe penalties and to  
 19 provide civil fines for violations of this act; and to repeal  
 20 ~~certain~~ acts and parts of acts.

21 **SEC. 201A. NOTWITHSTANDING SECTION 201, A HEALTH CARE**  
 22 **CORPORATION SHALL NOT BE FORMED IN THIS STATE ON OR AFTER JANUARY**  
 23 **1, 2014.**

24 Sec. 218. A health care corporation shall not do any of the  
 25 following:

- 26 (a) Take any action to change its nonprofit status.  
 27 (b) ~~Dissolve,~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 220,**

1 DISSOLVE, merge, consolidate, mutualize, or take any other action  
2 that results in a change in direct or indirect control of the  
3 health care corporation or sell, transfer, lease, exchange, option,  
4 or convey assets that results in a change in direct or indirect  
5 control of the health care corporation.

6 SEC. 220. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE  
7 CONTRARY, A HEALTH CARE CORPORATION MAY ESTABLISH, OWN, OPERATE,  
8 AND MERGE WITH A NONPROFIT MUTUAL DISABILITY INSURER FORMED UNDER  
9 CHAPTER 58 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.5800  
10 TO 500.5840. THE SURVIVING ENTITY OF A MERGER DESCRIBED IN THIS  
11 SUBSECTION IS THE NONPROFIT MUTUAL DISABILITY INSURER. A MERGER  
12 DESCRIBED IN THIS SUBSECTION IS EXEMPT FROM THE APPLICATION OF  
13 SECTIONS 1311 TO 1319 OF THE INSURANCE CODE OF 1956, 1956 PA 218,  
14 MCL 500.1311 TO 500.1319.

15 (2) THE MERGER OF A HEALTH CARE CORPORATION WITH A NONPROFIT  
16 MUTUAL DISABILITY INSURER IS EFFECTIVE UPON COMPLETION OF BOTH OF  
17 THE FOLLOWING:

18 (A) THE ADOPTION OF A PLAN OF MERGER BY THE MAJORITY OF THE  
19 BOARDS OF DIRECTORS OF BOTH THE HEALTH CARE CORPORATION AND THE  
20 NONPROFIT MUTUAL DISABILITY INSURER. THE HEALTH CARE CORPORATION  
21 SHALL INCLUDE IN THE PLAN OF MERGER THAT BEGINNING IN APRIL OF THE  
22 FIRST FULL CALENDAR YEAR AFTER THE ADOPTION OF THE PLAN OF MERGER  
23 THE SURVIVING ENTITY OF A MERGER DESCRIBED IN SUBSECTION (1) SHALL  
24 USE ITS BEST EFFORTS TO MAKE ANNUAL SOCIAL MISSION CONTRIBUTIONS IN  
25 AN AGGREGATE AMOUNT OF UP TO \$1,560,000,000.00 OVER A PERIOD OF UP  
26 TO 18 YEARS BEGINNING IN APRIL OF THE FIRST FULL CALENDAR YEAR  
27 AFTER THE ADOPTION OF THE PLAN OF MERGER TO A NONPROFIT CORPORATION

1 CREATED UNDER PART 6A. IF ADOPTED, THE BOARDS OF DIRECTORS SHALL  
2 SUBMIT THE PLAN OF MERGER TO THE COMMISSIONER FOR HIS OR HER  
3 CONSIDERATION AS PROVIDED IN SUBDIVISION (B). A NONPROFIT MUTUAL  
4 DISABILITY INSURER IS CONSIDERED TO BE MAKING ITS BEST EFFORT UNDER  
5 THIS SUBDIVISION IF IT MAKES THE ANNUAL SOCIAL MISSION CONTRIBUTION  
6 TO A NONPROFIT CORPORATION CREATED IN PART 6A WHEN THE NONPROFIT  
7 MUTUAL DISABILITY INSURER'S SURPLUS IS AT LEAST 375% OF THE  
8 AUTHORIZED CONTROL LEVEL UNDER RISK-BASED CAPITAL REQUIREMENTS.

9 (B) THE APPROVAL OF THE PLAN OF MERGER BY THE COMMISSIONER.  
10 THE COMMISSIONER SHALL MAKE A DETERMINATION TO APPROVE OR  
11 DISAPPROVE A PLAN OF MERGER WITHIN 90 DAYS OF RECEIPT OF THE PLAN,  
12 AND THE COMMISSIONER SHALL NOT UNREASONABLY WITHHOLD APPROVAL OF A  
13 PLAN OF MERGER SUBMITTED UNDER SUBDIVISION (A).

14 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE  
15 CONTRARY, THE DIRECTORS OF A HEALTH CARE CORPORATION MAY SERVE AS  
16 INCORPORATORS OF THE CORPORATE BODY OF, DIRECTORS OF, OR OFFICERS  
17 OF THE NONPROFIT MUTUAL DISABILITY INSURER FORMED THROUGH A MERGER  
18 DESCRIBED IN SUBSECTION (1).

19 (4) A MERGER DESCRIBED IN SUBSECTION (1) IS THE DISSOLUTION OF  
20 THE HEALTH CARE CORPORATION, AND THE SURVIVING NONPROFIT MUTUAL  
21 DISABILITY INSURER ASSUMES THE PERFORMANCE OF ALL CONTRACTS AND  
22 POLICIES OF THE MERGED HEALTH CARE CORPORATION THAT EXIST ON THE  
23 DATE OF THE MERGER, INCLUDING THE PARTICIPATING HOSPITAL AGREEMENT,  
24 AND ITS DEFINITION OF CERTIFICATE WHICH EXCLUDES AS COVERED  
25 SERVICES BENEFITS PROVIDED PURSUANT TO AUTOMOBILE NO-FAULT OR  
26 WORKER'S COMPENSATION COVERAGE, AND ALL RELATED CONTRACT  
27 OBLIGATIONS THAT RESULT FROM ORDERS RELATING TO HOSPITAL PROVIDER

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1 CLASS PLANS THAT ARE ISSUED BY THE COMMISSIONER AFTER JULY 1, 2012.  
 2 HOWEVER, THE OFFICERS OF A HEALTH CARE CORPORATION MAY PERFORM ANY  
 3 ACT OR ACTS NECESSARY TO CLOSE THE AFFAIRS OF THE MERGED HEALTH  
 4 CARE CORPORATION AFTER THE DATE OF THE MERGER.

[ (5) NOTWITHSTANDING ANYTHING IN THIS ACT TO THE CONTRARY, IF THE  
 MERGER OF A HEALTH CARE CORPORATION AND A NONPROFIT MUTUAL DISABILITY  
 INSURER BECOMES EFFECTIVE AS DESCRIBED IN SUBSECTION (2), THE PROPERTY OF  
 THE HEALTH CARE CORPORATION IS SUBJECT TO THE COLLECTION OF GENERAL AD  
 VALOREM TAXES AND APPLICABLE SPECIFIC TAXES UNDER THE GENERAL PROPERTY  
 TAX ACT, 1893 PA 206, MCL 211.1 TO 211.155, BEGINNING DECEMBER 31, 2013.  
 AS PROVIDED IN SECTION 201, THE PROPERTY OF A HEALTH CARE CORPORATION IS  
 EXEMPT FROM TAXATION BEFORE DECEMBER 31, 2013. THIS ACT DOES NOT CONFER  
 AN EXEMPTION FROM TAXATION ON A NONPROFIT MUTUAL DISABILITY INSURER THAT  
 MERGES WITH A HEALTH CARE CORPORATION.]

5 SEC. 400. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE  
 6 CONTRARY, THIS SECTION APPLIES TO THE USE OF A MOST FAVORED NATION  
 7 CLAUSE IN A PROVIDER CONTRACT ON AND AFTER FEBRUARY 1, 2013.

8 (2) SUBJECT TO SUBSECTION (3), BEGINNING FEBRUARY 1, 2013, A  
 9 HEALTH CARE CORPORATION SHALL NOT USE A MOST FAVORED NATION CLAUSE  
 10 IN ANY PROVIDER CONTRACT, INCLUDING A PROVIDER CONTRACT IN EFFECT  
 11 ON FEBRUARY 1, 2013, UNLESS THE MOST FAVORED NATION CLAUSE HAS BEEN  
 12 FILED WITH AND APPROVED BY THE COMMISSIONER. SUBJECT TO SUBSECTION  
 13 (3), BEGINNING FEBRUARY 1, 2013, A HEALTH CARE CORPORATION SHALL  
 14 NOT ENFORCE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT  
 15 WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER.

16 (3) BEGINNING JANUARY 1, 2014, A HEALTH CARE CORPORATION SHALL  
 17 NOT USE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT,  
 18 INCLUDING A PROVIDER CONTRACT IN EFFECT ON JANUARY 1, 2014.

19 (4) AS USED IN THIS SECTION, "MOST FAVORED NATION CLAUSE"  
 20 MEANS A CLAUSE THAT DOES ANY OF THE FOLLOWING:

21 (A) PROHIBITS, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION  
 22 AN OPTION TO PROHIBIT, A PROVIDER FROM CONTRACTING WITH ANOTHER  
 23 PARTY TO PROVIDE HEALTH CARE SERVICES AT A LOWER RATE THAN THE  
 24 PAYMENT OR REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE  
 25 HEALTH CARE CORPORATION.

26 (B) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION  
 27 AN OPTION TO REQUIRE, A PROVIDER TO ACCEPT A LOWER PAYMENT OR

1 REIMBURSEMENT RATE IF THE PROVIDER AGREES TO PROVIDE HEALTH CARE  
2 SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR  
3 REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE  
4 CORPORATION.

5 (C) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION  
6 AN OPTION TO REQUIRE, TERMINATION OR RENEGOTIATION OF AN EXISTING  
7 PROVIDER CONTRACT IF A PROVIDER AGREES TO PROVIDE HEALTH CARE  
8 SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR  
9 REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE  
10 CORPORATION.

11 (D) REQUIRES A PROVIDER TO DISCLOSE, TO THE HEALTH CARE  
12 CORPORATION OR ITS DESIGNEE, THE PROVIDER'S CONTRACTUAL PAYMENT OR  
13 REIMBURSEMENT RATES WITH OTHER PARTIES.

14 Sec. 401e. (1) Except as **OTHERWISE** provided in this section, a  
15 health care corporation that has issued a nongroup certificate  
16 shall renew or continue in force the certificate at the option of  
17 the individual.

18 (2) Except as **OTHERWISE** provided in this section, a health  
19 care corporation that has issued a group certificate shall renew or  
20 continue in force the certificate at the option of the sponsor of  
21 the plan.

22 (3) Guaranteed renewal is not required in cases of fraud,  
23 intentional misrepresentation of material fact, lack of payment, if  
24 the health care corporation no longer offers that particular type  
25 of coverage in the market, or if the individual or group moves  
26 outside the service area.

27 (4) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING A

1 PARTICULAR PLAN OR PRODUCT IN THE NONGROUP OR GROUP MARKET UNLESS  
2 THE HEALTH CARE CORPORATION DOES ALL OF THE FOLLOWING:

3 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED  
4 INDIVIDUAL OR GROUP, AS APPLICABLE, PROVIDED COVERAGE UNDER THE  
5 PLAN OR PRODUCT OF THE DISCONTINUATION AT LEAST 90 DAYS BEFORE THE  
6 DATE OF THE DISCONTINUATION.

7 (B) OFFERS TO EACH COVERED INDIVIDUAL OR GROUP, AS APPLICABLE,  
8 PROVIDED COVERAGE UNDER THE PLAN OR PRODUCT THE OPTION TO PURCHASE  
9 ANY OTHER PLAN OR PRODUCT CURRENTLY BEING OFFERED IN THE NONGROUP  
10 MARKET OR GROUP MARKET, AS APPLICABLE, BY THAT HEALTH CARE  
11 CORPORATION WITHOUT EXCLUDING OR LIMITING COVERAGE FOR A  
12 PREEXISTING CONDITION OR PROVIDING A WAITING PERIOD.

13 (C) ACTS UNIFORMLY WITHOUT REGARD TO ANY HEALTH STATUS FACTOR  
14 OF ENROLLED INDIVIDUALS OR INDIVIDUALS WHO MAY BECOME ELIGIBLE FOR  
15 COVERAGE IN MAKING THE DETERMINATION TO DISCONTINUE COVERAGE AND IN  
16 OFFERING OTHER PLANS OR PRODUCTS.

17 (5) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING  
18 ALL COVERAGE IN THE NONGROUP OR GROUP MARKET UNLESS THE HEALTH CARE  
19 CORPORATION DOES ALL OF THE FOLLOWING:

20 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED  
21 INDIVIDUAL OR GROUP, AS APPLICABLE, OF THE DISCONTINUATION AT LEAST  
22 180 DAYS BEFORE THE DATE OF THE EXPIRATION OF COVERAGE.

23 (B) DISCONTINUES ALL HEALTH BENEFIT PLANS ISSUED IN THE  
24 NONGROUP OR GROUP MARKET FROM WHICH THE HEALTH CARE CORPORATION  
25 WITHDREW AND, EXCEPT AS ALLOWED UNDER SUBSECTION (6), DOES NOT  
26 RENEW COVERAGE UNDER THOSE PLANS.

27 (6) IF A HEALTH CARE CORPORATION DISCONTINUES COVERAGE UNDER

1 SUBSECTION (5), THE HEALTH CARE CORPORATION SHALL NOT PROVIDE FOR  
2 THE ISSUANCE OF ANY HEALTH BENEFIT PLANS IN THE NONGROUP OR GROUP  
3 MARKET FROM WHICH THE HEALTH CARE CORPORATION WITHDREW DURING THE  
4 5-YEAR PERIOD BEGINNING ON THE DATE OF THE DISCONTINUATION OF THE  
5 LAST PLAN NOT RENEWED UNDER THAT SUBSECTION.

6 SEC. 401M. UNTIL JANUARY 1, 2014, A HEALTH CARE CORPORATION  
7 ESTABLISHED, MAINTAINED, OR OPERATING IN THIS STATE SHALL OFFER  
8 HEALTH CARE BENEFITS TO ALL RESIDENTS OF THIS STATE REGARDLESS OF  
9 HEALTH STATUS.

10 SEC. 410B. NOTWITHSTANDING SECTION 410A(8), FOR A CERTIFICATE  
11 DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE ON OR  
12 AFTER JANUARY 1, 2014, THE PREMIUM FOR A GROUP CONVERSION  
13 CERTIFICATE UNDER SECTION 410A SHALL BE DETERMINED ONLY BY USING  
14 THE RATING FACTORS SET FORTH IN SECTION 3474A OF THE INSURANCE CODE  
15 OF 1956, 1956 PA 218, MCL 500.3474A.

16 Sec. 414b. (1) A health care corporation may offer group  
17 wellness coverage. Wellness coverage may provide for an appropriate  
18 rebate or reduction in premiums or for reduced copayments,  
19 coinsurance, or deductibles, or a combination of these incentives,  
20 for participation in any health behavior wellness, maintenance, or  
21 improvement program offered by the employer. The employer shall  
22 provide evidence of demonstrative maintenance or improvement of the  
23 members' health behaviors as determined by assessments of agreed-  
24 upon health status indicators between the employer and the health  
25 care corporation. Any rebate or premium provided by the health care  
26 corporation is presumed to be appropriate unless credible data  
27 demonstrate otherwise, but shall not exceed ~~10%~~30% of paid

1 premiums, **UNLESS OTHERWISE APPROVED BY THE COMMISSIONER**. A health  
2 care corporation shall make available to employers all wellness  
3 coverage plans that it markets to employers in this state.

4 (2) A health care corporation may offer nongroup wellness  
5 coverage. Wellness coverage may provide for an appropriate rebate  
6 or reduction in premiums or for reduced copayments, coinsurance, or  
7 deductibles, or a combination of these incentives, for  
8 participation in any health behavior wellness, maintenance, or  
9 improvement program approved by the health care corporation. The  
10 member shall provide evidence of demonstrative maintenance or  
11 improvement of the individual's or family's health behaviors as  
12 determined by assessments of agreed-upon health status indicators  
13 between the member and the health care corporation. Any rebate of  
14 premium provided by the health care corporation is presumed to be  
15 appropriate unless credible data demonstrate otherwise, but shall  
16 not exceed ~~10%~~30% of paid premiums, **UNLESS OTHERWISE APPROVED BY**  
17 **THE COMMISSIONER**. A health care corporation shall make available to  
18 individuals all wellness coverage plans that it markets to  
19 individuals in this state.

20 (3) A health care corporation is not required to continue any  
21 health behavior wellness, maintenance, or improvement program or to  
22 continue any incentive associated with a health behavior wellness,  
23 maintenance, or improvement program.

24 **SEC. 501C. BEGINNING JANUARY 1, 2014, A HEALTH CARE**  
25 **CORPORATION SHALL ESTABLISH AND MAINTAIN A PROVIDER NETWORK THAT,**  
26 **AT A MINIMUM, SATISFIES ANY NETWORK ADEQUACY REQUIREMENTS IMPOSED**  
27 **BY THE COMMISSIONER PURSUANT TO FEDERAL LAW.**



1 CORPORATION INCORPORATED UNDER THIS PART.

2 (B) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF A  
3 FUND APPOINTED BY THE BOARD.

4 (C) "FUND" MEANS A HEALTH ENDOWMENT FUND CORPORATION ORGANIZED  
5 AS A NONPROFIT CORPORATION UNDER SECTION 653.

6 SEC. 652. (1) A HEALTH ENDOWMENT FUND CORPORATION SHALL NOT BE  
7 INCORPORATED IN THIS STATE EXCEPT UNDER THIS PART.

8 (2) A BOARD SHALL ADOPT A CONFLICT OF INTEREST POLICY. A BOARD  
9 MEMBER WITH A DIRECT OR INDIRECT INTEREST IN ANY MATTER BEFORE THE  
10 FUND SHALL DISCLOSE THE MEMBER'S INTEREST TO THE BOARD BEFORE THE  
11 BOARD TAKES ANY ACTION ON THE MATTER. THE BOARD SHALL RECORD THE  
12 MEMBER'S DISCLOSURE IN THE MINUTES OF THE BOARD MEETING. IF A BOARD  
13 MEMBER OR A MEMBER OF HIS OR HER IMMEDIATE FAMILY, ORGANIZATIONALLY  
14 OR INDIVIDUALLY, WOULD DERIVE A DIRECT AND SPECIFIC BENEFIT FROM A  
15 DECISION OF THE BOARD, THAT MEMBER SHALL RECUSE HIMSELF OR HERSELF  
16 FROM THE DISCUSSION AND THE VOTE ON THE ISSUE.

17 (3) SUBJECT TO THIS SUBSECTION, THE GOVERNOR SHALL APPOINT THE  
18 MEMBERS OF A BOARD WITH THE ADVICE AND CONSENT OF THE SENATE. AN  
19 INDIVIDUAL WHO IS AN EMPLOYEE, OFFICER, OR BOARD MEMBER OF A HEALTH  
20 CARE CORPORATION; A LOBBYIST AFFILIATED WITH A HEALTH CARE  
21 CORPORATION; OR AN EMPLOYEE OF A HEALTH INSURER, HEALTH CARE  
22 PROVIDER, OR THIRD PARTY ADMINISTRATOR IS NOT ELIGIBLE TO BE  
23 APPOINTED AND SHALL NOT BE APPOINTED TO A BOARD UNDER THIS  
24 SUBSECTION. ON OR BEFORE THE EXPIRATION OF 60 DAYS AFTER THE  
25 INCORPORATION OF A FUND UNDER SECTION 653, THE GOVERNOR SHALL  
26 APPOINT THE FOLLOWING INITIAL MEMBERS OF THE BOARD WITH THE ADVICE  
27 AND CONSENT OF THE SENATE:

1 (A) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS  
2 RECOMMENDED BY THE SENATE MAJORITY LEADER.

3 (B) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS  
4 RECOMMENDED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

5 (C) ONE MEMBER REPRESENTING THE INTERESTS OF MINOR CHILDREN.

6 (D) ONE MEMBER REPRESENTING THE INTERESTS OF SENIOR CITIZENS.

7 (E) TWO MEMBERS OF THE GENERAL PUBLIC.

8 (F) ONE MEMBER REPRESENTING THE BUSINESS COMMUNITY.

9 (G) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS  
10 RECOMMENDED BY THE HOUSE MINORITY LEADER.

11 (H) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS  
12 RECOMMENDED BY THE SENATE MINORITY LEADER.

13 (4) A VACANCY ON A BOARD SHALL BE FILLED IN THE SAME MANNER AS  
14 THE INITIAL APPOINTMENT UNDER SUBSECTION (3). EXCEPT AS OTHERWISE  
15 PROVIDED IN THIS SUBSECTION, A BOARD MEMBER SHALL BE APPOINTED FOR  
16 A TERM OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS  
17 LATER. FOR THE INITIAL MEMBERS APPOINTED UNDER SUBSECTION (3), 3  
18 MEMBERS SHALL BE APPOINTED FOR 2-YEAR TERMS, 3 MEMBERS SHALL BE  
19 APPOINTED FOR 3-YEAR TERMS, AND 3 MEMBERS SHALL BE APPOINTED FOR 4-  
20 YEAR TERMS.

21 (5) SIX MEMBERS OF A BOARD CONSTITUTE A QUORUM FOR THE  
22 TRANSACTION OF BUSINESS AT A MEETING OF THE BOARD. AN AFFIRMATIVE  
23 VOTE OF 5 BOARD MEMBERS IS NECESSARY FOR OFFICIAL ACTION OF A  
24 BOARD.

25 (6) THE BUSINESS THAT A BOARD MAY PERFORM SHALL BE CONDUCTED  
26 AT A MEETING OF THE BOARD THAT IS HELD IN THIS STATE, IS OPEN TO  
27 THE PUBLIC, AND IS HELD IN A PLACE THAT IS AVAILABLE TO THE GENERAL

1 PUBLIC. HOWEVER, A BOARD MAY ESTABLISH REASONABLE RULES AND  
2 REGULATIONS TO MINIMIZE DISRUPTION OF A MEETING OF THE BOARD. AT  
3 LEAST 10 DAYS AND NOT MORE THAN 60 DAYS BEFORE A MEETING, A BOARD  
4 SHALL PROVIDE PUBLIC NOTICE OF ITS MEETING AT ITS PRINCIPAL OFFICE  
5 AND ON ITS INTERNET WEBSITE. A BOARD SHALL INCLUDE IN THE PUBLIC  
6 NOTICE OF ITS MEETING THE ADDRESS WHERE BOARD MINUTES REQUIRED  
7 UNDER SUBSECTION (7) MAY BE INSPECTED BY THE PUBLIC. A BOARD MAY  
8 MEET IN A CLOSED SESSION FOR ANY OF THE FOLLOWING PURPOSES:

9 (A) TO CONSIDER THE HIRING, DISMISSAL, SUSPENSION, OR  
10 DISCIPLINING OF BOARD MEMBERS OR EMPLOYEES OR AGENTS OF THE FUND.

11 (B) TO CONSULT WITH ITS ATTORNEY.

12 (C) TO COMPLY WITH STATE OR FEDERAL LAW, RULES, OR REGULATIONS  
13 REGARDING PRIVACY OR CONFIDENTIALITY.

14 (7) A BOARD SHALL KEEP MINUTES OF EACH MEETING. BOARD MINUTES  
15 SHALL BE OPEN TO PUBLIC INSPECTION, AND THE BOARD SHALL MAKE THE  
16 MINUTES AVAILABLE AT THE ADDRESS DESIGNATED ON THE PUBLIC NOTICE OF  
17 ITS MEETING UNDER SUBSECTION (6). A BOARD SHALL MAKE COPIES OF THE  
18 MINUTES AVAILABLE TO THE PUBLIC AT THE REASONABLE ESTIMATED COST  
19 FOR PRINTING AND COPYING. A BOARD SHALL INCLUDE ALL OF THE  
20 FOLLOWING IN ITS BOARD MINUTES:

21 (A) THE DATE, TIME, AND PLACE OF THE MEETING.

22 (B) BOARD MEMBERS WHO ARE PRESENT AND ABSENT.

23 (C) BOARD DECISIONS MADE AT A MEETING OPEN TO THE PUBLIC.

24 (D) ALL ROLL CALL VOTES TAKEN AT THE MEETING.

25 (8) BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION. HOWEVER,  
26 BOARD MEMBERS MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY  
27 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS

1 BOARD MEMBERS.

2 SEC. 653. (1) A CHARITABLE PURPOSE NONPROFIT CORPORATION MAY  
3 BE INCORPORATED ON A NONSTOCK, DIRECTORSHIP BASIS, UNDER THE  
4 NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192  
5 CONSISTENT WITH THIS PART AND, IF INCORPORATED UNDER THIS SECTION,  
6 SHALL BE ORGANIZED TO RECEIVE AND ADMINISTER FUNDS FOR THE PUBLIC  
7 WELFARE. THE ARTICLES OF INCORPORATION MUST INCLUDE THE WORD  
8 "MICHIGAN" AND THE PHRASE "HEALTH ENDOWMENT FUND" IN THE NAME OF  
9 THE FUND. AS SOON AS PRACTICABLE AFTER THE INCORPORATION OF A FUND  
10 UNDER THIS SUBSECTION, THE FUND SHALL APPLY FOR AND MAKE ITS BEST  
11 EFFORT TO OBTAIN TAX-EXEMPT STATUS UNDER SECTION 501(C)(3) OF THE  
12 INTERNAL REVENUE CODE, 26 USC 501.

13 (2) THE ARTICLES OF INCORPORATION OF A FUND MUST PROVIDE THAT  
14 THE FUND IS ORGANIZED FOR THE FOLLOWING PURPOSES:

15 (A) SUPPORTING EFFORTS THAT IMPROVE THE QUALITY OF HEALTH CARE  
16 WHILE REDUCING COSTS TO RESIDENTS OF THIS STATE.

17 (B) BENEFITTING THE HEALTH AND WELLNESS OF MINOR CHILDREN AND  
18 SENIORS THROUGHOUT THIS STATE WITH A SIGNIFICANT FOCUS IN THE  
19 FOLLOWING AREAS:

20 (i) ACCESS TO PRENATAL CARE AND REDUCTION OF INFANT MORTALITY  
21 RATES.

22 (ii) HEALTH SERVICES FOR FOSTER AND ADOPTED CHILDREN.

23 (iii) ACCESS TO HEALTHY FOOD.

24 (iv) WELLNESS PROGRAMS AND FITNESS PROGRAMS.

25 (v) ACCESS TO MENTAL HEALTH SERVICES.

26 (vi) TECHNOLOGY ENHANCEMENTS.

27 (vii) HEALTH-RELATED TRANSPORTATION NEEDS.

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1 (viii) FOODBORNE ILLNESS PREVENTION.

2 (C) AWARDING GRANTS FOR A TERM NOT EXCEEDING 3 YEARS IN  
3 DURATION FOR PROJECTS THAT WILL PROMOTE THE PURPOSES OF THE FUND.

4 (D) SUBSIDIZING THE COST OF INDIVIDUAL MEDIGAP COVERAGE TO  
5 [MEDICARE-ELIGIBLE INDIVIDUALS] IN THIS STATE WHO DEMONSTRATE A  
FINANCIAL NEED IN  
6 ORDER TO BE ABLE TO PURCHASE INDIVIDUAL MEDIGAP COVERAGE.

7 (3) THE BOARD SHALL ESTABLISH A COMPREHENSIVE AND COMPETITIVE  
8 PROCESS TO AWARD GRANTS.

9 (4) THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL 450.2101  
10 TO 450.3192, APPLIES TO A FUND. IF A PROVISION RELATING TO A FUND  
11 UNDER THIS PART CONFLICTS WITH OTHER STATE LAW, THIS PART CONTROLS.

12 (5) IF A FUND IS ELIGIBLE TO RECEIVE SOCIAL MISSION  
13 CONTRIBUTIONS UNDER SECTION 220(2), THE ELIGIBLE FUND SHALL  
14 IMPLEMENT A PROGRAM TO DISBURSE MONEY TO SUBSIDIZE THE COST OF  
15 INDIVIDUAL MEDIGAP COVERAGE TO [MEDICARE-ELIGIBLE INDIVIDUALS] IN THIS  
STATE WHO  
16 DEMONSTRATE A FINANCIAL NEED IN ORDER TO BE ABLE TO PURCHASE  
17 INDIVIDUAL MEDIGAP COVERAGE. THE COMMISSIONER SHALL DEVELOP A MEANS  
18 TEST TO BE USED TO DETERMINE IF A [MEDICARE-ELIGIBLE INDIVIDUAL]  
APPLICANT IS  
19 ELIGIBLE FOR THE MEDIGAP COVERAGE SUBSIDY PROVIDED FOR IN THIS  
20 SUBSECTION AND SHALL SUBMIT THE TEST DEVELOPED TO THE ATTORNEY  
21 GENERAL FOR APPROVAL.

22 (6) IF A FUND IS ELIGIBLE TO RECEIVE SOCIAL MISSION  
23 CONTRIBUTIONS UNDER SECTION 220(2), BEGINNING ON THE FIRST DAY OF  
24 THE THIRD AUGUST AFTER THE FUND RECEIVES ITS INITIAL SOCIAL MISSION  
25 CONTRIBUTION, AND ENDING ON THE THIRTY-FIRST DAY OF THE EIGHTH  
26 DECEMBER AFTER THE FUND RECEIVES ITS INITIAL SOCIAL MISSION  
27 CONTRIBUTION, THE FUND SHALL DISBURSE \$120,000,000.00 TO SUBSIDIZE

1 THE COST OF INDIVIDUAL MEDIGAP COVERAGE PURCHASED BY MEDICARE-  
2 ELIGIBLE INDIVIDUALS IN THIS STATE, SUBJECT TO SUBSECTION (5).

3 (7) A FUND IS A PRIVATE, NONPROFIT CORPORATION ORGANIZED FOR  
4 CHARITABLE PURPOSES AND IS NOT A STATE AGENCY, GOVERNMENTAL AGENCY,  
5 OR OTHER POLITICAL SUBDIVISION OF THIS STATE. MONEY OF A FUND IS  
6 HELD BY THE FUND FOR THE PURPOSES CONSISTENT WITH THIS PART AND IS  
7 NOT MONEY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE  
8 AND SHALL NOT BE DEPOSITED IN THE STATE TREASURY. A MEMBER OF A  
9 BOARD IS NOT A PUBLIC OFFICER OF THIS STATE.

10 SEC. 654. (1) A BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR TO  
11 SERVE AS THE CHIEF EXECUTIVE OFFICER OF THE FUND. THE EXECUTIVE  
12 DIRECTOR SHALL SERVE AT THE PLEASURE OF THE BOARD. THE EXECUTIVE  
13 DIRECTOR MAY EMPLOY STAFF AND HIRE CONSULTANTS AS NECESSARY WITH  
14 THE APPROVAL OF THE BOARD. THE BOARD SHALL DETERMINE COMPENSATION  
15 FOR THE EXECUTIVE DIRECTOR AND STAFF EMPLOYED UNDER THIS SUBSECTION  
16 AND SHALL APPROVE CONTRACTS UNDER THIS SUBSECTION.

17 (2) THE EXECUTIVE DIRECTOR SHALL DISPLAY ON THE FUND INTERNET  
18 WEBSITE INFORMATION RELEVANT TO THE PUBLIC, AS DEFINED BY THE  
19 BOARD, CONCERNING THE FUND'S OPERATIONS AND EFFICIENCIES, AS WELL  
20 AS THE BOARD'S ASSESSMENTS OF THOSE ACTIVITIES.

21 SEC. 655. (1) SUBJECT TO THIS SECTION, A FUND MAY DISBURSE  
22 MONEY CONTRIBUTED TO THE FUND EACH YEAR, NOT INCLUDING ANY  
23 INTEREST, EARNINGS, OR UNREALIZED GAINS OR LOSSES ON THOSE  
24 CONTRIBUTIONS, FOR THE PURPOSES OF THE FUND AS DESCRIBED IN SECTION  
25 653. A FUND MAY EXPEND A PORTION OF THE MONEY CONTRIBUTED TO THE  
26 FUND IN EACH YEAR FOLLOWING THE INITIAL CONTRIBUTION TO THE FUND  
27 ACCORDING TO THE FOLLOWING SCHEDULE:

- 1 (A) YEARS 1 THROUGH 4, 80%.  
2 (B) YEARS 5 THROUGH 8, 67%.  
3 (C) YEARS 9 THROUGH 12, 60%.  
4 (D) YEARS 13 THROUGH 18, 25%.

5 (2) ON AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL OF  
6 MONEY HELD BY A FUND REACHES \$750,000,000.00, THE FUND SHALL  
7 MAINTAIN THAT AMOUNT FOR INVESTMENT TO PROVIDE AN ONGOING INCOME TO  
8 THE FUND. ON AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL IN  
9 THE FUND REACHES \$750,000,000.00, THE BOARD SHALL NOT ALLOW THE  
10 ACCUMULATED PRINCIPAL OF THE FUND TO FALL BELOW \$750,000,000.00 DUE  
11 TO EXPENDITURES MADE FOR THE PURPOSES OF THE FUND AS DESCRIBED IN  
12 SECTION 653.

13 (3) A FUND MAY EXPEND MONEY RECEIVED BY THE FUND FROM ANY  
14 SOURCE IN A FISCAL YEAR OF THE FUND THAT IS IN EXCESS OF THE AMOUNT  
15 REQUIRED TO MAINTAIN THE ACCUMULATED PRINCIPAL GOALS AS DESCRIBED  
16 IN SUBSECTION (2), NOT INCLUDING ANY INTEREST, EARNINGS, OR  
17 UNREALIZED GAINS OR LOSSES ON THOSE FUNDS, ON THE REASONABLE  
18 ADMINISTRATIVE COSTS OF THE FUND AND FOR THE PURPOSES OF THE FUND  
19 AS DESCRIBED IN THIS PART. THE INVESTMENT OF FUND MONEY AND  
20 DONATIONS BY THE FUND ARE UNDER THE EXCLUSIVE CONTROL AND  
21 DISCRETION OF THE FUND AND ARE NOT SUBJECT TO REQUIREMENTS  
22 APPLICABLE TO PUBLIC FUNDS.

23 (4) A FUND MAY INVEST ACCUMULATED PRINCIPAL IN THE FUND ONLY  
24 IN SECURITIES PERMITTED BY THE LAWS OF THIS STATE FOR THE  
25 INVESTMENT OF ASSETS OF LIFE INSURANCE COMPANIES, AS DESCRIBED IN  
26 CHAPTER 9 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.901  
27 TO 500.947.

1 (5) A FUND'S ARTICLES OF INCORPORATION OR BYLAWS MUST PROVIDE  
2 FOR A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND  
3 REPORTS. THE BOARD ANNUALLY SHALL HAVE AN AUDIT OF THE FUND  
4 CONDUCTED BY AN INDEPENDENT PUBLIC ACCOUNTANT FIRM, AND THE  
5 AUDITOR'S AUDIT REPORT AND FINDINGS SHALL BE SUBMITTED TO THE  
6 BOARD. THE EXPENSE OF AN AUDIT REQUIRED UNDER THIS SUBSECTION IS  
7 CONSIDERED A REASONABLE ADMINISTRATIVE COST UNDER SUBSECTION (3).

8 (6) A FUND'S ARTICLES OF INCORPORATION OR BYLAWS MUST REQUIRE  
9 THAT THE BOARD SHALL APPOINT FROM ITS MEMBERS AN AUDIT COMMITTEE  
10 CONSISTING OF NO FEWER THAN 3 MEMBERS AND FOR THE AUDIT COMMITTEE  
11 TO CONTRACT WITH AN INDEPENDENT AUDITING FIRM TO PROVIDE AN ANNUAL  
12 FINANCIAL AUDIT IN ACCORDANCE WITH APPLICABLE AUDITING STANDARDS.

13 (7) THE EXECUTIVE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

14 (A) REVIEW AND CERTIFY EXTERNAL AUDITOR REPORTS.

15 (B) MAKE EXTERNAL AUDITOR REPORTS AVAILABLE TO THE BOARD AND  
16 TO THE GENERAL PUBLIC.

17 (C) DEVELOP AND IMPLEMENT CORRECTIVE ACTIONS TO ADDRESS  
18 WEAKNESSES IDENTIFIED IN AN AUDIT REPORT.

19 (8) THE ARTICLES OF INCORPORATION OR BYLAWS OF A FUND MUST  
20 REQUIRE THE FUND TO KEEP AN ACCURATE ACCOUNTING OF ALL ACTIVITIES,  
21 RECEIPTS, AND EXPENDITURES AND ANNUALLY SUBMIT TO THE BOARD, THE  
22 GOVERNOR, THE SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATIONS  
23 COMMITTEES, AND THE SENATE AND HOUSE OF REPRESENTATIVES STANDING  
24 COMMITTEES ON HEALTH POLICY A REPORT REGARDING THOSE ACCOUNTINGS.

25 (9) A FUND AND ITS DIRECTORS, OFFICERS, AND EMPLOYEES SHALL  
26 FULLY COOPERATE WITH ANY INVESTIGATION CONDUCTED BY THIS STATE OR A  
27 FEDERAL AGENCY UNDER ITS AUTHORITY UNDER STATE OR FEDERAL LAW, TO

1 DO ANY OF THE FOLLOWING:

2 (A) INVESTIGATE THE AFFAIRS OF THE FUND.

3 (B) EXAMINE THE ASSETS AND RECORDS OF THE FUND.

4 (C) REQUIRE PERIODIC REPORTS IN RELATION TO THE ACTIVITIES  
5 UNDERTAKEN BY THE FUND IN COMPLIANCE WITH APPLICABLE LAW.

6 Enacting section 1. This amendatory act does not take effect  
7 unless Senate Bill No. 62 of the 97th Legislature is enacted into  
8 law.