

# SENATE BILL No. 986

May 24, 2016, Introduced by Senator KOWALL and referred to the Committee on Government Operations.

A bill to amend 1980 PA 350, entitled  
"The nonprofit health care corporation reform act,"  
by amending sections 653 and 655 (MCL 550.1653 and 550.1655), as  
added by 2013 PA 4.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 653. (1) A charitable purpose nonprofit corporation may  
2       be incorporated on a nonstock, directorship basis, under the  
3       nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192  
4       consistent with this part and, if incorporated under this section,  
5       ~~shall~~**MUST** be organized to receive and administer funds for the  
6       public welfare. The articles of incorporation must include the word  
7       "Michigan" and the phrase "health endowment fund" in the name of  
8       the fund. As soon as practicable after the incorporation of a fund

1 under this subsection, the fund shall apply for and make its best  
2 effort to obtain tax-exempt status under section 501(c)(3) of the  
3 internal revenue code **OF 1986**, 26 USC 501.

4 (2) The articles of incorporation of a fund must provide that  
5 the fund is organized for the following purposes:

6 (a) Supporting efforts that improve the quality of health care  
7 while reducing costs to residents of this state.

8 (b) Benefitting the health and wellness of minor children and  
9 seniors throughout this state with a significant focus in the  
10 following areas:

11 (i) Access to prenatal care and reduction of infant mortality  
12 rates.

13 (ii) Health services for foster and adopted children.

14 (iii) Access to healthy food.

15 (iv) Wellness programs and fitness programs.

16 (v) Access to mental health services.

17 (vi) Technology enhancements.

18 (vii) Health-related transportation needs.

19 (viii) Foodborne illness prevention.

20 **(ix) PUBLIC HEALTH EMERGENCY.**

21 (c) Awarding grants for a term not exceeding 3 years in  
22 duration for projects that will promote the purposes of the fund.

23 (d) Subsidizing the cost of individual medigap coverage to  
24 ~~medicare-eligible~~ **MEDICARE-ELIGIBLE** individuals in this state who  
25 demonstrate a financial need in order to be able to purchase  
26 individual medigap coverage.

27 (3) The board shall establish a comprehensive and competitive

1 process to award grants.

2 (4) The nonprofit corporation act, 1982 PA 162, MCL 450.2101  
3 to 450.3192, applies to a fund. If a provision relating to a fund  
4 under this part conflicts with other state law, this part controls.

5 (5) If a fund is eligible to receive social mission  
6 contributions under section 220(2), the eligible fund shall  
7 implement a program to disburse money to subsidize the cost of  
8 individual medigap coverage to ~~medicare-eligible~~ **MEDICARE-ELIGIBLE**  
9 individuals in this state who demonstrate a financial need ~~in order~~  
10 to be able to purchase individual medigap coverage. The  
11 ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL**  
12 **SERVICES** shall develop a means test to be used to determine if a  
13 ~~medicare-eligible~~ **MEDICARE-ELIGIBLE** individual applicant is  
14 eligible for the medigap coverage subsidy provided for in this  
15 subsection and shall submit the test developed to the attorney  
16 general for approval.

17 (6) If a fund is eligible to receive social mission  
18 contributions under section 220(2), beginning on the first day of  
19 the third August after the fund receives its initial social mission  
20 contribution, and ending on the thirty-first day of the eighth  
21 December after the fund receives its initial social mission  
22 contribution, the fund shall disburse \$120,000,000.00 to subsidize  
23 the cost of individual medigap coverage purchased by ~~medicare-~~  
24 ~~eligible~~ **MEDICARE-ELIGIBLE** individuals in this state, subject to  
25 subsection (5).

26 (7) A fund is a private, nonprofit corporation organized for  
27 charitable purposes and is not a state agency, governmental agency,

1 or other political subdivision of this state. Money of a fund is  
2 held by the fund for the purposes consistent with this part and is  
3 not money of this state or a political subdivision of this state  
4 and shall not be deposited in the state treasury. A member of a  
5 board is not a public officer of this state.

6 Sec. 655. (1) Subject to this section, a fund may disburse  
7 money contributed to the fund each year, not including any  
8 interest, earnings, or unrealized gains or losses on those  
9 contributions, for the purposes of the fund as described in section  
10 653. A fund may expend a portion of the money contributed to the  
11 fund in each year following the initial contribution to the fund  
12 according to the following schedule:

13 (a) Years 1 through 4, 80%.

14 (b) Years 5 through 8, 67%.

15 (c) Years 9 through 12, 60%.

16 (d) Years 13 through 18, 25%.

17 (2) On and after the date that the accumulated principal of  
18 money held by a fund reaches \$750,000,000.00, the fund ~~shall~~**MUST**  
19 maintain ~~that amount~~ **\$750,000,000.00** for investment to provide an  
20 ongoing income to the fund. On and after the date that the  
21 accumulated principal in the fund reaches \$750,000,000.00, the  
22 board shall not allow the accumulated principal of the fund to fall  
23 below \$750,000,000.00 ~~due to~~**BECAUSE OF** expenditures made for the  
24 purposes of the fund as described in section 653.

25 (3) A fund may expend money received by the fund from any  
26 source in a fiscal year of the fund that is in excess of the amount  
27 required to maintain the accumulated principal goals as described

1 in subsection (2), not including any interest, earnings, or  
2 unrealized gains or losses on those funds, on the reasonable  
3 administrative costs of the fund and for the purposes of the fund  
4 as described in this part. The investment of fund money and  
5 donations by the fund are under the exclusive control and  
6 discretion of the fund and are not subject to requirements  
7 applicable to public funds.

8 (4) A fund may invest accumulated principal in the fund only  
9 in securities permitted by the laws of this state for the  
10 investment of assets of life insurance companies, as described in  
11 chapter 9 of the insurance code of 1956, 1956 PA 218, MCL 500.901  
12 to 500.947.

13 (5) A fund's articles of incorporation or bylaws must provide  
14 for a system of financial accounting, controls, audits, and  
15 reports. The board annually shall have an audit of the fund  
16 conducted by an independent public accountant firm, and the  
17 auditor's audit report and findings shall be submitted to the  
18 board. The expense of an audit required under this subsection is  
19 considered a reasonable administrative cost under subsection (3).

20 (6) A fund's articles of incorporation or bylaws must require  
21 that the board shall appoint from its members an audit committee  
22 consisting of no fewer than 3 members and for the audit committee  
23 to contract with an independent auditing firm to provide an annual  
24 financial audit in accordance with applicable auditing standards.

25 (7) The executive director shall do all of the following:

26 (a) Review and certify external auditor reports.

27 (b) Make external auditor reports available to the board and

1 to the general public.

2 (c) Develop and implement corrective actions to address  
3 weaknesses identified in an audit report.

4 (8) The articles of incorporation or bylaws of a fund must  
5 require the fund to keep an accurate accounting of all activities,  
6 receipts, and expenditures and annually submit to the board, the  
7 governor, the senate and house of representatives appropriations  
8 committees, and the senate and house of representatives standing  
9 committees on health policy a report regarding those accountings.

10 (9) A fund and its directors, officers, and employees shall  
11 fully cooperate with any investigation conducted by this state or a  
12 federal agency under its authority under state or federal law, to  
13 do any of the following:

14 (a) Investigate the affairs of the fund.

15 (b) Examine the assets and records of the fund.

16 (c) Require periodic reports in relation to the activities  
17 undertaken by the fund in compliance with applicable law.