(f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) The department of history, arts, and libraries through the Michigan historical center may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return under this act:

(a) Certification of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, of any portion of a credit allowed under that section.

(13) The department of history, arts, and libraries shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the center and the total amount of fees collected.

(b) A description of each rehabilitation project certified.

(c) The location of each new and ongoing rehabilitation project.

(16) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:

(*i*) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(*ii*) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.

(*iii*) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(*iv*) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(*v*) Any other resource that could benefit from rehabilitation.

(d) "Local unit" means a county, city, village, or township.

(e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(f) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.

(g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of a historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

206.270 Tax credit claimed after December 31, 2008; tax voucher certificate; definitions.

Sec. 270. (1) For tax years that begin after December 31, 2008, a taxpayer to whom a tax voucher certificate is issued or a taxpayer that is the transferee of a tax voucher certificate

may use the tax voucher certificate to pay any liability of the taxpayer under section 51 or to pay any amount owed by the taxpayer under section 351.

(2) A tax voucher certificate shall be used for the purposes allowed under subsection (1) and only in a tax year that begins after December 31, 2008.

(3) The amount of the tax voucher that may be used to pay a liability due under this act in any tax year shall not exceed the lesser of the following:

(a) The amount of the tax voucher stated in the tax voucher certificate held by the taxpayer.

(b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.

(c) The taxpayer's liability under this act for the tax year for which the tax voucher is used.

(4) If the amount of any tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer may use under subsection (3)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (3), any future liability of the taxpayer or transferee under this act.

(5) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the annual return under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with the provisions of this act. The department shall administer this section to assure that any amount of a tax voucher certificate used to pay any liability under this act shall not also be applied to pay any liability of the taxpayer or any other person under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. The department shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) As used in this section:

(a) "Certificate" or "tax voucher certificate" means the tax voucher certificate issued under section 23 of the Michigan early stage venture capital investment act of 2003, 2003 PA 296, MCL 125.2253, or any replacement tax voucher certificate issued under former section 37e(9)(b) or (d) of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(b) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and former section 37e of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

Repeal of MCL 206.51c, 206.51d, and 206.51e.

Enacting section 1. Sections 51c, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51c, 206.51d, and 206.51e, are repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1.

(b) Senate Bill No. 395.

(c) Senate Bill No. 396.

(d) Senate Bill No. 397.

(e) Senate Bill No. 398.

(f) Senate Bill No. 418.

(g) Senate Bill No. 419.

(h) Senate Bill No. 420.

(i) Senate Bill No. 421.

(j) Senate Bill No. 546.

(k) Senate Bill No. 547.

(*l*) Senate Bill No. 549.

(m) Senate Bill No. 622.

(n) Senate Bill No. 632.

(o) Senate Bill No. 772.

(p) Senate Bill No. 773.

(q) House Bill No. 4800.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1 was filed with the Secretary of State October 1, 2007, and became 2007 PA 100, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 395 was filed with the Secretary of State October 1, 2007, and became 2007 PA 99, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 396 was filed with the Secretary of State October 1, 2007, and became 2007 PA 96, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 397 was filed with the Secretary of State October 1, 2007, and became 2007 PA 97, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 398 was filed with the Secretary of State October 1, 2007, and became 2007 PA 98, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 418 was filed with the Secretary of State October 1, 2007, and became 2007 PA 106, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 419 was filed with the Secretary of State October 1, 2007, and became 2007 PA 107, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 420 was filed with the Secretary of State October 1, 2007, and became 2007 PA 108, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 421 was filed with the Secretary of State October 1, 2007, and became 2007 PA 109, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 546 was filed with the Secretary of State October 1, 2007, and became 2007 PA 110, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 547 was filed with the Secretary of State October 1, 2007, and became 2007 PA 111, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 549 was filed with the Secretary of State October 1, 2007, and became 2007 PA 101, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 622 was filed with the Secretary of State October 1, 2007, and became 2007 PA 112, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 632 was filed with the Secretary of State October 1, 2007, and became 2007 PA 102, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 772 was filed with the Secretary of State October 1, 2007, and became 2007 PA 91, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 773 was filed with the Secretary of State October 1, 2007, and became 2007 PA 92, Imd. Eff. Oct. 1, 2007.
House Bill No. 4800 was filed with the Secretary of State October 1, 2007, and became 2007 PA 95, Imd. Eff. Oct. 1, 2007.

[No. 95]

(HB 4800)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," (MCL 38.1 to 38.69) by adding section 68c.

The People of the State of Michigan enact:

38.68c Employment of retiree receiving retirement allowance; cessation of retirement payment; applicability; coordination of benefits provision.

Sec. 68c. (1) Except as otherwise provided in this subsection, a retirant who is receiving a retirement allowance under this act and is employed by this state beginning on or after the effective date of this section agrees to forfeit his or her right to receive that retirement allowance during this period of state employment. The retirement system shall cease payment of the retirement allowance to a retirant described in this subsection during this period of state employment and shall reinstate payment of the retirement allowance without recalculation when the period of state employment ceases. This subsection does not apply to a retirant who is employed by this state on the day before the effective date of this section so long as he or she remains in the position held by the retirant on the day before the effective date of this section. As used in this subsection, "employed by this state" means employed directly by this state as an employee or indirectly by this state through a contractual arrangement with other parties.

(2) A hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirants, retirant allowance beneficiaries, former qualified participants, and health benefit dependents under this act shall contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under any of the plans is also eligible for medicare, then the benefits under medicare shall be determined before the health insurance benefits under this act.

(b) If a person covered under any of the plans provided by this act is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided in the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.255.

(c) If the person covered under any of the plans provided by this act is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan shall be determined before the benefits provided pursuant to this act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 96]

(SB 396)

AN ACT to amend 1986 PA 268, entitled "An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide

staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding chapter 7A; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 7A

4.1751 Definitions.

Sec. 751. As used in this chapter:

(a) "Commission" means the legislative commission on government efficiency established in this chapter.

(b) "State agency" means 1 or more of the following:

(*i*) A department, commission, authority, or board in the executive branch.

(*ii*) The supreme court, court of appeals, state court administrative office, or other commission, office, or agency in the judicial branch.

4.1752 Legislative commission on government efficiency; creation; membership; appointment; terms; eligibility; vacancy; meetings; frequency; chairperson; quorum; business conducted at public meeting; writings subject to freedom of information act; compensation; duties of commission; report; access to information, records, and documents; subpoena power; noncompliance.

Sec. 752. (1) The legislative commission on government efficiency is created within the legislative council.

(2) The commission shall consist of the following 9 members:

(a) One member appointed by the speaker of the house of representatives.

(b) One member appointed by the minority leader of the house of representatives.

(c) The director of the house fiscal agency.

(d) One member appointed by the majority leader of the senate.

(e) One member appointed by the minority leader of the senate.

(f) The director of the senate fiscal agency.

(g) Three members jointly selected by the speaker of the house of representatives and the majority leader of the senate.

(3) The members first appointed to the commission shall be appointed within 60 days after the effective date of the amendatory act that added this chapter.

(4) Members of the commission shall serve for a term of 3 years. A member of the commission shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position.

(5) Except for the members appointed under subsection (2)(c) and (f), public employees are not eligible to be a member of the commission. A person with a business or financial interest in a contract with this state is not eligible to be a member of the commission. Members of the commission shall be individuals who have knowledge of, education in, or experience with the best practices of 1 or more of the following fields:

(a) Organizational efficiency.

(b) Government operations.

(c) Public finance.

(d) Administrative law.

(6) If a vacancy occurs on the commission, the member shall be replaced in the same manner as the original appointment.

(7) The first meeting of the commission shall be called by the speaker of the house of representatives not later than 60 days after the effective date of the amendatory act that added this chapter. The member appointed by the majority leader of the senate and the member appointed by the speaker of the house of representatives shall be co-chairpersons of the commission. The chairperson position shall rotate each month between the co-chairpersons. The member appointed by the speaker of the house of representatives shall be the chairperson of the commission for the first month. At the first meeting, the commission shall elect from among its members other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least monthly, or more frequently at the call of the chairperson for that month or if requested by 3 or more members.

(8) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members are required for official action of the commission.

(9) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties as members of the commission, subject to available appropriations.

(12) Not later than December 31, 2008, the commission shall do all of the following:

(a) Review and investigate ways to make state government more efficient.

(b) Review, investigate, and collect information necessary to evaluate all functions and services provided by each state agency, including, but not limited to, all of the following:

(*i*) Human resource duties and responsibilities.

(*ii*) Payroll services.

(*iii*) Internal auditing, accounting, and financial services.

(*iv*) Purchasing programs.

(*v*) Printing services.

(*vi*) Mail services.

(*vii*) Maintenance services.

(*viii*) Janitor or cleaning services.

(*ix*) Motor vehicle fleet operations.

(*x*) Transportation services.

(*xi*) Fiscal analysis.

(c) Determine the complete cost of each function or service performed by a state agency.

(d) Determine the total number of FTEs for each function or service performed by a state agency.

(e) Determine how each function or service is funded in each state agency.

(f) Determine the total and complete cost of all functions and services combined.

(g) Review and investigate all funded and unfunded mandates imposed on state agencies in state law.

(h) Review and investigate all reporting requirements imposed on state agencies in state law.

(i) Determine the complete cost of each funded and unfunded mandate imposed on a state agency in state law.

(j) Determine the complete cost of each reporting requirement imposed on a state agency in state law.

(13) Not later than October 1, 2009, the commission shall make specific determinations of the items described in subsection (12) and report those determinations to each house of the legislature and the governor. The commission shall also make an interim report to each house of the legislature and the governor on the status of its determinations of the items described in subsection (12) not later than June 1, 2009.

(14) The governor may direct that state agencies subject to the supervision of the governor under section 8 of article V of the state constitution of 1963 provide information to the commission to assist the commission in fulfilling its duties under this section. Upon request of the commission, the commission shall be given access to all information, records, and documents in the possession of a state agency that the commission considers necessary to fulfill its duties under this section. The commission may hold hearings and may request that any person appear before the commission, or at a hearing, and give testimony or produce documentary or other evidence that the commission considers relevant to its duties under this section.

(15) In connection with its duties under this section, the commission may request the legislative council to issue a subpoena to compel the attendance and testimony of witnesses before the commission or to compel the production of a book, account, paper, document, or record related to the duties of the commission under this section. The legislative council may issue the subpoena only upon the concurrence of a majority of the house members and a majority of the senate members of the legislative council. A person who refuses to comply with a subpoena issued by the legislative council under this subsection may be punished as for contempt of the legislature.

Repeal of Chapter 7A.

Enacting section 1. Chapter 7A of the legislative council act, 1986 PA 268, MCL 4.1751 to 4.1753, is repealed effective September 30, 2010.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 97]

(SB 397)

AN ACT to amend 1986 PA 268, entitled "An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding section 753.

The People of the State of Michigan enact:

4.1753 Report.

Sec. 753. In addition to the report required under section 752, not later than December 1, 2009 the commission shall report to each house of the legislature recommendations on how to consolidate, streamline, and make more efficient the functions and services conducted by state agencies, including, but not limited to, recommended reforms to reduce the number of position classifications and layers of management positions within state agencies and to assure greater consistency within state agencies and throughout this state in the application of administrative rules and standards consistent with state law.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 98]

(SB 398)

AN ACT to amend 1986 PA 268, entitled "An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding chapter 7B; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 7B

4.1781 "Commission" defined.

Sec. 781. As used in this chapter, "commission" means the legislative commission on statutory mandates established in this chapter.

4.1782 Legislative commission on statutory mandates; creation; membership; appointment; term; discharge of duties; eligibility; vacancy; meeting; chairperson; quorum; conduct of business at public meeting; writings subject to freedom of information act; compensation; duties; report; access to information, records, and documents; subpoena power; noncompliance.

Sec. 782. (1) The legislative commission on statutory mandates is created within the legislative council.

(2) The commission shall consist of the following 5 members:

(a) One member appointed by the speaker of the house of representatives.

(b) One member appointed by the minority leader of the house of representatives.

(c) One member appointed by the majority leader of the senate.

(d) One member appointed by the minority leader of the senate.

(e) One member of the public jointly selected by the speaker of the house of representatives and the majority leader of the senate, who is an attorney licensed to practice in this state.

(3) The members first appointed to the commission shall be appointed within 60 days after the effective date of the amendatory act that added this chapter.

(4) Members of the commission shall serve for a term of 3 years. A member of the commission shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position.

(5) Legislators and other state employees are not eligible to be a member of the commission. Members of the commission shall be individuals who have knowledge of, education in, or experience with the best practices of 1 or more of the following fields:

(a) Organizational efficiency.

(b) Government operations.

(c) Public finance.

(d) Administrative law.

(6) If a vacancy occurs on the commission, the member shall be replaced in the same manner as the original appointment.

(7) The first meeting of the commission shall be called by the majority leader of the senate not later than 60 days after the effective date of the amendatory act that added this chapter. The member appointed by the majority leader of the senate and the member appointed by the speaker of the house of representatives shall be co-chairpersons of the commission. The chairperson position shall rotate each month between the co-chairpersons. The member appointed by the majority leader of the senate shall be the chairperson of the commission for the first month. At the first meeting, the commission shall elect from among its members other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least monthly, or more frequently at the call of the chairperson for that month or if requested by 3 or more members.

(8) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members are required for official action of the commission.

(9) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties as members of the commission subject to available appropriations.

(12) Not later than December 31, 2008, the commission shall do all of the following:

(a) Review and investigate all funded and unfunded mandates imposed on local units of government in state law.

(b) Review and investigate all reporting requirements imposed on local units of government in state law.

(c) Determine the complete cost of each funded and unfunded mandate imposed on a local unit of government in state law.

(d) Determine the complete cost of each reporting requirement imposed on a local unit of government in state law.

(13) Not later than October 1, 2009, the commission shall make specific determinations of the items described in subsection (12) and report those determinations to each house of the legislature and the governor. The commission shall also make an interim report to each house of the legislature and the governor on the status of its determinations of the items described in subsection (12) not later than June 1, 2009.

(14) The governor may direct that state agencies subject to the supervision of the governor under section 8 of article V of the state constitution of 1963 provide information to the commission to assist the commission in fulfilling its duties under this section. Upon request of the commission, the commission shall be given access to all information, records, and documents in the possession of a state agency that the commission considers necessary to fulfill its duties under this section. The commission may hold hearings and may request that any person appear before the commission, or at a hearing, and give testimony or produce

documentary or other evidence that the commission considers relevant to its duties under this section.

(15) In connection with its duties under this section, the commission may request the legislative council to issue a subpoena to compel the attendance and testimony of witnesses before the commission or to compel the production of a book, account, paper, document, or record related to the duties of the commission under this section. The legislative council may issue the subpoena only upon the concurrence of a majority of the house members and a majority of the senate members of the legislative council. A person who refuses to comply with a subpoena issued by the legislative council under this subsection may be punished as for contempt of the legislature.

Repeal of Chapter 7B.

Enacting section 1. Chapter 7B of the legislative council act, 1986 PA 268, MCL 4.1781 to 4.1783, is repealed effective September 30, 2010.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 99]

(SB 395)

AN ACT to amend 1986 PA 268, entitled "An act to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates," (MCL 4.1101 to 4.1901) by adding section 783.

The People of the State of Michigan enact:

4.1783 Report.

Sec. 783. In addition to the report required under section 782, not later than December 1, 2009, the commission shall report to each house of the legislature recommendations on how to consolidate, streamline, or eliminate funded and unfunded mandates and reporting requirements imposed on local units of government in state law.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 100]

(SB 1)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," (MCL 400.1 to 400.119b) by adding section 105b.

The People of the State of Michigan enact:

400.105b Medical assistance recipients who practice positive health behaviors; creation of incentives; creation of pay-for-performance incentives for contracted medicaid health maintenance organizations; establishment of preferred product and service formulary program for durable medical equipment; financial support for electronic health records; federal waiver request; conflict with federal statute or regulation prohibited.

Sec. 105b. (1) The department of community health shall create incentives for individual medical assistance recipients who practice specified positive health behaviors. The incentives described in this subsection may include, but are not limited to, expanded benefits and incentives relating to premiums, co-pays, or benefits. The positive health behaviors described in this subsection may include, but are not limited to, participation in health risk assessments and health screenings, compliance with medical treatment, attendance at scheduled medical

appointments, participation in smoking cessation treatment, exercise, prenatal visits, immunizations, and attendance at recommended educational health programs.

(2) The department of community health shall create pay-for-performance incentives for contracted medicaid health maintenance organizations. The medicaid health maintenance organization contracts shall include incentives for meeting health outcome targets for chronic disease states, increasing the number of medical assistance recipients who practice positive health behaviors, and meeting patient compliance targets established by the department of community health. Priority shall be given to strategies that prevent and manage the 10 most prevalent and costly ailments affecting medical assistance recipients.

(3) The department of community health shall establish a preferred product and service formulary program for durable medical equipment. The department of community health shall work with the centers for medicare and medicaid services to determine if a joint partnership with medicare is possible in establishing the program described in this subsection as a means of achieving savings and efficiencies for both the medicaid and medicare programs. The preferred product and service formulary program for durable medical equipment shall require participation from the department of community health and shall permit the contracted medicaid health maintenance organizations and provider organizations to participate.

(4) The department of community health shall seek financial support for electronic health records, including, but not limited to, personal health records, e-prescribing, web-based medical records, and other health information technology initiatives using medicaid funds.

(5) The department of community health shall include in any federal waiver request that is submitted with the intent to secure federal matching funds to cover the medically uninsured nonmedicaid population in the state language to allow the department of community health to establish, at a minimum, the programs required under subsections (1) and (2).

(6) The department of community health shall not implement incentives under this section that conflict with federal statute or regulation.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 101]

(SB 549)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and

maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1284a.

The People of the State of Michigan enact:

380.1284a Common school calendar; exceptions; definitions.

Sec. 1284a. (1) Not later than July 1, 2008, an intermediate school district, in cooperation with its constituent districts, shall adopt a common school calendar to apply to all of its constituent districts and to its intermediate school district programs. The intermediate school district shall post the common school calendar on its website. The common school calendar shall meet all of the following:

(a) Shall be in compliance with sections 1284 and 1284b.

(b) Shall identify the dates for each school year when school will not be in session for a winter holiday break and a spring break. The common school calendar shall identify these dates specifically for at least the next 5 school years, but may describe these dates more generally for school years thereafter as long as the dates may be readily determined.

(2) Beginning with the 2008-2009 school year, except as otherwise provided in this section, the board of each constituent district and the intermediate school board shall ensure that its school calendar complies with the common school calendar adopted under subsection (1).

(3) In addition to the requirements under subsection (1), a common school calendar adopted under subsection (1) is encouraged to identify common dates for professional development days.

(4) If a collective bargaining agreement that provides a complete school calendar is in effect for employees of a school district or intermediate school district as of the effective date of this section, and if that school calendar is not in compliance with the common school calendar adopted under subsection (1), then subsection (2) does not apply to that school district or intermediate school district until after the expiration of that collective bargaining agreement.

(5) If as of the effective date of this section an intermediate school district or school district is operating a year-round school or program or is operating a school that is an international baccalaureate academy that provides 1,160 hours of pupil instruction per school year, then subsection (2) does not apply to that school or program. If after the effective date of this section an intermediate school district or school district begins operating a year-round school or program, the intermediate school district or school district may apply to the superintendent of public instruction for a waiver from the requirements of subsection (2) for that school or program. The application shall be in writing in the form and manner prescribed by the department and shall provide justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1). Upon application, if the superintendent of public instruction determines that a school or program is a bona fide year-round school or program established for educational reasons and that

there is sufficient justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1), the superintendent of public instruction shall grant the waiver. The superintendent of public instruction shall establish standards for determining a bona fide year-round school or program for the purposes of this subsection.

(6) If an intermediate school district or school district is operating or begins operating a school or program on a trimester schedule, the intermediate school district or school district may apply to the superintendent of public instruction for a waiver from the requirements of subsection (2) for that school or program. The application shall be in writing in the form and manner prescribed by the department and shall provide justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1). Upon application, if the superintendent of public instruction determines that a school or program is operating on a bona fide trimester schedule established for educational reasons and that there is sufficient justification for the school or program to operate on a calendar that differs from the common school calendar adopted under subsection (1), the superintendent of public instruction shall grant the waiver. The superintendent of public instruction shall establish standards for determining a bona fide trimester schedule for the purposes of this subsection.

(7) This section does not apply to a public school that operates all of grades 6 to 12 at a single site, that aligns its high school curriculum with advanced placement courses as the capstone of the curriculum, and that ends its second academic semester concurrently with the end of the advanced placement examination period.

(8) In addition to the other exceptions under this section, the superintendent of public instruction may grant a waiver from a requirement under this section for a school district that applies for the waiver in writing in the form and manner prescribed by the superintendent of public instruction and provides sufficient justification for the waiver, as determined by the superintendent of public instruction.

(9) As used in this section:

(a) "Board" means the board of a school district or board of directors of a public school academy.

(b) "Constituent district" means a constituent district of the intermediate school district or a public school academy that is located within the boundaries of the intermediate school district and that receives services from the intermediate school district.

(c) "School district" means a school district or a public school academy.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.

Approved October 1, 2007.

Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 102]

(SB 632)

AN ACT to amend 1968 PA 15, entitled "An act to provide for the employment of inmate labor in the correctional institutions of this state; to provide for the employment of inmate labor in certain private enterprises under certain conditions; to provide for certain powers and duties of the department of corrections, the governor, and other officers and agencies in relation to correctional institutions; to provide for the requisitioning and disbursement of correctional industries products; to provide for the disposition of the proceeds of correctional industries and farms; to provide for purchasing and accounting procedures; to regulate the sale or disposition of inmate labor and products; to provide for the requisitioning, purchases, and supply of correctional industries products; to provide penalties for violations of this act; and to repeal acts and parts of acts," by amending section 6 (MCL 800.326), as amended by 1996 PA 537.

The People of the State of Michigan enact:

800.326 Sale, exchange, or purchase of correctional industries products; availability of agricultural products to nonprofit charitable organizations or family independence agency; use of inmate labor.

Sec. 6. (1) Correctional industries products may be sold, exchanged, or purchased by any of the following:

(a) An institution of this or any other state or political subdivision of this or any other state, the federal government or agencies of the federal government, a foreign government or agencies of a foreign government, or a private vendor that operates a correctional facility in this state.

(b) Any organization that is a tax exempt organization under section 501(c)(3) of the internal revenue code.

(c) Any private business or individual, if the products are cut and sewn textiles, but only if the same or a comparable in style product is not manufactured by a private business in this state.

(2) An agricultural product that is produced on a correctional farm may be utilized within the correctional institutions or within a correctional facility in this state notwithstanding its operation by a private vendor or sold to an institution, governmental agency, or organization described in subsection (1) or sold for utilization in the food production facilities of the department of corrections notwithstanding the operation of those facilities by a private vendor. An agricultural product that is not utilized or sold as provided in this subsection shall be made available without charge to nonprofit charitable organizations or to the family independence agency for use in food banks, bulk food distributions, or similar charitable food distribution programs. This subsection does not apply to an agricultural product that is not in a form suitable for use in the manner prescribed in this section, such as bulk grain, live cattle, and hogs, which may be sold on the open market.

(3) Except as provided in subsections (4) and (5), the labor of inmates shall not be sold, hired, leased, loaned, contracted for, or otherwise used for private or corporate profit or for any purpose other than the construction, maintenance, or operation of public works, ways, or property as directed by the governor. This act does not prohibit the sale at retail of articles made by inmates for the personal benefit of themselves or their dependents or the payment to inmates for personal services rendered in the correctional institutions, subject to regulations approved by the department of corrections, or the use of inmate labor upon agricultural land that has been rented or leased by the department of corrections upon a sharecropping or other basis.

(4) If more than 80% of a particular product sold in the United States is manufactured outside the United States and none of that product is manufactured in this state, or if a particular service is not performed in this state, as determined by the department of corrections in conjunction with the advisory council for correctional industries, inmate labor may be used in the manufacture of that product or the rendering of that service in a private manufacturing or service enterprise established under section 7a. A determination by the department of corrections under this subsection shall be made at the time the individual or business entity applies to the department for approval to produce that product or render that service pursuant to section 7a.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 103]

(HB 4882)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 2, 3, 4, and 7 (MCL 205.92, 205.93, 205.94, and 205.97), sections 2, 3, and 4 as amended by 2004 PA 172.

The People of the State of Michigan enact:

205.92 Definitions.

Sec. 2. As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether or not organized for profit, company, limited liability company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Use" means the exercise of a right or power over tangible personal property incident to the ownership of that property including transfer of the property in a transaction where possession is given. Converting tangible personal property acquired for a use exempt from the tax levied under this act to a use not exempt from the tax levied under this act is a taxable use.

(c) "Storage" means a keeping or retention of property in this state for any purpose after the property loses its interstate character.

(d) "Seller" means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state. If, in the opinion of the department, it is necessary for the efficient administration of this act to regard a salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates or from whom he or she obtains tangible personal property or services sold by him or her for storage, use, or other consumption in this state, irrespective of whether or not he or she is making the sales on his or her own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so consider him or her, and may consider the dealer, distributor, supervisor, or employer as the seller for the purpose of this act.

(e) "Purchase" means to acquire for a consideration, whether the acquisition is effected by a transfer of title, of possession, or of both, or a license to use or consume; whether the transfer is absolute or conditional, and by whatever means the transfer is effected; and whether consideration is a price or rental in money, or by way of exchange or barter. Purchase includes converting tangible personal property acquired for a use exempt from the tax levied under this act to a use not exempt from the tax levied under this act.

(f) "Purchase price" or "price" means the total amount of consideration paid by the consumer to the seller, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to use tax. Purchase price includes the following subparagraphs (i) through (*vi*) and excludes subparagraphs (*vii*) through (*viii*):

(*i*) Seller's cost of the property sold.

(*ii*) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(*iii*) Charges by the seller for any services necessary to complete the sale, other than the following:

(A) An amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.

(B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.

(*iv*) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(*v*) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(*vi*) Credit for any trade-in.

(*vii*) Interest, financing, or carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(*viii*) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(g) "Consumer" means the person who has purchased tangible personal property or services for storage, use, or other consumption in this state and includes, but is not limited to, 1 or more of the following:

(*i*) A person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(*ii*) A person who has converted tangible personal property or services acquired for storage, use, or consumption in this state that is exempt from the tax levied under this act to storage, use, or consumption in this state that is not exempt from the tax levied under this act.

(h) "Business" means all activities engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect.

(i) "Department" means the department of treasury.

(j) "Tax" includes all taxes, interest, or penalties levied under this act.

(k) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

(*l*) "Textiles" means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillowcases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(m) "Interstate motor carrier" means a person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.

(n) "Qualified commercial motor vehicle" means that term as defined in section 1(i), (j), and (k) of the motor carrier fuel tax act, 1980 PA 119, MCL 207.211.

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

(p) "Sale" means a transaction by which tangible personal property or services are purchased or rented for storage, use, or other consumption in this state.

(q) "Convert" means putting a service or tangible personal property acquired for a use exempt from the tax levied under this act at the time of acquisition to a use that is not exempt from the tax levied under this act, whether the use is in whole or in part, or permanent or not permanent. A motor vehicle purchased for resale by a new vehicle dealer licensed under section 248(8)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.248, and not titled in the name of the dealer shall not be considered to be converted prior to sale or lease by that dealer.

205.93 Tax rate; applicability to tangible personal property or services; conversion to taxable use; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records; applicability.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a rate equal to 6% of the price of the property or services specified in section 3a or 3b. The tax levied under this act applies to a person who acquires tangible personal property or services that are subject to the tax levied under this act for any tax-exempt use who subsequently converts the tangible personal property or service to a taxable use, including an interim taxable use. If tangible personal property or services are converted to a taxable use, the tax levied under this act shall be imposed without regard to any subsequent tax-exempt use. Penalties and interest shall be added to the tax if applicable as provided in this act. For

the purpose of the proper administration of this act and to prevent the evasion of the tax, all of the following shall be presumed:

(a) That tangible personal property purchased is subject to the tax if brought into this state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(b) That tangible personal property used solely for personal, nonbusiness purposes that is purchased outside of this state and that is not an aircraft is exempt from the tax levied under this act if 1 or more of the following conditions are satisfied:

(*i*) The property is purchased by a person who is not a resident of this state at the time of purchase and is brought into this state more than 90 days after the date of purchase.

(*ii*) The property is purchased by a person who is a resident of this state at the time of purchase and is brought into this state more than 360 days after the date of purchase.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus $30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

(5) Any decrease in the rate of the tax levied under subsection (1) on services subject to tax under this act shall apply only to billings rendered on or after the effective date of the decrease.

205.94 Exemptions.

Sec. 4. (1) The following are exempt from the tax levied under this act, subject to subsection (2):

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, if the tax was due and paid on the retail sale to a consumer.

(b) Property, the storage, use, or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

(c) All of the following:

(*i*) Property purchased for resale. Property purchased for resale includes promotional merchandise transferred pursuant to a redemption offer to a person located outside this state or any packaging material, other than promotional merchandise, acquired for use in fulfilling a redemption offer or rebate to a person located outside this state.

(*ii*) Property purchased for lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel.

(*iii*) Property purchased for demonstration purposes. For a new vehicle dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding calendar year, without regard to specific make or style, according to the following schedule but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes:

(A) 0 to 25, 2 units.

(B) 26 to 100, 7 units.

(C) 101 to 500, 20 units.

(D) 501 or more, 25 units.

(*iv*) Motor vehicles purchased for resale purposes by a new vehicle dealer licensed under section 248(8)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.248.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except if the property is used in this state in a nontransitory business activity for a period exceeding 15 days.

(e) Property the sale or use of which was already subjected to a sales tax or use tax equal to, or in excess of, that imposed by this act under the law of any other state or a local governmental unit within a state if the tax was due and paid on the retail sale to the consumer and the state or local governmental unit within a state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the sales or use tax of this state. If the sale or use of property was already subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, this act shall apply, but at a rate measured by the difference between the rate provided in this act and the rate by which the previous tax was computed.

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in

the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed to and becoming a structural part of real estate.

(g) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if not operated for profit, and if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied does not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(i) Property or services sold to a regularly organized church or house of religious worship except the following:

(*i*) Sales in which the property is used in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(j) A vessel designed for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(k) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed $10.00 during 1 calendar month.

(*l*) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published

at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax, includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(m) Property purchased by persons licensed to operate a commercial radio or television station if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

(n) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

(o) A vehicle for which a special registration is secured in accordance with section 226(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

(p) The sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment.

(q) Water when delivered through water mains, water sold in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

(r) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(s) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption of an aircraft by a domestic air carrier for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(v) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 CFR part 121, for use solely in the regularly scheduled transport of passengers.

(w) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(x) The use or consumption of services described in section 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(y) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(*i*) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(*ii*) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(*iii*) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(*iv*) Utilities such as electric, gas, water, or oil.

(*v*) Production washroom equipment and mending and packaging supplies and equipment.

(*vi*) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(*vii*) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

205.97 Liability for tax.

Sec. 7. (1) Each person storing, using, or consuming in this state tangible personal property or services is liable for the tax levied under this act, and that liability shall not be extinguished until the tax levied under this act has been paid to the department.

(2) A person who acquires tangible personal property or services for any tax-exempt use who subsequently converts the tangible personal property or service to a taxable use, including an interim taxable use, is liable for the tax levied under this act. If tangible personal property or services are converted to a taxable use, the tax levied under this act shall be

imposed without regard to any subsequent tax-exempt use. The payment to the department of the tax, interest, and any penalty assessed by the department relieves the seller, who sold the property or services with regard to the storing, use, or consumption on which the tax was paid from the payment of the amount of the tax that he or she may be required under this act to collect from the purchaser.

Legislative intent; liability.

Enacting section 1. It is the intent of the legislature that this amendatory act clarify that a person who acquires tangible personal property for a purpose exempt under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, who subsequently converts that property to a use taxable under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, is liable for the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

Retroactive effective date.

Enacting section 2. This amendatory act is curative and intended to prevent any misinterpretation of the ability of a taxpayer to claim an exemption from the tax levied under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, based on the purchase of tangible personal property or services for resale that may result from the decision of the Michigan court of appeals in Betten Auto Center, Inc v Department of Treasury, No. 265976, as affirmed by the Michigan Supreme Court. This amendatory act is retroactive and is effective beginning September 30, 2002 and for all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

[No. 104]

(HB 5096)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 9a (MCL 205.99a), as amended by 2004 PA 172.

The People of the State of Michigan enact:

205.99a Bad debt deduction.

Sec. 9a. (1) In computing the amount of tax levied under this act for any month, a seller may deduct the amount of bad debts from his or her gross sales, rentals, or services used for the computation of the tax. The amount of gross sales, rentals, or services deducted must be charged off as uncollectible on the books and records of the seller at the time the debt becomes worthless and deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and must be eligible to be deducted for federal income tax purposes. For purposes of this section, a claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return. If

a consumer or other person pays all or part of a bad debt with respect to which a seller claimed a deduction under this section, the seller is liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department. Any payments made on a bad debt shall be applied proportionally first to the taxable price of the property and the tax on the property and second to any interest, service, or other charge.

(2) Any claim for a bad debt deduction under this section shall be supported by that evidence required by the department. The department shall review any change in the rate of taxation applicable to any taxable sales, rentals, or services by a seller claiming a deduction pursuant to this section and shall ensure that the deduction on any bad debt does not result in the seller claiming the deduction recovering any more or less than the taxes imposed on the sale, rental, or service that constitutes the bad debt.

(3) After September 30, 2009, if a taxpayer who reported the tax and a lender execute and maintain a written election designating which party may claim the deduction, a claimant is entitled to a deduction or refund of the tax related to a sale at retail that was previously reported and paid if all of the following conditions are met:

(a) No deduction or refund was previously claimed or allowed on any portion of the account receivable.

(b) The account receivable has been found worthless and written off by the taxpayer that made the sale or the lender on or after September 30, 2009.

(4) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, the certified service provider may claim, on behalf of the seller, any bad debt allowable to the seller and shall credit or refund that amount of bad debt allowed or refunded to the seller.

(5) If the books and records of a seller under the streamlined sales and use tax agreement under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, that claims a bad debt allowance support an allocation of the bad debts among member states of that agreement, the seller may allocate the bad debts.

(6) As used in this section:

(a) "Bad debt" means any portion of a debt resulting from a seller's collection of the use tax under this act on the purchase of tangible personal property or services that is not otherwise deductible or excludable and that is eligible to be claimed, or could be eligible to be claimed if the seller kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code, 26 USC 166. A bad debt does not include any of the following:

(*i*) Interest, finance charge, or use tax on the purchase price.

(*ii*) Uncollectible amounts on property that remains in the possession of the seller until the full purchase price is paid.

(*iii*) Expenses incurred in attempting to collect any account receivable or any portion of the debt recovered.

(*iv*) Any accounts receivable that have been sold to and remain in the possession of a third party for collection.

(*v*) Repossessed property.

(b) Except as provided in subdivision (c), "lender" includes any of the following:

(*i*) Any person who holds or has held an account receivable which that person purchased directly from a taxpayer who reported the tax.

(*ii*) Any person who holds or has held an account receivable pursuant to that person's contract directly with the taxpayer who reported the tax.

(*iii*) The issuer of the private label credit card.

(c) "Lender" does not include the issuer of a credit card or instrument that can be used to make purchases from a person other than the vendor whose name or logo appears on the card or instrument or that vendor's affiliates.

(d) "Private label credit card" means any charge card, credit card, or other instrument serving a similar purpose that carries, refers to, or is branded with the name or logo of a vendor and that can only be used for purchases from the vendor.

(e) "Seller" means a person who has remitted use tax directly to the department on the specific sales, rental, or service transaction for which the bad debt is recognized for federal income tax purposes or, after September 30, 2009, a lender holding the account receivable for which the bad debt is recognized, or would be recognized if the claimant were a corporation, for federal income tax purposes.

Amendatory act as curative and retroactive.

Enacting section 1. This amendatory act is curative and shall be retroactively applied, expressing the original intent of the legislature that a deduction for a bad debt for a seller under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, is available exclusively to those persons with the legal liability to remit the tax on the specific sales, rental, or service transaction for which the bad debt is recognized for federal income tax purposes, and correcting any misinterpretation of the meaning of the term "seller" that may have been caused by the Michigan court of appeals decision in Daimler Chrysler Services North America LLC v Department of Treasury, No. 264323. However, this amendatory act is not intended to affect a refund required by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired if the refund is payable without interest and after September 30, 2009 and before November 1, 2009.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

[No. 105]

(HB 5097)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4i (MCL 205.54i), as amended by 2004 PA 173.

The People of the State of Michigan enact:

205.54i Bad debt; definitions; deduction; amount; payment of bad debt; liability; written election designating party claiming deduction; evidence required to support claim for deduction; change in tax rate; review; taxpayer under streamlined sales and use tax agreement.

Sec. 4i. (1) As used in this section:

(a) "Bad debt" means any portion of a debt that is related to a sale at retail taxable under this act for which gross proceeds are not otherwise deductible or excludable and that is eligible

to be claimed, or could be eligible to be claimed if the taxpayer kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code, 26 USC 166. A bad debt shall not include any finance charge, interest, or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, any accounts receivable that have been sold to and remain in the possession of a third party for collection, and repossessed property.

(b) Except as provided in subdivision (c), "lender" includes any of the following:

(*i*) Any person who holds or has held an account receivable which that person purchased directly from a taxpayer who reported the tax.

(*ii*) Any person who holds or has held an account receivable pursuant to that person's contract directly with the taxpayer who reported the tax.

(*iii*) The issuer of the private label credit card.

(c) "Lender" does not include the issuer of a credit card or instrument that can be used to make purchases from a person other than the vendor whose name or logo appears on the card or instrument or that vendor's affiliates.

(d) "Private label credit card" means any charge card, credit card, or other instrument serving a similar purpose that carries, refers to, or is branded with the name or logo of a vendor and that can only be used for purchases from the vendor.

(e) "Taxpayer" means a person that has remitted sales tax directly to the department on the specific sales at retail transaction for which the bad debt is recognized for federal income tax purposes or, after September 30, 2009, a lender holding the account receivable for which the bad debt is recognized, or would be recognized if the claimant were a corporation, for federal income tax purposes.

(2) In computing the amount of tax levied under this act for any month, a taxpayer may deduct the amount of bad debts from his or her gross proceeds used for the computation of the tax. The amount of gross proceeds deducted must be charged off as uncollectible on the books and records of the taxpayer at the time the debt becomes worthless and deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and must be eligible to be deducted for federal income tax purposes. For purposes of this section, a claimant who is not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which the bad debt becomes worthless and is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return. If a consumer or other person pays all or part of a bad debt with respect to which a taxpayer claimed a deduction under this section, the taxpayer is liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department. Any payments made on a bad debt shall be applied proportionally first to the taxable price of the property and the tax on the property and second to any interest, service, or other charge.

(3) After September 30, 2009, if a taxpayer who reported the tax and a lender execute and maintain a written election designating which party may claim the deduction, a claimant is entitled to a deduction or refund of the tax related to a sale at retail that was previously reported and paid if all of the following conditions are met:

(a) No deduction or refund was previously claimed or allowed on any portion of the account receivable.

(b) The account receivable has been found worthless and written off by the taxpayer that made the sale or the lender on or after September 30, 2009.

(4) Any claim for a bad debt deduction under this section shall be supported by that evidence required by the department. The department shall review any change in the rate of taxation applicable to any taxable sales by a taxpayer claiming a deduction pursuant to this section and shall ensure that the deduction on any bad debt does not result in the taxpayer claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(5) If a certified service provider assumed filing responsibility under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, the certified service provider may claim, on behalf of the taxpayer, any bad debt allowable to the taxpayer and shall credit or refund that amount of bad debt allowed or refunded to the taxpayer.

(6) If the books and records of a taxpayer under the streamlined sales and use tax agreement under the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.801 to 205.833, that claims a bad debt allowance support an allocation of the bad debts among member states of that agreement, the taxpayer may allocate the bad debts.

Amendatory act as curative and retroactive.

Enacting section 1. This amendatory act is curative and shall be retroactively applied, expressing the original intent of the legislature that a deduction for a bad debt for a taxpayer under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is available exclusively to those persons with the legal liability to remit the tax on the specific sale at retail for which the bad debt deduction is recognized for federal income tax purposes, and correcting any misinterpretation of the meaning of the term "taxpayer" that may have been caused by the Michigan court of appeals decision in Daimler Chrysler Services North America LLC v Department of Treasury, No. 264323. However, this amendatory act is not intended to affect a refund required by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired if the refund is payable without interest and after September 30, 2009 and before November 1, 2009.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

[No. 106]

(SB 418)

AN ACT to prescribe the conditions upon which public employers may provide certain benefits; to require the compilation and release of certain information and data; to provide certain powers and duties to certain state officials, departments, agencies, and authorities; and to provide for appropriations.

The People of the State of Michigan enact:

124.71 Short title.

Sec. 1. This act shall be known and may be cited as the "public employees health benefit act".

124.73 Definitions.

Sec. 3. As used in this act:

(a) "Carrier" means a health, dental, or vision insurance company authorized to do business in this state under, and a health maintenance organization or multiple employer welfare

arrangement operating under, the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302; a system of health care delivery and financing operating under section 3573 of the insurance code of 1956, 1956 PA 218, MCL 500.3573; a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373; a nonprofit health care corporation operating under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704; a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9); a pharmacy benefits manager; and any other person providing a plan of health benefits, coverage, or insurance in this state.

(b) "Commissioner" means the commissioner of the office of financial and insurance services.

(c) "Medical benefit plan" means a plan, established and maintained by a carrier or 1 or more public employers, that provides for the payment of medical, optical, or dental benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits, to public employees.

(d) "Public employee" means an employee of a public employer.

(e) "Public employer" means a city, village, township, county, or other political subdivision of this state; any intergovernmental, metropolitan, or local department, agency, or authority, or other local political subdivision; a school district, a public school academy, or an intermediate school district, as those terms are defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852; or a community college or junior college described in section 7 of article VIII of the state constitution of 1963. Public employer includes a public university that elects to come under the provisions of this act.

(f) "Public employer pooled plan" or "pooled plan" means a public employer pooled plan established pursuant to section 5(1)(b).

(g) "Public university" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

124.75 Medical, optical, or dental benefits provided to public employees; methods; solicitation of bids; number; frequency; participation of public employer in purchasing pool or coalition.

Sec. 5. (1) Subject to collective bargaining requirements, a public employer may provide medical, optical, or dental benefits to public employees and their dependents by any of the following methods:

(a) By establishing and maintaining a plan on a self-insured basis. A plan under this subdivision does not constitute doing the business of insurance in this state and is not subject to the insurance laws of this state.

(b) By joining with other public employers and establishing and maintaining a public employer pooled plan to provide medical, optical, or dental benefits to not fewer than 250 public employees on a self-insured basis as provided in this act. A pooled plan shall accept any public employer that applies to become a member of the pooled plan, agrees to make the required payments, agrees to remain in the pool for a 3-year period, and satisfies the other reasonable provisions of the pooled plan. A public employer that leaves a pooled plan may not rejoin the pooled plan for 2 years after leaving the plan. A pooled plan under this subdivision does not constitute doing the business of insurance in this state and, except as provided in this act, is not subject to the insurance laws of this state. A pooled plan under this subdivision may enter into contracts and sue or be sued in its own name.

(c) By procuring coverage or benefits from 1 or more carriers, either on an individual basis or with 1 or more other public employers.

(2) A public employer or pooled plan procuring coverage or benefits from 1 or more carriers shall solicit 4 or more bids when establishing a medical benefit plan, including at least

1 bid from a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9). A public employer or pooled plan procuring coverage or benefits from 1 or more carriers shall solicit 4 or more bids every 3 years when renewing or continuing a medical benefit plan, including at least 1 bid from a voluntary employees' beneficiary association described in section 501(c)(9) of the internal revenue code, 26 USC 501(c)(9). A public employer or pooled plan that provides for administration of a medical benefit plan using an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan shall solicit 4 or more bids for those administrative services when establishing a medical benefit plan. A public employer or pooled plan that provides for administration of a medical benefit plan using an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan shall solicit 4 or more bids for those administrative services every 3 years when renewing or continuing a medical benefit plan.

(3) This act does not prohibit a public employer from participating, for the payment of medical benefits and claims, in a purchasing pool or coalition to procure insurance, benefits, or coverage, or health care plan services or administrative services.

(4) A public university may establish a medical benefit plan to provide medical, dental, or optical benefits to its employees and their dependents by any of the methods set forth in this section.

(5) A medical benefit plan that provides medical benefits shall provide to covered individuals case management services that meet the case management accreditation standards established by the national committee on quality assurance, the joint commission on health care organizations, or the utilization review accreditation commission.

124.77 Public employer pooled plan; certificate of registration; application; form; notice of additional information needed; investigation; issuance or denial of certificate of registration; notice of denial; request for hearing; books open to commissioner.

Sec. 7. (1) A person shall not establish or maintain a public employer pooled plan in this state unless the pooled plan obtains and maintains a certificate of registration pursuant to this act.

(2) A person wishing to establish a pooled plan shall apply for a certificate of registration on a form prescribed by the commissioner. The application shall be completed and submitted to the commissioner along with all of the following:

(a) Copies of all articles, bylaws, agreements, or other documents or instruments describing the rights and obligations of employers, employees, and beneficiaries with respect to the pooled plan and the expected number of public employees to be covered for medical, optical, or dental benefits under the pooled plan.

(b) Current financial statements of the pooled plan or, for a newly established pooled plan, 3 years of financial projections.

(c) A statement showing in full detail the plan upon which the pooled plan proposes to transact business and a copy of all contracts or other instruments that it proposes to make with or sell to its members, together with a copy of its plan description.

(3) The commissioner shall examine the application and documents submitted by the applicant for completeness and shall notify the applicant not later than 30 days after receipt of the application of any additional information needed. The commissioner may conduct any investigation that the commissioner considers necessary and examine under oath any person interested in or connected with the pooled plan.

(4) The commissioner shall issue or deny a certificate of registration within 90 days of receipt of the applicant's substantially completed application. The commissioner shall not issue a certificate of registration to the pooled plan unless the commissioner is satisfied that the pooled plan is in a stable and unimpaired financial condition, that the pooled plan is qualified to maintain a medical benefit plan in compliance with this act, and that the pooled plan meets the requirements in section 9(1)(a), (e), (f), (g), and (h). The commissioner shall deny a certificate of registration to an applicant who fails to meet the requirements of this act. Notice of denial shall be in writing and shall set forth the basis for the denial. If the applicant submits a written request within 60 days after mailing of the notice of denial, the commissioner shall promptly conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in which the applicant shall be given an opportunity to show compliance with the requirements of this act.

(5) The pooled plan, upon receipt of its initial certificate of registration, which shall be a temporary certificate, shall proceed to the completion of organization of the proposed pooled plan.

(6) A pooled plan shall open its books to the commissioner, and a final certificate of registration shall not be issued by the commissioner to a pooled plan until the pooled plan has collected cash reserves as provided in section 9.

124.79 Public employer pooled plan; requirements; effect of insufficient reserves; collection of cash reserves.

Sec. 9. (1) In addition to other requirements as provided in this act, a public employer pooled plan established on or after the effective date of this act shall do all of the following:

(a) Establish and maintain minimum cash reserves of not less than 25% of the aggregate contributions in the current fiscal year or in the case of new applicants, 25% of the aggregate contributions projected to be collected during its first 12 months of operation, as applicable; or not less than 35% of the claims paid in the preceding fiscal year, whichever is greater. Reserves established pursuant to this section shall be maintained in a separate, identifiable account and shall not be commingled with other funds of the pooled plan. The pooled plan shall invest the required reserve in the types of investments allowed under section 910, 912, or 914 of the insurance code of 1956, 1956 PA 218, MCL 500.910, 500.912, and 500.914. The pooled plan may satisfy up to 100% of the reserve requirement in the first year of operation, up to 75% of the reserve requirement in the second year of operation, and up to 50% of the reserve requirement in the third and subsequent years of operation, through an irrevocable and unconditional letter of credit. As used in this subdivision, "letter of credit" means a letter of credit that meets all of the following requirements:

(*i*) Is issued by a federally insured financial institution.

(*ii*) Is issued upon such terms and in a form as approved by the commissioner.

(*iii*) Is subject to draw by the commissioner, upon giving 5 business days' written notice to the pooled plan, or by the pooled plan for the member's benefit if the pooled plan is unable to pay claims as they come due.

(b) Within 90 days after the end of each fiscal year, file with the commissioner financial statements audited by a certified public accountant. An actuarial opinion regarding reserves for known claims and associated expenses and incurred but not reported claims and associated expenses, in accordance with subdivision (d), shall be included in the audited financial statement. The opinion shall be rendered by an actuary approved by the commissioner or who has 5 or more years of experience in this field.

(c) Within 60 days after the end of each fiscal quarter, file with the commissioner unaudited financial statements, affirmed by an appropriate officer or agent of the pooled plan.

(d) Within 60 days after the end of each fiscal quarter, file with the commissioner a report certifying that the pooled plan maintains reserves that are sufficient to meet its contractual obligations, and that it maintains coverage for excess loss as required in this act.

(e) File with the commissioner a schedule of premium contributions, rates, and renewal projections.

(f) Possess a written commitment, binder, or policy for excess loss insurance issued by an insurer authorized to do business in this state in an amount approved by the commissioner. The binder or policy shall provide not less than 30 days' notice of cancellation to the commissioner.

(g) Establish a procedure, to the satisfaction of the commissioner, for handling claims for benefits in the event of dissolution of the pooled plan.

(h) Provide for administration of the plan using personnel of the pooled plan, provided that the pooled plan has within its own organization adequate facilities and competent personnel to service the medical benefit plan, or by awarding a competitively bid contract, to an authorized third party administrator, an insurer, a nonprofit health care corporation, or other entity authorized to provide services in connection with a noninsured medical benefit plan.

(2) If the commissioner finds that a pooled plan's reserves are not sufficient to meet the requirements of subsection (1)(a), the commissioner shall order the pooled plan to immediately collect from any public employer that is or has been a member of the pooled plan appropriately proportionate contributions sufficient to restore reserves to the required level. The commissioner may take such action as he or she considers necessary, including, but not limited to, ordering the suspension or dissolution of a pooled plan, if the pooled plan is consistently failing to maintain reserves as required in this section, is using methods and practices that render further transaction of business hazardous or injurious to its members, employees, beneficiaries, or to the public, has failed, after written request by the commissioner, to remove or discharge an officer, director, trustee, or employee who has been convicted of any crime involving fraud, dishonesty, or moral turpitude, has failed or refused to furnish any report or statement required under this act, or if the commissioner, upon investigation, determines that it is conducting business fraudulently or is not meeting its contractual obligations in good faith. Any proceedings by the commissioner under this subsection shall be governed by the requirements and procedures of sections 7074 to 7078 of the insurance code of 1956, 1956 PA 218, MCL 500.7074 and 500.7078.

124.81 Access to books, records, and documents; payment of annual assessment.

Sec. 11. The commissioner, or any person appointed by the commissioner, may examine the affairs of any pooled plan, and for such purposes shall have free access to all the books, records, and documents that relate to the business of the plan, and may examine under oath its trustees, officers, agents, and employees in relation to the affairs, transactions, and condition of the pooled plan. Each authorized pooled plan shall pay an assessment annually to the commissioner to be deposited into the insurance bureau fund created in section 225 of the insurance code of 1956, 1956 PA 218, MCL 500.225, in an amount equal to 1/4 of 1% of the annual self-funded contributions made to the pooled plan for that year. The assessments paid under this section shall be appropriated to the office of financial and insurance services to cover the additional costs incurred by the office of financial and insurance services in the examination and regulation of pooled plans under this act.

124.83 Articles, bylaws, and trust agreement; filing; notice of meetings; powers of board of trustees.

Sec. 13. (1) The articles, bylaws, and trust agreement of the pooled plan and all amendments thereto shall be filed with and presumed approved by the commissioner before becoming operative. The trust agreement shall be filed on a form prescribed by the commissioner.

(2) Each member employer of a pooled plan shall be given notice of every meeting of the members and shall be entitled to an equal vote, either in person or by proxy in writing by such member.

(3) The powers of a pooled plan, except as otherwise provided, shall be exercised by the board of trustees chosen to carry out the purposes of the trust agreement. Not less than 50% of the trustees shall be persons who are covered under the pooled plan or the collective bargaining representatives of those persons. No trustee shall be an owner, officer, or employee of a third party administrator providing services to the pooled plan.

124.85 Public employer with 100 or more employees; claims utilization and cost information; compilation; "relevant period" defined; disclosure; availability; protected health information not included; date of compilation.

Sec. 15. (1) Notwithstanding subsection (2), a public employer that has 100 or more employees in a medical benefit plan shall be provided with claims utilization and cost information as provided in subsection (3).

(2) A public employer who is in an arrangement with 1 or more other public employers, and together have 100 or more employees in a medical benefit plan or have signed a letter of intent to enter together 100 or more public employees into a medical benefit plan, shall be provided with claims utilization and cost information as provided in subsection (3) that is aggregated for all the public employees together of those public employers, and, except as otherwise permitted under subsection (1), shall not be separated out for any of those public employers.

(3) All medical benefit plans in this state shall compile, and shall make available electronically as provided in subsections (1) and (2), complete and accurate claims utilization and cost information for the medical benefit plan in the aggregate and for each public employer as follows:

(a) For persons covered under the medical benefit plan, census information, including date of birth, gender, zip code, and medical tier, such as single, dependent, or family.

(b) Monthly claims by provider type and service category reported by the total number and dollar amounts of claims paid and reported separately for in-network and out-of-network providers.

(c) The number of claims paid over $50,000.00 and the total dollar amount of those claims.

(d) The dollar amounts paid for specific and aggregate stop-loss insurance.

(e) The dollar amount of administrative expenses incurred or paid, reported separately for medical, pharmacy, dental, and vision.

(f) The total dollar amount of retentions and other expenses.

(g) The dollar amount for all service fees paid.

(h) The dollar amount of any fees or commissions paid to agents, consultants, or brokers by the medical benefit plan or by any public employer or carrier participating in or providing services to the medical benefit plan, reported separately for medical, pharmacy, stop-loss, dental, and vision.

(i) Other information as may be required by the commissioner.

(4) The claims utilization and cost information required to be compiled under this section shall be compiled on an annual basis and shall cover a relevant period. For purposes of this subsection, the term "relevant period" means the 36-month period ending no more than 120 days prior to the effective date or renewal date of the medical benefit plan under consideration. However, if the medical benefit plan has been in effect for a period of less than 36 months, the relevant period shall be that shorter period.

(5) A public employer or combination of public employers shall disclose the claims utilization and cost information required to be provided under subsections (1) and (2) to any carrier or administrator it solicits to provide benefits or administrative services for its medical benefit plan, and to the employee representative of employees covered under the medical benefit plan, and upon request to any carrier or administrator who requests the opportunity to submit a proposal to provide benefits or administrative services for the medical benefit plan at the time of the request for bids. The public employer shall make the claims utilization and cost information required under this section available at cost and within a reasonable period of time.

(6) The claims utilization and cost information required under this section shall include only de-identified health information as permitted under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, and shall not include any protected health information as defined in the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(7) All claims utilization and cost information described in this section is required to be compiled beginning 60 days after the effective date of this act. However, claims utilization and cost information already being compiled on the effective date of this act is subject to this section on the effective date of this act.

Conditional effective date.

Enacting section 1. This act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 419.

(b) Senate Bill No. 420.

(c) Senate Bill No. 421.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 419 was filed with the Secretary of State October 1, 2007, and became 2007 PA 107, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 420 was filed with the Secretary of State October 1, 2007, and became 2007 PA 108, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 421 was filed with the Secretary of State October 1, 2007, and became 2007 PA 109, Imd. Eff. Oct. 1, 2007.

[No. 107]

(SB 419)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts,

and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 632 (MCL 380.632) and by adding sections 506a, 527a, 633, 1255, and 1311m.

The People of the State of Michigan enact:

380.506a Public school academy; compliance with public employees health benefit act.

Sec. 506a. If the board of directors of a public school academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

380.527a Urban high school academy; compliance with public employees health benefit act.

Sec. 527a. If the board of directors of an urban high school academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

380.632 Intermediate school district employees; economic benefits for employees; sabbatical leave.

Sec. 632. (1) In the process of establishing salaries or determining other working conditions, the intermediate school board may provide other related benefits of an economic nature on a joint participating or nonparticipating basis with intermediate school district employees. Subject to section 633, the benefits may include health and accident insurance coverage, group life insurance, annuity contracts, and reimbursement for credit hours earned during employment for professional improvement.

(2) After a teacher has been employed at least 7 consecutive years by the intermediate school board, and at the end of each additional period of 7 or more consecutive years of employment, the intermediate school board may grant the teacher a sabbatical leave for professional improvement for not to exceed 2 semesters at 1 time, if the teacher holds a permanent, life, or continuing certificate. During the sabbatical leave, the teacher shall be considered to be in the employ of the intermediate school board, shall have a contract, and may be paid compensation under the regulations of the intermediate school board. The intermediate school board shall not be held liable for death or injuries sustained by a teacher while on sabbatical leave.

380.633 Intermediate school district employees; compliance with public employees health benefit act.

Sec. 633. If the intermediate school board of an intermediate school district provides medical, optical, or dental benefits to employees and their dependents, the intermediate

school board shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

380.1255 School district; compliance with public employees health benefit act.

Sec. 1255. If the board of a school district provides medical, optical, or dental benefits to employees and their dependents, the board shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

380.1311m Strict discipline academy; compliance with public employees health benefit act.

Sec. 1311m. If the board of directors of a strict discipline academy provides medical, optical, or dental benefits to employees and their dependents, the board of directors shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 418.

(b) Senate Bill No. 420.

(c) Senate Bill No. 421.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 549 of the 94th Legislature is enacted into law and takes effect.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 418 was filed with the Secretary of State October 1, 2007, and became 2007 PA 106, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 420 was filed with the Secretary of State October 1, 2007, and became 2007 PA 108, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 421 was filed with the Secretary of State October 1, 2007, and became 2007 PA 109, Imd. Eff. Oct. 1, 2007.
Senate Bill No. 549, referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 101, Imd. Eff. Oct. 1, 2007.

[No. 108]

(SB 420)

AN ACT to amend 1951 PA 35, entitled "An act to authorize intergovernmental contracts between municipal corporations; to authorize any municipal corporation to contract with any person or any municipal corporation to furnish any lawful municipal service to property outside the corporate limits of the first municipal corporation for a consideration; to prescribe certain penalties; to authorize contracts between municipal corporations and with certain nonprofit public transportation corporations to form group self-insurance pools; and to prescribe conditions for the performance of those contracts," by amending section 5 (MCL 124.5), as amended by 1999 PA 83.

The People of the State of Michigan enact:

124.5 Group self-insurance pool; intergovernmental contract; purpose; hospital, medical, surgical, or dental benefits; assuming, ceding, and selling risk for coverages; reinsurance; documentation of coverage; powers; legislative findings and determinations; 2 or more municipal corporations as group self-insurance pool.

Sec. 5. (1) Notwithstanding any other provision of law to the contrary, any 2 or more municipal corporations, by intergovernmental contract, may form a group self-insurance pool to provide for joint or cooperative action relative to their financial and administrative resources for the purpose of providing to the participating municipal corporations risk management and coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any or all of the following:

(a) Casualty insurance, including general and professional liability coverage.

(b) Property insurance, including marine insurance and inland navigation and transportation insurance coverage.

(c) Automobile insurance, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(d) Surety and fidelity insurance coverage.

(e) Umbrella and excess insurance coverages.

(2) A group self-insurance pool may not provide for hospital, medical, surgical, or dental benefits to the employees of the member municipalities in the pool except as follows:

(a) If the municipal corporation is providing hospital, medical, surgical, or dental benefits as permitted under the public employees health benefit act.

(b) If the municipal corporation has formed a multiple employer welfare arrangement under chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001 to 500.7090, for hospital, medical, surgical, or dental benefits.

(c) If the hospital, medical, surgical, or dental benefits arise from the obligations and responsibilities of the pool in providing automobile insurance coverage, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, as required by section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, and protection against other liability and loss associated with the ownership of motor vehicles.

(3) A group self-insurance pool may assume, cede, and sell risk for coverages set forth in subsection (1). If a group self-insurance pool obtains reinsurance, the reinsurance contract shall be made available to the commissioner upon request. If the reinsurance contract is not available to the group self-insurance pool, the group self-insurance pool shall provide the commissioner with written documentation of coverage as is requested by the commissioner.

(4) A group self-insurance pool, for the purposes of carrying on the business of the group self-insurance pool whether or not a body corporate, shall have the power to sue and be sued; to make contracts; to hold and dispose of real and personal property; and to borrow money, contract debts, and pledge assets in the name of the group self-insurance pool.

(5) In addition to any other powers granted by this act, the power to enter into intergovernmental contracts under this section specifically includes the power to establish the pool as a separate legal or administrative entity for purposes of effectuating group self-insurance pool agreements.

(6) The legislature hereby finds and determines that insurance protection is essential to the proper functioning of municipal corporations; that the resources of municipal corporations are burdened by the securing of insurance protection through standards carriers; that proper risk management requires spreading risk to minimize fluctuation in insurance needs; and that, therefore, all contributions of financial and administrative resources made by a municipal corporation pursuant to an intergovernmental contract authorized under this act are made for a public and governmental purpose, and that those contributions benefit each contributing municipal corporation.

(7) Two or more municipal corporations shall not form a group self-insurance pool to provide the coverages described in subsection (1) other than pursuant to sections 5 to 12b.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 419.

(b) Senate Bill No. 418.

(c) Senate Bill No. 421.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 549 of the 94th Legislature is enacted into law and takes effect.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
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Senate Bill No. 549, referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 101, Imd. Eff. Oct. 1, 2007.

[No. 109]

(SB 421)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 123 and 124 (MCL 389.123 and 389.124), section 123 as amended by 1980 PA 5 and section 124 as amended by 1997 PA 135.

The People of the State of Michigan enact:

389.123 Board of trustees; powers.

Sec. 123. The board of trustees may:

(a) Have the care and custody of the community college property and provide suitable facilities, sanitary conditions, and medical inspection for the community college of the district.

(b) Establish and collect tuition and fees for resident and nonresident students. A waiver of tuition shall not be granted by the board, except:

(*i*) The board of trustees may waive tuition for a student participating in a reciprocal agreement for exchange of educational services, if the agreement is approved by the state board of education.

(*ii*) The board of trustees may waive tuition for a student who meets the admission requirements of the board and is 60 years of age or older.

(c) Establish and maintain or continue a library or museum, which may be separately operated if desired, for the community college, if the board of trustees considers it advisable to establish and maintain or continue a library or museum and to provide for its care and management.

(d) Select and employ administrative officers, teachers, and other employees it finds necessary to operate the community college district and establish the terms and conditions of their service or employment. If the board of trustees provides medical, optical, or dental benefits to employees and their dependents, the board shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

389.124 Board of trustees; additional powers.

Sec. 124. The board of trustees may do all of the following:

(a) Contract with, appoint, and employ a suitable person as chief executive officer of the community college. The person employed as chief executive officer shall not be a member of the board of trustees and shall possess at least an earned bachelor's degree from an accredited college or university. The chief executive officer shall hold office for a term fixed by the board of trustees, not to exceed 5 years, shall perform duties as the board of trustees may determine, and shall make reports in writing to the board of trustees and to the department of education annually, or more often if required, in regard to all matters pertaining to the educational interests of the community college district.

(b) Delegate to the chief executive officer of the community college the board's authority to do any of the following:

(*i*) Select and employ personnel of the community college. If the chief executive officer provides medical, optical, or dental benefits to employees and their dependents under this subparagraph, the chief executive officer shall provide those benefits in accordance with the public employees health benefit act and shall comply with that act.

(*ii*) Pay claims and demands against the community college.

(*iii*) Purchase, lease, or otherwise acquire personal property for the community college.

(*iv*) Invest community college funds.

(*v*) Subject to terms and conditions established by the board of directors, accept contributions, capital grants, gifts, donations, services, or other financial assistance from any public or private entity.

(c) Appoint and employ a business manager responsible to the chief executive officer of the community college for the community college district and fix his or her term of office.

(d) Select and employ other administrative officers, teachers, and other employees and engage services as necessary to effectuate its purposes.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 419.

(b) Senate Bill No. 418.

(c) Senate Bill No. 420.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 549 of the 94th Legislature is enacted into law and takes effect.

This act is ordered to take immediate effect.

Approved October 1, 2007.

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Senate Bill No. 549, referred to in enacting section 2, was filed with the Secretary of State October 1, 2007, and became 2007 PA 101, Imd. Eff. Oct. 1, 2007.

[No. 110]

(SB 546)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 91 (MCL 38.1391), as amended by 2006 PA 617.

The People of the State of Michigan enact:

38.1391 Hospital, medical-surgical, and sick care benefits; dental, vision, and hearing benefits; retirant becoming member after June 30, 2008; entitlement of retirement allowance beneficiary; definitions.

Sec. 91. (1) Except as otherwise provided in this section, the retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(2) The retirement system may pay up to the maximum of the amount payable under subsection (1) toward the monthly premium for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary enrolled in a group health insurance or prepaid service plan not authorized by the retirement board and the department, if enrolled before June 1, 1975, for whom the retirement system on July 18, 1983 was making a payment towards his or her monthly premium.

(3) A retirant or retirement allowance beneficiary receiving hospital, medical-surgical, and sick care benefits coverage under subsection (1) or (2), until eligible for medicare, shall have an amount equal to the cost chargeable to a medicare recipient for part B of medicare deducted from his or her retirement allowance.

(4) The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(5) The retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection and subsection (6) began October 1, 1985 for health insurance dependents who on July 10, 1985 were covered by the hospital, medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(6) The payment described in subsection (5) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retirant if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retirant as provided in section 43c(c), 89, or 90. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100%. This subsection applies to any member who first became a member on or before June 30, 2008 and attains deferred status under section 82 after October 31, 1980.

(8) For a member or deferred member who first becomes a member after June 30, 2008, the retirement system shall pay up to 90% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, and hearing plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member

has 25 years or more of service credit under this act, and the retirant, deceased retirant, or deceased member was at least 60 years of age at the time of application for benefits under this section. If the retirant or deceased member is less than 60 years of age at the time of application for benefits under this section, the retirement system shall pay 90% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, and hearing plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and the retirant's health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member has 25 or more years of service credit granted under section 68. If a retirant, deceased retirant, or deceased member described in this subsection has 10 or more but less than 25 years of service credit under this act and the retirant was at least 60 years of age at the time of application for benefits under this section, the retirement system shall pay a portion of the monthly premium or membership or subscription fee for the plans or combination of plans equal to the product of 3% and the retirant's, deceased retirant's, or deceased member's years of service for the first 10 years and 4% for each year after the first 10 years. This subsection does not apply to a member who receives a disability retirement allowance under section 86 or 87 or to a deceased member's retirement allowance beneficiary under section 90.

(9) The retirement system shall not pay the premiums or membership or subscription fees under subsection (8) until the retirant or retirement allowance beneficiary requests enrollment in the plans or combination of plans in writing in the manner prescribed by the retirement system. Not more than 1 year's service credit shall be counted for purposes of subsection (8) and this subsection in any school fiscal year.

(10) A member who retires under section 43b or 81 and who elects to purchase service credit on or after July 1, 2008 is not eligible for payments under this section for the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, or hearing plan, or any combination of the plans described in this section until the first date that the member would have been eligible to retire under section 43b or 81 if he or she had not purchased the service credit and had accrued a sufficient amount of service credit under section 68. A member who first becomes a member on or after July 1, 2008 shall not be eligible for health benefits under this subsection until at least the time of application under subsection (8). The retirement system shall apply a method that enables it to make the determination under this subsection.

(11) Except for a member who retires under section 86 or 87 or a member who meets the requirements under subsection (7) or (8), the retirement system shall not pay the benefits provided in subsection (1) or (4) unless the member was employed and has received a minimum total of 1/2 of a year of service credit granted pursuant to section 68 during the 2 school fiscal years immediately preceding the member's retirement allowance effective date or the member has received a minimum of 1/10 of a year of service credit granted pursuant to section 68 during each of the 5 school fiscal years immediately preceding the member's retirement allowance effective date.

(12) Any retirant or retirement allowance beneficiary excluded from payments under this section may participate in the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, or hearing plan, or any combination of the plans described in this section in the manner prescribed by the retirement system at his or her own cost.

(13) The hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirants, retirement allowance beneficiaries, and health insurance dependents pursuant to this section shall contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under the hospital, medical-surgical, and sick care benefits plan is also eligible for medicare or medicaid, or both, then the benefits under medicare or

medicaid, or both, shall be determined before the benefits of the hospital, medical-surgical, and sick care benefits plan provided pursuant to this section.

(b) If the person covered under any of the plans provided by this section is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided by the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.255.

(c) If the person covered under any of the plans provided by this section is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan shall be determined before the benefits of the plan provided pursuant to this section.

(14) Beginning January 1, 2009, upon the death of the retirant, a retirement allowance beneficiary who became a retirement allowance beneficiary under section 85(8) or (9) is not a health insurance dependent and is not entitled to health benefits under this section except as provided in this subsection. Beginning January 1, 2009, a surviving spouse selected as a retirement allowance beneficiary under section 85(8) or (9) may elect the insurance coverages provided in this section provided that payment for the elected coverages is the responsibility of the surviving spouse and is paid in a manner prescribed by the retirement system.

(15) For purposes of this section:

(a) "Health insurance dependent" means any of the following:

(*i*) Except as provided in subsection (14), the spouse of the retirant or the surviving spouse to whom the retirant or deceased member was married at the time of the retirant's or deceased member's death.

(*ii*) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 19 years of age.

(*iii*) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code.

(*iv*) An unmarried child, by birth or adoption, of the retirant or deceased member who is incapable of self-sustaining employment because of mental or physical disability, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code.

(*v*) The parents of the retirant or deceased member, or the parents of his or her spouse, who are residing in the household of the retirant or retirement allowance beneficiary.

(*vi*) An unmarried child who is not the child by birth or adoption of the retirant or deceased member but who otherwise qualifies to be a health insurance dependent under subparagraph (*ii*), (*iii*), or (*iv*), if the retirant or deceased member is the legal guardian of the unmarried child.

(b) "Medicaid" means benefits under the federal medicaid program established under title XIX of the social security act, 42 USC 1396 to 1396v.

(c) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395hhh.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law and take effect:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 111]

(SB 547)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 43a (MCL 38.1343a), as amended by 2002 PA 94, and by adding section 60.

The People of the State of Michigan enact:

38.1343a Contributions of member to member investment plan; deduction and remittance as employer contributions; benefits; amount of contribution; election to make contributions; method and timing of payment; deposit of contributions.

Sec. 43a. (1) The contributions of a member who contributes to the member investment plan shall be deducted by the employer and remitted as employer contributions to the retirement system pursuant to section 42. A member who contributes to the member investment plan is entitled to the benefits provided in sections 43b and 43c.

(2) Until December 31, 1989, a member who first became a member on or before December 31, 1989, and who elected or elects on or before December 31, 1989 to contribute to the member investment plan shall contribute 4% of the member's compensation to the member investment plan and beginning January 1, 1990 shall contribute 3.9% of the member's compensation to the member investment plan.

(3) On or before January 1, 1993, a member who first became a member on or before December 31, 1989, except as otherwise provided in subsection (4), and who did not elect to make contributions to the member investment plan, may irrevocably elect to make the contributions described in subsection (2). In addition to making the contributions required under subsection (2), a member who elects to make contributions to the member investment plan under this subsection shall make a contribution of 4% of the compensation received on or after January 1, 1987 to December 31, 1989, and 3.9% of the compensation received on or after January 1, 1990 to the date of the election, plus an amount equal to the compound interest that would have accumulated on those contributions as described in section 33, plus an amount equal to the net actuarial cost of the additional benefits attributable to service credited before January 1, 1987, as determined by the retirement board. The method and timing of payment by a member under this subsection shall be determined by the retirement

board. The contributions made under this subsection shall be deposited into the reserve for employee contributions.

(4) A member who first became a member on or before December 31, 1986 but did not perform membership service between December 31, 1986 and January 1, 1990, and who returns to membership service on or after January 1, 1990 and before July 1, 2008 shall make the contributions described in subsection (7).

(5) A member who first became a member on or after January 1, 1990 and before July 1, 2008 shall make the contributions described in subsection (7).

(6) A member who first became a member on or after January 1, 1987 but before January 1, 1990 shall have 30 days from his or her first date of employment to irrevocably elect to make the contributions described in subsection (2).

(7) A member who first became a member on or after January 1, 1990 and before July 1, 2008 shall contribute the following amounts to the member investment plan:

Member's annual school fiscal year earned compensation	Amount payable to the member investment plan
Not over $5,000.00	3% of member's compensation
Over $5,000.00 but not over $15,000.00	$150.00, plus 3.6% of the excess over $5,000.00
Over $15,000.00	$510.00, plus 4.3% of the excess over $15,000.00

(8) A member who first became a member on or after July 1, 2008 shall contribute the following amounts to the member investment plan:

Member's annual school fiscal year earned compensation	Amount payable to the member investment plan
Not over $5,000.00	3% of member's compensation
Over $5,000.00 but not over $15,000.00	$150.00, plus 3.6% of excess over $5,000.00
Over $15,000.00	$510.00, plus 6.4% of the excess over $15,000.00

38.1360 Purchase of service credit; 2 years' service credit required.

Sec. 60. Notwithstanding any provision of this act to the contrary, on and after July 1, 2008, a member shall not purchase service credit under this act unless the member has been granted at least 2 years of service credit under section 68.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 112]

(SB 622)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 1003 (MCL 330.2003), as amended by 1993 PA 252.

The People of the State of Michigan enact:

330.2003 Corrections mental health program; establishment and operation; appointment and qualifications of program director.

Sec. 1003. The department of corrections shall establish and operate the corrections mental health program to provide mental health services for prisoners who are mentally retarded or mentally ill and need those services. The director of the department shall review the program's structure, content, quality standards, and implementation. The department of corrections may contract with the department or third-party providers to operate the corrections mental health program. The director of the department of corrections shall appoint the director of the corrections mental health program. The director of the corrections mental health program shall be an individual with an advanced degree in a mental health field and a minimum of 5 years' experience in a mental health field.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5194.

(b) House Bill No. 5198.

This act is ordered to take immediate effect.
Approved October 1, 2007.
Filed with Secretary of State October 1, 2007.

Compiler's note: House Bill No. 5194, referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 94, Imd. Eff. Oct. 1, 2007.

House Bill No. 5198, also referred to in enacting section 1, was filed with the Secretary of State October 1, 2007, and became 2007 PA 93, Eff. Dec. 1, 2007.

[No. 113]

(HB 4956)

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department

of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending sections 1105, 1107, 1109, 2111, 2113, 2119, 2123, 2125, 2129, 3103, 3119, 3121, 3123, 3125, 3127, 3135, 3137, 3139, 4101, 4103, 4105, and 4107 (MCL 289.1105, 289.1107, 289.1109, 289.2111, 289.2113, 289.2119, 289.2123, 289.2125, 289.2129, 289.3103, 289.3119, 289.3121, 289.3123, 289.3125, 289.3127, 289.3135, 289.3137, 289.3139, 289.4101, 289.4103, 289.4105, and 289.4107), sections 1109 and 3119 as amended by 2002 PA 487; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

289.1105 Definitions; A to C.

Sec. 1105. As used in this act:

(a) "Adulterated" means food to which any of the following apply:

(*i*) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food is not considered adulterated if the quantity of that substance in the food does not ordinarily render it injurious to health.

(*ii*) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (*v*).

(*iii*) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (*v*).

(*iv*) It bears or contains any food additive considered unsafe within the meaning of subparagraph (*v*) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (*v*) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (*v*) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(*v*) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(*vi*) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 360b of the federal act, 21 USC 360b.

(*vii*) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(*viii*) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(*ix*) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(*x*) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(*xi*) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(*xii*) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(*xiii*) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (*v*).

(*xiv*) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(*xv*) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(c) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts, or other meals in the case of a bed and breakfast described in section 1107(n)(*ii*), at no extra cost to its transient tenants. A bed and breakfast is not considered a food service establishment if exempt under section 1107(n)(*ii*) or (*iii*).

(d) "Color additive" means a dye, pigment, or other substance made by process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or when added or applied to a food or any part of a food is capable alone or through reaction with other substance of imparting color to the food. Color additive does not include any material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply