local ordinance substantially corresponding to sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129, when authorized by the chief judge of the district court district and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of sections 81134, 81135, 82128, and 82129 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, 324.81135, 324.82128, and 324.82129.

(d) To arraign, when authorized by the chief judge of the district court district, for a contempt violation or a violation of a condition of probation when either arises directly out of a case for which a judge or district court magistrate conducted the arraignment under subdivision (a), (b), or (c), or the first appearance under section 8513, involving the same defendant. This subdivision applies only to offenses punishable by imprisonment for not more than 1 year or a fine, or both. The district court magistrate may set bond and accept a plea but may not conduct a violation hearing or sentencing.

(e) To issue warrants for the arrest of a person upon the written authorization of the prosecuting or municipal attorney, except written authorization shall not be required for a vehicle law or ordinance violation within the jurisdiction of the magistrate if a police officer issued a traffic citation pursuant to section 728 of the Michigan vehicle code, 1949 PA 300, MCL 257.728, and the defendant failed to appear.

(f) To fix bail and accept bond in all cases.

(g) To issue search warrants, when authorized to do so by a district court judge.

600.8513 Additional powers of district court magistrate.

Sec. 8513. (1) When authorized by the chief judge of the district and whenever a district judge is not immediately available, a district court magistrate may conduct the first appearance of a defendant before the court in all criminal and ordinance violation cases, including acceptance of any written demand or waiver of preliminary examination and acceptance of any written demand or waiver of jury trial. However, this section does not authorize a district court magistrate to accept a plea of guilty or nolo contendere not expressly authorized pursuant to section 8511 or 8512a. A defendant neither demanding nor waiving preliminary examination in writing is deemed to have demanded preliminary examination and a defendant neither demanding nor waiving jury trial in writing is considered to have demanded a jury trial.

(2) If authorized by the chief judge of the district, a district court magistrate may do any of the following:

(a) Approve and grant petitions for the appointment of an attorney to represent an indigent defendant accused of any misdemeanor punishable by imprisonment for not more than 1 year or ordinance violation punishable by imprisonment.

(b) Suspend payment of court fees by an indigent party in any civil, small claims, or summary proceedings action, until after judgment has been entered.

(c) Upon written authorization of the prosecuting or city attorney, sign a nolle prosequi, dismissing any criminal or ordinance violation case over which the district court has jurisdiction and release any bail bond or bail bond deposit to the persons entitled to the bail bond or deposit. However, if the preliminary examination or trial has commenced or a plea of guilty or nolo contendere has been accepted by a district court judge, the dismissal order may be entered only by that judge or his or her alternate.

(d) Execute and issue process to carry into effect authority expressly granted by law to district court magistrates.

(3) A district court magistrate, for acts done within his or her jurisdiction as provided by law, has judicial immunity to the extent accorded a district court judge.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 96]

(HB 4215)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 7cc (MCL 211.7cc), as amended by 2006 PA 664.

The People of the State of Michigan enact:

211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures.

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) Except as otherwise provided in subsection (5), an owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL

205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(*i*) That person has claimed an exemption under this section for any other property for that tax year.

(*ii*) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or, except as otherwise provided in subsection (5), is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. However, if an owner is eligible for and claims an exemption for that owner's current principal residence, that owner may retain an exemption for not more than 3 tax years on property previously exempt as his or her principal residence if that property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose by filing a conditional rescission form prescribed by the department of treasury on or before May 1 with the local tax collecting unit. Property is eligible for a conditional rescission if that property is available for lease and all other conditions under this subsection are met. A copy of the conditional rescission form shall be forwarded to the department of treasury according to a schedule prescribed by the department of treasury. An owner who files a conditional

rescission form shall annually verify to the assessor of the local tax collecting unit on or before December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. If an owner does not annually verify by December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose, the assessor of the local tax collecting unit shall deny the principal residence exemption on that property. If property subject to a conditional rescission is leased, the local tax collecting unit shall deny that conditional rescission and that denial is retroactive and is effective on December 31 of the year immediately preceding the year in which the property subject to the conditional rescission is leased. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) Except as otherwise provided in subsection (5), if the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for

exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. Except as otherwise provided in subsection (5), if the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and

interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may, except as otherwise provided in subsection (5), deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and

submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) Except as otherwise provided in subsection (5), an affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located if the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines

that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 70%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 70%.

(*iii*) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

(*i*) The square footage of the property used exclusively as that owner's principal residence.

(*ii*) 50% of the square footage of the property's common area.

(*iii*) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(*i*) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(*ii*) Serves meals at no extra cost to its transient tenants.

(*iii*) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) "Common area" includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.

This act is ordered to take immediate effect.
Approved April 8, 2008.
Filed with Secretary of State April 8, 2008.

[No. 97]

(SB 1192)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 113 (MCL 208.1113), as amended by 2007 PA 145.

The People of the State of Michigan enact:

208.1113 Definitions; P and R.

Sec. 113. (1) "Partner" means a partner or member of a partnership.

(2) "Partnership" means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.

(3) "Person" means an individual, firm, bank, financial institution, insurance company, limited partnership, limited liability partnership, copartnership, partnership, joint venture, association, corporation, subchapter S corporation, limited liability company, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(4) "Professional employer organization" means an organization that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement

that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees' work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(5) Professional employer organization is not a staffing company as that term is defined in subsection (6).

(6) "Purchases from other firms" means all of the following:

(a) Inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.

(b) Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.

(c) To the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.

(d) For a staffing company, compensation of personnel supplied to customers of staffing companies. As used in this subdivision:

(*i*) "Compensation" means that term as defined under section 107 plus all payroll tax and worker's compensation costs.

(*ii*) "Staffing company" means a taxpayer whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor.

(e) For a person included in major groups 15, 16, and 17 under the standard industrial classification code as compiled by the United States department of labor that does not qualify for a credit under section 417, payments to subcontractors for a construction project under a contract specific to that project.

(f) For the 2008 tax year and each tax year after 2008, all film rental or royalty payments paid by a theater owner to a film distributor, a film producer, or a film distributor and producer.

(7) "Revenue mile" means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

This act is ordered to take immediate effect.
Approved April 15, 2008.
Filed with Secretary of State April 15, 2008.

[No. 98]

(SB 1223)

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development

authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," (MCL 125.2001 to 125.2094) by adding sections 89b, 89c, and 89d.

The People of the State of Michigan enact:

125.2089b Michigan promotion program; appropriation and transfer of funds; appropriation as work project; carrying forward unencumbered or unallotted funds; compliance with MCL 18.1451a.

Sec. 89b. (1) For the fiscal year ending September 30, 2008, there is appropriated and transferred from the general fund to the 21st century jobs trust fund $60,000,000.00 and there is appropriated from the 21st century jobs trust fund to the fund $50,000,000.00 for carrying out the purposes of this chapter. Not more than 1/4 of the total amount appropriated from the net proceeds described in section 8(2) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, shall be used to promote business development in this state.

(2) Upon request from the board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund established under section 7(1)(b) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, in the amounts designated by the board at the time and as necessary to fund disbursements required for the Michigan promotion program.

(3) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide economic benefits and job creation within this state through the promotion of tourism.

(b) The work project will be accomplished through the use of interagency agreements, grants, state employees, and contracts.

(c) The total estimated completion cost of the project is $50,000,000.00.

(d) The expected completion date is December 31, 2010.

125.2089c Selection of vendors; request for proposal; evaluation of proposals; establishment of standard process; appointment of committee to review proposals; use of funds; limitation.

Sec. 89c. (1) The fund board shall select vendors for Michigan promotion program expenditures under this chapter exceeding $250,000.00 by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed for at least 5 years. The fund board shall establish a standard process to

evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. Members of any committee or individuals working on behalf of the Michigan strategic fund, paid or unpaid, shall have no conflict of interest as determined by the office of the chief compliance officer established in section 88i. This subsection does not apply to a contract that was in existence on March 25, 2008 or to the extension of a contract in which the right to extend was in existence on or before March 25, 2008.

(2) Not less than 75% of the funds appropriated under this chapter shall be targeted to persons or entities outside of this state. No funds may be used for any Michigan promotion program effort that includes a reference to or the image or voice of an elected official, appointed state employee, state employee governed by a senior executive service limited term employment agreement, or a candidate for elective office, and that is targeted to a media market in this state.

125.2089d Reports; mechanism to report return on investment for agriculture-related tourism; use of data to establish baseline.

Sec. 89d. (1) In addition to any reporting requirements under section 9, on or before April 15, 2009, and each succeeding April 15, the fund shall report to the senate and house appropriations subcommittees that have jurisdiction over economic development issues, the senate and house standing committees that have jurisdiction over economic development issues, and the senate and house fiscal agencies on the programs established in this chapter. The report shall include, but is not limited to, the following information:

(a) For tourism promotion efforts, all of the following:

(*i*) The amount spent for promotion outside of this state.

(*ii*) An itemized list by market of how much was spent, when the promotion occurred, the types of media purchased, and the type of tourism promoted, specifically cultural, vacation, recreational, leisure, hunting-related, or agriculture-related.

(*iii*) The return on investment analysis that utilizes existing baseline data and compares results with prior outcome evaluations funded by travel Michigan.

(b) For business development efforts, all of the following:

(*i*) The amount spent for business development outside of this state.

(*ii*) An itemized list by market of how much was spent, when the promotion occurred, and the types of media purchased.

(*iii*) A performance analysis that compares the program or campaign objectives and outcome of the campaign or program. Outcome measures may include, but are not limited to, businesses relocated to this state, impact on the business community's perception of the quality of life in this state, jobs created, increases in export sales, impact on the number of retailers carrying Michigan commodities, both within and outside of this state, and increased sales of Michigan products at chain grocers.

(2) The fund shall work with the department of agriculture to develop a mechanism to report the return on investment for agriculture-related tourism and compare results with prior outcome evaluations conducted by the department of agriculture if applicable.

(3) The fund shall ensure data reported on or before April 15, 2009 can be used to establish a baseline for future comparison.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 99]

(SB 1224)

AN ACT to amend 2000 PA 489, entitled "An act to create certain funds; to provide for the allocation of certain revenues among certain funds and for the operation, investment, and expenditure of certain funds; and to impose certain duties and requirements on certain state officials," by amending section 7 (MCL 12.257), as amended by 2007 PA 50.

The People of the State of Michigan enact:

12.257 21st century jobs trust fund; establishment; investment; money remaining at close of fiscal year; deposit of interest and earnings; deposit of Michigan tobacco settlement revenue.

Sec. 7. (1) The 21st century jobs trust fund is established in the department of treasury. The 21st century jobs trust fund shall consist of donations of money made to the 21st century jobs trust fund from any source and both of the following:

(a) To the extent provided in section 8(1) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, the net proceeds of the sale of tobacco settlement revenues to the tobacco settlement finance authority under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279.

(b) Amounts appropriated from the general fund in section 89b(1) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2089b.

(2) The state treasurer shall direct the investment of the 21st century jobs trust fund, which may be invested as part of the common cash of this state under 1967 PA 55, MCL 12.51 to 12.53, but shall be separately accounted for by the state treasurer. The state treasurer may invest the funds or assets of the 21st century jobs trust fund in any investment authorized under 1855 PA 105, MCL 21.141 to 21.147, for surplus funds of this state, in obligations issued by any state or political subdivision or instrumentality of the United States, or in any obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, which are not in default as to principal or interest.

(3) Except as provided in subsection (4), money in the 21st century jobs trust fund at the close of a fiscal year shall remain in the 21st century jobs trust fund and shall not revert to the general fund.

(4) Interest and earnings from investment of the 21st century jobs trust fund shall be deposited in the general fund.

(5) Beginning in fiscal year 2008 and through fiscal year 2015, each year $75,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund.

(6) For the fiscal year ending September 30, 2016 only, $30,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 100]

(HB 5865)

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," (MCL 125.2001 to 125.2094) by adding chapter 8B.

The People of the State of Michigan enact:

CHAPTER 8B

125.2089 Legislative findings; intent; scope of activities.

Sec. 89. (1) The legislature finds and declares that the activities authorized under this chapter to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state.

(2) Activities authorized under this chapter shall not be considered a project, economic development project, or a product assisted by the fund for purposes of chapter 1 or 2.

125.2089a Michigan promotion program; establishment; tourism promotion explained; funding; use of appropriation provided from 21st century jobs trust fund.

Sec. 89a. (1) The board shall establish a Michigan promotion program to promote tourism in Michigan and pay business development and marketing costs to promote business development in Michigan. Tourism promotion shall include, but is not limited to, cultural, vacation, recreational, leisure, hunting-related, motor sports entertainment-related, and agriculture-related travel across this state that includes activities that promote tourism in all 4 seasons.

(2) The funding provided under this chapter for tourism promotion is intended to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures and development of the tourism industry in this state.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purpose of administering the program authorized under this chapter.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 101]

(HB 5866)

AN ACT to amend 2005 PA 226, entitled "An act to create the Michigan tobacco settlement finance authority; to create funds and accounts; to provide for the sale by this state and the purchase by the authority of all or a portion of tobacco settlement assets; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority, the state administrative board, the state treasurer, and certain other state officials and state employees; and to make appropriations and prescribe certain conditions for the appropriations," by amending section 8 (MCL 129.268), as amended by 2007 PA 18.

The People of the State of Michigan enact:

129.268 Sale of state's tobacco receipts; terms; agreement; refunding, refinancing, and sale of residual interests; purchase price; remedies; approval by resolution adopted by state administrative board; absolute transfer; limitation on use of net proceeds and earnings.

Sec. 8. (1) The state budget director with the approval of the state administrative board may sell to the authority, and the authority may purchase, for cash or other consideration and in 1 or more installments, all or a portion of the state's tobacco receipts pursuant to the terms of 1 or more sale agreements. In the alternative, the state budget director with the approval of the state administrative board may sell all or a portion of the state's tobacco receipts for cash or other consideration to a person or persons other than the authority, if the terms of the sale agreement to sell the state's tobacco receipts are in the best interests of this state and the net proceeds of the sale will not exceed $400,000,000.00. If the sale to a person or persons other than the authority is in the best interests of this state, the state administrative board shall approve the terms of the sale agreement. The sale agreement or combined sale agreements shall provide for the sale of that portion of the state's tobacco receipts sufficient to provide net proceeds to the state in the amount of $815,000,000.00, of which $400,000,000.00 shall be deposited to and held, used, and expended by the state treasurer in the manner provided for in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, $207,800,000.00 shall be deposited in the state school aid fund established by section 11 of article IX of the state constitution of 1963, and the balance shall be deposited in the general fund.

(2) A sale agreement or combined sale agreements under this section may also provide for refunding, refinancing, and the sale by this state of residual interests sufficient to provide net proceeds to the state in the amount of $60,000,000.00. Any net proceeds resulting from a refunding or refinancing of bonds issued under this act prior to the effective date of the amendatory act that added this subsection or the sale of residual interests existing on or after the effective date of the amendatory act that added this subsection shall be deposited in the general fund.

(3) Any sale agreement shall provide that the purchase price payable by the authority to the state for TSRs shall consist of the net proceeds and the residual interests, if any. In addition, any sale shall be pursuant to 1 or more sale agreements that may contain the terms and conditions considered appropriate by the state budget director to carry out and effectuate the purposes of this section, including without limitation covenants binding this state in favor of the authority and its assignees, including without limitation the owners of the bonds and benefited parties, including a requirement that the state enforce the provisions of the master settlement agreement that require the payment of the TSRs, a requirement that the state enforce the provisions of the qualifying statute, a provision authorizing inclusion of the state's pledge and agreement, as set forth in section 11, in any agreement with owners of

the bonds or any benefited parties, and covenants with respect to the application and use of the proceeds of the sale of the state's tobacco receipts to preserve the tax exemption of the interest on any bonds, if issued as tax-exempt. The state budget director in any sale agreement may agree to, and the authority may provide for, the assignment of the authority's right, title, and interest under the sale agreement for the benefit and security of the owners of bonds and benefited parties.

(4) A sale agreement may provide that the remedies available to the authority and the bondholders for any breach of the pledges and agreements of this state set forth in subsection (3) shall be limited to injunctive relief and that this state shall be considered to have diligently enforced the qualifying statute if there has been no judicial determination by a court of competent jurisdiction in this state, in an action commenced by a participating tobacco manufacturer under the master settlement agreement, that this state has failed to diligently enforce the qualifying statute.

(5) The approval of the state administrative board shall be made by a resolution adopted by the state administrative board and that approval together with the sale agreement made pursuant to that approval shall be conclusively presumed to be valid for all purposes unless challenged in an action brought in the court of appeals within 30 days after the adoption of the resolution. All challenges shall be heard and determined as expeditiously as possible with lawful precedence over other matters. Consideration by the court of appeals shall be based solely on the record before the state administrative board and briefs to the court shall be limited to whether the resolution conforms to the constitution and laws of this state and the United States and is within the authority of the state administrative board under this act.

(6) A sale of all or a portion of the state's tobacco receipts to the authority under a sale agreement shall be treated as a true sale and absolute transfer of the state's tobacco receipts transferred and not as a pledge or other security interest for any borrowing. A sale agreement that expressly states that the transfer of all or a portion of the state's tobacco receipts to the authority is a sale or other absolute transfer signifies that the transaction is a true sale and is not a secured transaction and that title, legal and equitable, has passed to the authority. The characterization of a sale as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the state's tobacco receipts are transferred, or by the acquisition or retention by this state of a residual interest, or by the participation by any state official as a member or officer of the authority, or by whether the state is responsible for collecting the TSRs or otherwise enforcing the master settlement agreement or retains legal title to the portion of the state's tobacco receipts for the purposes of these collection activities, or by any characterization of the authority or its obligations for purposes of accounting, taxation, or securities regulation, or by any other factor whatsoever. A true sale under this act exists regardless of whether the authority has any recourse against this state, or any other term of the sale agreement, including the fact that this state acts as a collector of the state's tobacco receipts or the treatment of the transfer as a financing for any purpose.

(7) On and after the effective date of each sale of TSRs, the state shall have no right, title, or interest in or to the TSRs sold, and the TSRs sold shall be property of the authority and not of this state, and shall be owned, received, held, and disbursed by the authority and not this state. On or before the effective date of a sale described in this subsection, this state through the state treasurer shall notify the escrow agent under the master settlement agreement that this state has sold all or a portion of the state's tobacco receipts to the authority, including, if applicable, a statement as to the percentage sold and shall irrevocably instruct the escrow agent that, subsequent to the date specified in the notice, that portion of the state's tobacco receipts are to be paid directly to the authority or the trustee under the applicable authority resolution, trust agreement, or trust indenture for the benefit of the

owners of the bonds and benefited parties until the authority's bonds and ancillary facilities are no longer outstanding. Once the bonds or ancillary facilities are no longer outstanding, an officer or agent of this state who shall receive any TSRs shall hold them in trust for the authority or the trustee, as applicable, and shall promptly remit the same to the authority or the trustee, as applicable.

(8) The net proceeds and any earnings on the net proceeds shall never be pledged to, or made available for, payment of the bonds or ancillary facilities or any interest or redemption price or any other debt or obligation of the authority.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 102]

(HB 5867)

AN ACT to amend 2000 PA 489, entitled "An act to create certain funds; to provide for the allocation of certain revenues among certain funds and for the operation, investment, and expenditure of certain funds; and to impose certain duties and requirements on certain state officials," by amending section 8 (MCL 12.258), as added by 2005 PA 232.

The People of the State of Michigan enact:

12.258 Transfer and disbursement of funds; purpose.

Sec. 8. (1) Upon request from the fund board as defined in section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a, except as provided in subsection (2), the state treasurer shall transfer and disburse appropriated funds from the 21st century jobs trust fund only for the purpose of carrying out and at the specified time and as necessary to implement chapter 8A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088 to 125.2088p.

(2) The state treasurer shall transfer and disburse the amounts described in section 7(1)(b) for the purposes described in chapter 8B of the Michigan strategic fund act, 1984 PA 270, MCL 125.2089 to 125.2089d, as provided by an appropriation.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 103]

(SB 1157)

AN ACT to amend 1960 PA 77, entitled "An act to create the Michigan higher education assistance authority and to prescribe its powers and duties; to authorize persons, corporations, and associations to make gifts to the authority; to prescribe the powers and duties of certain state officials; to authorize, ratify, and confirm certain guarantees of students' loans and authorize reguarantees; to authorize, ratify, and confirm certain guarantees of loans

made to parents of students; to validate certain prior appropriations; and to authorize the transfer of certain appropriations to be transferred to and administered by the authority," (MCL 390.951 to 390.961) by adding section 7b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

390.957b Use of money from Michigan guaranty agency's operating fund for state competitive scholarship program; requirements.

Sec. 7b. (1) The authority may use money from the Michigan guaranty agency's operating fund for the state competitive scholarship program described in 1964 PA 208, MCL 390.971 to 390.981, if all of the following are met:

(a) The money is used by the authority only in the state fiscal year ending September 30, 2008.

(b) Federal law does not prohibit use of the money used from the Michigan guaranty agency's operating fund in the manner described in this subsection.

(2) The authority described in this section is in addition to the powers described in section 7.

Repeal of MCL 390.957b.

Enacting section 1. Section 7b of 1960 PA 77, MCL 390.957b, is repealed effective October 1, 2008.

This act is ordered to take immediate effect.
Approved April 18, 2008.
Filed with Secretary of State April 18, 2008.

[No. 104]

(SB 1203)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," (MCL 125.2151 to 125.2174) by adding section 12b.

The People of the State of Michigan enact:

125.2162b Creation of authority in which certified technology park designated; agreement with another authority; designation of distinct geographic area; consideration of advantages and benefits.

Sec. 12b. A municipality that has created an authority in which a certified technology park has been designated under this act may enter into an agreement with another authority that does not contain a certified technology park to designate a distinct geographic area

within the authority district as a certified technology park. The authority shall consider the advantages of the unique characteristics and specialties offered by the public and private resources available in the distinct geographic area, shall consider the benefits to regional cooperation and collaboration, and shall consider whether designating the additional distinct geographic area adds value to the mission of the designated certified technology park. The distinct geographic area is subject to the provisions of section 12a(3), (4), and (5). The state treasurer shall not approve the capture of amounts levied by the state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local and intermediate school districts as permitted in section 2(ee)(*ii*)(B) for more than 3 distinct geographic areas designated under this section. A copy of the designation shall be filed with the Michigan economic development corporation.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5609 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 23, 2008.
Filed with Secretary of State April 23, 2008.

Compiler's note: House Bill No. 5609, referred to in enacting section 1, was filed with the Secretary of State April 23, 2008, and became 2008 PA 105, Imd. Eff. Apr. 23, 2008.

[No. 105]

(HB 5609)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," by amending section 12a (MCL 125.2162a), as amended by 2004 PA 365.

The People of the State of Michigan enact:

125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement; determination of sale price or rental value for public facilities; inclusion of legal and equitable remedies and rights; marketing services; additional certified technology parks; priority to certain applications; duties of state.

Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the

Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

(*i*) Grants of preferences for access to and commercialization of intellectual property.

(*ii*) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.

(*iii*) Donations of services.

(*iv*) Access to telecommunication facilities and other infrastructure.

(*v*) Financial commitments.

(*vi*) Access to faculty, staff, and students.

(*vii*) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(*i*) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(*ii*) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(*iii*) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(*i*) A commitment to new business formation.

(*ii*) The clustering of businesses, technology, and research.

(*iii*) The opportunity for and costs of development of properties under common ownership or control.

(*iv*) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(*v*) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(p)(*iii*) and (*v*).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(aa).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) Except as otherwise provided in this section, an agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date. However, the Michigan economic development corporation may enter into an agreement with a municipality after December 31, 2002 and on or before December 31, 2005 if that municipality has adopted a resolution of interest to create a certified technology park before December 31, 2002.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsections (9) and (10), the Michigan economic development corporation shall not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology

park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002 and before December 31, 2007. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation may designate an additional 3 certified technology parks after February 1, 2008 and before December 31, 2008. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after February 1, 2008.

(11) The Michigan economic development corporation shall give priority to applications that include new business activity.

(12) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(13) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsections (9) and (10) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after October 3, 2002. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) or (10) after October 3, 2002.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1203 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 23, 2008.
Filed with Secretary of State April 23, 2008.

Compiler's note: Senate Bill No. 1203, referred to in enacting section 1, was filed with the Secretary of State April 23, 2008, and became 2008 PA 104, Imd. Eff. Apr. 23, 2008.

[No. 106]

(SB 192)

AN ACT to amend 1955 PA 133, entitled "An act to provide for the granting of military leaves and providing re-employment protection for officers and enlisted men of the military or naval forces of the state or of the United States," by amending section 3 (MCL 32.273), as amended by 2002 PA 121.

The People of the State of Michigan enact:

32.273 Members of military or naval forces; leave of absence from employment for military purposes; reemployment; priority; seniority, rights, and benefits; exception; action against employer; remedies; definitions.

Sec. 3. (1) An employee who gives advance notice for a period of leave from his or her employment shall not be denied a leave of absence by his or her employer for the purpose of being inducted into or entering into active service, active state service, or the service of the United States, for the purpose of determining his or her physical fitness to enter the service, or for performing service as an officer or enlisted member of the military or naval forces of this state or of the United States in active state service or under title 10 or title 32 of the United States code. If the employee reports to work or applies to the employer within 45 days or, if the service was for more than 180 days, within 90 days following release from service, release from duty, or rejection, the employer shall reemploy the employee in the following order of priority:

(a) Following service of 1 to 90 days, in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by service, the duties of which the person is qualified to perform.

(b) Following service of 1 to 90 days, in the position of employment in which the person was employed on the date of the commencement of service, only if the person is not qualified to perform the duties of the position referred to in subdivision (a) and after reasonable efforts by the employer to qualify the person have been made.

(c) Following service of 91 or more days, a position described under subdivision (a) or (b) or in a position that is the nearest approximation in status and pay to a position described in subdivision (a) or (b) that the person is qualified to perform, only if the person is not qualified and cannot become qualified with reasonable efforts by the employer to be employed as described in subdivision (b).

(2) A person who is reemployed under this section is entitled to the seniority and other rights and benefits that are determined by seniority that the person had on the date of the commencement of service plus the additional seniority and rights and benefits that the person would have attained if the person had been continually employed.

(3) In addition to the seniority, rights, and benefits under subsection (2), a person who is reemployed under this section is entitled to rights and benefits, not determined by seniority, that are generally provided by the employer to employees who have similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of service or established while the person performs service.

(4) The employee is not entitled to reemployment under this section if the employee who is absent by reason of active service, active state service, or the service of the United States has an uninterrupted period of service in the uniformed services, with respect to the employer

relationship for which a person seeks reemployment, that exceeds 5 years, except that for purposes of this subsection, a period of service shall not include any of the following:

(a) Any service that is required, beyond 5 years, to complete an initial period of obligated service.

(b) Any service during which the person was unable to obtain orders releasing him or her from a period of service in the uniformed services before the expiration of the 5-year period and the inability was through no fault of the person.

(c) Any service performed as required pursuant to 10 USC 10147, under 32 USC 502(a) or 503, or to fulfill additional training requirements determined and certified in writing by the appropriate service secretary to be necessary for professional development or for completion of skill training or retraining.

(d) Any service performed by a member in active service, active state service, or the service of the United States if any of the following occur:

(*i*) The member is ordered to or retained on active duty, active service, or active state service under 10 USC 688, 12301(a), 12301(g), 12302, 12304, or 12305, or under 14 USC 331, 332, 359, 360, 367, or 712.

(*ii*) The member is ordered to or retained on active duty, active service, or active state service, other than for training, under any provision of law because of a war or national emergency declared by the president, the congress, or the governor.

(*iii*) The member is ordered to active duty, other than for training, in support, as determined by the appropriate service secretary, of an operational mission for which personnel have been ordered to active duty under 10 USC 12304.

(*iv*) The member is ordered to active duty in support, as determined by the appropriate service secretary, of a critical mission or requirement of the uniformed services.

(*v*) The member is called into federal service as a member of the national guard under 10 USC 331 to 335 or under 10 USC 12406.

(5) An employee is not entitled to the benefits under this section if the service of the employee in any of the uniformed services is terminated under any of the following circumstances:

(a) A separation of the person from the uniformed service or national guard with a dishonorable or bad conduct discharge.

(b) A separation of the person from the uniformed service or national guard under other than honorable conditions, as characterized pursuant to regulations prescribed by the appropriate service secretary.

(c) A dismissal of the person under 10 USC 1161(a).

(d) A dropping from the rolls pursuant to 10 USC 1161(b).

(6) An employee who meets the requirements of this section and is denied reemployment after reporting to work or applying to the employer may bring an action against the employer in the circuit court for the employee's county of residence and shall be awarded reinstatement and reasonable attorney fees.

(7) As used in this section:

(a) "Active service" means service, including active state service or special duty required by law, regulation, or pursuant to order of the governor. Active service includes continuing service of an active member of the national guard and the defense force in fulfilling that active member's commission, appointment, or enlistment.

(b) "Active state service", as applied to the national guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this subdivision, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) "Service" means active service, active state service, or in the service of the United States.

(d) "Service secretary" means the secretary concerned as defined in 10 USC 101(a)(9).

(e) "Uniformed service" means the armed forces, the reserve component, the national guard in active service or active state service, the commissioned corps of the public health service, and any other category of persons designated by the president or governor in time of war or national emergency.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 25, 2008.

[No. 107]

(SB 120)

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 14j.

The People of the State of Michigan enact:

400.14j Issuance of food assistance benefits; number of times per month.

Sec. 14j. (1) If the department determines that an individual is eligible for food assistance benefits of $100.00 per month or more, the department shall issue his or her regular food assistance benefits 2 times each month. The department may continue to issue food assistance benefits 1 time per month to recipients receiving food assistance benefits that are less than $100.00 per month. The department may continue to issue food assistance benefits on a staggered basis by case ending digit.

(2) This section does not apply to issuing initial food assistance benefits, retroactive food assistance benefits, or supplemental food assistance benefits.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 25, 2008.

[No. 108]

(SB 1187)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 3 and 5 (MCL 207.803 and 207.805), section 3 as amended by 2008 PA 87 and section 5 as amended by 2003 PA 248.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

(a) "Affiliated business" means a business that is at least 50% owned and controlled, directly or indirectly, by an associated business.

(b) "Associated business" means a business that owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) "Authorized business" means 1 of the following:

(*i*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(*ii*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by an associated business, subsidiary business, affiliated business, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

(d) "Authority" means the Michigan economic growth authority created under section 4.

(e) "Business" means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) "Distressed business" means a business that meets all of the following as verified by the Michigan economic growth authority:

(*i*) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(*ii*) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(*iii*) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) "Eligible business" means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, film and digital media production, or office operations or a business that is a qualified high-technology business or a business that is a tourism attraction facility or a qualified lodging facility. Except for a retail establishment that meets the criteria in section 8(11), an eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) "Facility" means a site or sites within this state in which an authorized business or subsidiary business maintains retained jobs or creates qualified new jobs.

(i) "Film and digital media production" means the development, preproduction, production, postproduction, and distribution of single media or multimedia entertainment content for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Film and digital media production also includes the development, preproduction, production, postproduction, and distribution of a trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a film or digital media production. Film or digital media production does not include the production of any of the following:

(*i*) A production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257.

(*ii*) A production that includes obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374.

(*iii*) A production that primarily consists of televised news or current events.

(*iv*) A production that primarily consists of a live sporting event.

(*v*) A production that primarily consists of political advertising.

(*vi*) A radio program.

(*vii*) A weather show.

(*viii*) A financial market report.

(*ix*) A talk show.

(*x*) A game show.

(*xi*) A production that primarily markets a product or service.

(*xii*) An awards show or other gala event production.

(*xiii*) A production with the primary purpose of fund-raising.

(*xiv*) A production that primarily is for employee training or in-house corporate advertising or other similar production.

(j) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(*i*) An authorized business.

(*ii*) An employee leasing company.

(*iii*) A professional employer organization on behalf of the authorized business.

(*iv*) Another person as provided in section 8(1)(c).

(*v*) A business that sells all or part of its assets to an eligible business that receives a credit under section 8(1) or (5).

(k) "Local governmental unit" means a county, city, village, or township in this state.

(*l*) "High-technology activity" means 1 or more of the following:

(*i*) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(D) Film and digital media production.

(*ii*) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(*iii*) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(*iv*) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(*v*) Engineering or laboratory testing related to the development of a product.

(*vi*) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(*vii*) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(*viii*) Product research and development.

(*ix*) Advanced vehicles technology, which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) "Electric vehicle" means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) "Hybrid vehicle" means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(*x*) Tool and die manufacturing.

(*xi*) Competitive edge technology as defined in section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

(*xii*) Digital media, including internet publishing and broadcasting, video gaming, web development, and entertainment technology.

(*xiii*) Music production, including record production and development, sound recording studios, and integrated high-technology record production and distribution.

(*xiv*) Film and video, including motion picture and video production and distribution, postproduction services, and teleproduction and production services.

(m) "New capital investment" means 1 or more of the following:

(*i*) New construction. As used in this subparagraph:

(A) "New construction" means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) "Replacement construction" means that term as defined in section 34d(1)(b)(*v*) of the general property tax act, 1893 PA 206, MCL 211.34d.

(*ii*) The purchase of new personal property. As used in this subparagraph, "new personal property" means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, on the date the authorized business enters into a written agreement with the authority.

(n) "Qualified high-technology business" means a business or facility whose primary business activity is high-technology activity or a qualified high-wage activity.

(o) "Qualified high-wage activity" means a business that has an average wage. Qualified high-wage activity may also include, but is not limited to, 1 or more of the following as long as they have an average wage of 300% or more of the federal minimum wage:

(*i*) Architecture and design, including architectural design, graphic design, interior design, fashion design, and industrial design.

(*ii*) Advertising and marketing, including advertising and marketing firms and agencies, public relations agencies, and display advertising.

(p) "Qualified lodging facility" means 1 or more of the following:

(*i*) Lodging facilities that constitute a portion of a tourism attraction facility and represent less than 50% of the total cost of the tourism attraction facility, or the lodging facilities are to be located on recreational property owned or leased by the municipal, state, or federal government.

(*ii*) The lodging facilities involve the restoration or rehabilitation of a structure that is listed individually in the national register of historic places or are located in a national register historic district and certified by this state as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by this state.

(q) "Qualified new job" means 1 of the following:

(*i*) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(*ii*) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state up to 120 days before the eligible business became an authorized business, as determined by the authority.

(*iii*) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(r) "Retained jobs" means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(s) "Rural business" means an eligible business located in a county with a population of 90,000 or less.

(t) "Subsidiary business" means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

(u) "Tourism attraction facility" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomena or scenic beauty, or an entertainment destination center as determined by the Michigan economic growth authority as follows:

(*i*) In making a determination, the Michigan economic growth authority shall consider all of the following:

(A) Whether the facility will actually attract tourists.

(B) Whether 50% or more of the persons using the facility reside outside a 100-mile radius.

(C) Whether 50% or more of the gross receipts are from admissions, food, or nonalcoholic drinks.

(D) Whether the facility offers a unique experience.

(*ii*) The Michigan economic growth authority shall not determine any of the following as a tourism attraction facility:

(A) Facilities, other than an entertainment destination center, that are primarily devoted to the retail sale of goods, a theme restaurant destination attraction, or a tourism attraction where the attraction is a secondary and subordinate component to the sale of goods.

(B) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the facility.

(v) "Written agreement" means a written agreement made pursuant to section 8. A written agreement may address new jobs, qualified new jobs, full-time jobs, retained jobs, or any combination of new jobs, qualified new jobs, full-time jobs, or retained jobs.

207.805 Michigan economic growth authority; powers; quorum; meetings; business conducted at public meeting; confidential information; written statement; disclosure; "financial or proprietary information" defined.

Sec. 5. (1) The powers of the authority are vested in the authority members in office. Regardless of the existence of a vacancy, a majority of the members of the authority constitutes a quorum necessary for the transaction of business at a meeting or the exercise of a power or function of the authority. Action may be taken by the authority at a meeting upon a vote of the majority of the members present. Members of the authority may be present in

person at a meeting of the authority or, if authorized by the bylaws of the authority, by use of telecommunications or other electronic equipment.

(2) The authority shall meet at the call of the chairperson or as may be provided by the authority. Meetings of the authority may be held anywhere within this state.

(3) The business of the authority shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given as provided by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A record or portion of a record, material, or other data received, prepared, used, or retained by the authority in connection with an application for a tax credit under section 9 that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the authority as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A designee of the authority shall make the determination as to whether the authority acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the authority shall not acknowledge routine financial information as confidential. If the designee of the authority determines that information submitted to the authority is financial or proprietary information and is confidential, the designee of the authority shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the designee of the authority to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

(4) The authority shall not disclose financial or proprietary information not subject to disclosure pursuant to subsection (3) without consent of the applicant submitting the information.

(5) As used in this section, "financial or proprietary information" means information that has not been publicly disseminated or is unavailable from other sources, the release of which might cause the applicant significant competitive harm. Financial or proprietary information does not include a written agreement under 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) Senate Bill No. 1188.

(b) Senate Bill No. 1189.

(c) Senate Bill No. 1190.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 28, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1188 was filed with the Secretary of State April 28, 2008, and became 2008 PA 109, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1189 was filed with the Secretary of State April 28, 2008, and became 2008 PA 110, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1190 was filed with the Secretary of State April 28, 2008, and became 2008 PA 111, Imd. Eff. Apr. 28, 2008.

[No. 109]

(SB 1188)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," (MCL 208.1101 to 208.1601) by adding section 431b.

The People of the State of Michigan enact:

208.1431b Agreement with person or group of persons; tax credit; factors to be considered by Michigan economic growth authority; contents of agreement; amount of credit; issuance of certificate of designation; statement; definitions.

Sec. 431b. (1) Upon application, a person or group of persons acting collectively may enter into an agreement with the Michigan economic growth authority for a credit under this section. In determining whether to enter into an agreement with a person or group of persons, the authority shall consider the following factors:

(a) The number of qualified new jobs or products, or both, to be created or maintained as a result of winning a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(b) The potential impact of the expansion, retention, or location on the economy of Michigan if the person or group of persons acting collectively is awarded the federal contract described under subdivision (a).

(c) The number of out-of-state persons bidding against the person or group of persons acting collectively for the federal contract described under subdivision (a).

(d) The total capital investment or new capital investment the person or group of persons acting collectively will make to win and maintain the federal contract described under subdivision (a).

(2) The agreement required under subsection (1) shall include, but is not limited to, all of the following:

(a) A description of the federal contract for which the person or group of persons acting collectively intends to bid.

(b) A description of the person's or group's expansion, retention, or location that is necessary if awarded the federal contract that is the subject of the agreement.

(c) Conditions upon which the person or group of persons acting collectively is designated a qualified taxpayer under this section.

(d) A statement by the person or group of persons acting collectively that a violation of the written agreement may result in the revocation of the designation as a qualified taxpayer and the loss or reduction of future credits under this section.

(e) A statement by the person or group of persons acting collectively that a misrepresentation in the application may result in the revocation of the designation as a qualified taxpayer and the refund of credits received under this section.

(f) A method for measuring qualified new jobs before and after the award of a federal contract and the expansion, retention, or location of the person or group of persons acting collectively in this state as a result of winning the federal contract.

(3) A qualified taxpayer may claim a credit against the tax imposed by this act in an amount up to 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs created as a result of the person or group of persons acting collectively being awarded a federal procurement contract by the United States department of defense, department of energy, or department of homeland security as determined by the Michigan economic growth authority, multiplied by the tax rate for the tax year for a period of up to 7 years or the term of the contract, whichever is less, as determined by the Michigan economic growth authority. If the qualified taxpayer is a group of persons acting collectively, the Michigan economic growth authority shall determine the amount of the credit which each person included in the group is allowed to claim by multiplying the amount of the credit allowed collectively by the qualified taxpayer by a fraction, the numerator of which is the person's payroll attributable to employees who perform qualified new jobs and the denominator of which is 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs, and then certifying the amount of the credit that each person is allowed to claim respectively. If the credit allowed under this subsection exceeds the liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 10 years or until it is used up, whichever occurs first. The Michigan economic growth authority shall not execute more than 10 new written agreements each year. If a qualified taxpayer is awarded a credit under this section, any subsequent credits awarded to that qualified taxpayer shall not be included in determining the yearly limit of 10 new agreements under this subsection.

(4) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued the taxpayer a certificate of designation as a qualified taxpayer. However, a credit shall not be provided for a tax year prior to the tax year during which the certification is made. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year or, if the qualified taxpayer is a group of persons, the percentage of the amount of the credit that the taxpayer is allowed to claim for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.

(5) As used in this section:

(a) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(*i*) A taxpayer.

(*ii*) An employee leasing company on behalf of a taxpayer.

(*iii*) A professional employer organization on behalf of a taxpayer.

(b) "Michigan economic growth authority" or "authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Qualified new job" means a full-time job created by a qualified taxpayer at a facility or facilities that is in excess of the number of full-time jobs the qualified taxpayer maintained

in this state or at a facility prior to being awarded the federal procurement contract and the expansion or location, as determined by the authority.

(d) "Qualified taxpayer" means a person that individually satisfies each of the following or a group of 1 or more persons that enter into a cooperative or informal agreement to act collectively and satisfy each of the following:

(*i*) Has entered into an agreement with the authority as described under this section.

(*ii*) Has submitted a competitive bid for a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(*iii*) Has been awarded the federal contract for which the person or group of persons acting collectively submitted a bid under subparagraph (*ii*).

(*iv*) Has created a minimum of 25 qualified new jobs.

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. 1187.

(b) Senate Bill No. 1189.

(c) Senate Bill No. 1190.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 28, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1187 was filed with the Secretary of State April 28, 2008, and became 2008 PA 108, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1189 was filed with the Secretary of State April 28, 2008, and became 2008 PA 110, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1190 was filed with the Secretary of State April 28, 2008, and became 2008 PA 111, Imd. Eff. Apr. 28, 2008.

[No. 110]

(SB 1189)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 6 and 8 (MCL 207.806 and 207.808), section 6 as amended by 2007 PA 150 and section 8 as amended by 2007 PA 62.

The People of the State of Michigan enact:

207.806 Michigan economic growth authority; powers.

Sec. 6. The authority shall have powers necessary or convenient to carry out and effectuate the purpose of this act, including, but not limited to, the following:

(a) To authorize eligible businesses to receive tax credits to foster job creation in this state.

(b) To determine which businesses qualify for tax credits under this act.

(c) To determine the amount and duration of tax credits authorized under this act.

(d) To issue certificates and enter into written agreements specifying the conditions under which tax credits are authorized and the circumstances under which those tax credits may be reduced or terminated.

(e) To charge and collect reasonable administrative fees.

(f) To delegate to the chairperson of the authority, staff, or others the functions and powers it considers necessary and appropriate to administer the programs under this act.

(g) To assist an eligible business to obtain the benefits of a tax credit, incentive, or inducement program provided by this act or by law.

(h) To determine the eligibility of and issue certificates to certain qualified taxpayers for credits allowed under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, and to develop the application process and necessary forms to claim the credit under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431. The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431. The report shall include, but is not limited to, all of the following:

(*i*) A listing of the projects under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, that were approved in the previous calendar year.

(*ii*) The total amount of eligible investment approved under former section 38g(3) of 1975 PA 228 and section 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, in the previous calendar year.

(i) To approve the capture of school operating taxes and work plans as provided in sections 13 and 15 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2663 and 125.2665.

(j) To determine the eligibility of and issue certificates to certain qualified taxpayers for credits allowed under section 407 of the Michigan business tax act, 2007 PA 36, MCL 208.1407.

(k) To determine the eligibility of and issue certificates to certain taxpayers for credits allowed under sections 431a and 431b of the Michigan business tax act, 2007 PA 36, MCL 208.1431a and 208.1431b.

207.808 Agreement for tax credit; determination; requirements; amount and duration of tax credits; factors; written agreement; criteria; limitation on new agreements; execution; repayment provision; conditions; agreement with eligible business not meeting criteria.

Sec. 8. (1) After receipt of an application, the authority may enter into an agreement with an eligible business for a tax credit under section 9 if the authority determines that all of the following are met:

(a) Except as provided in subsection (5), the eligible business creates 1 or more of the following as determined by the authority and provided with written agreement:

(*i*) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 50 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) A minimum of 5 qualified new jobs at the facility if the eligible business is a qualified high-technology business.

(*v*) A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(*i*) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 50 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(*v*) If the eligible business is a rural business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.

(c) Except as provided in subsection (5) and as otherwise provided in this subdivision, in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the authority. After an eligible business has entered into a written agreement as provided in subsection (2), the authority may adjust the number of full-time jobs required to be maintained by the authorized business under this subdivision, in order to adjust for decreases in full-time jobs in the authorized business in this state due to the divestiture of operations, provided a single other person continues to maintain those full-time jobs in this state. The authority shall not approve a reduction in the number of full-time jobs to be maintained unless the authority has determined that it can monitor the maintenance of the full-time jobs in this state by the other person, and the authorized business agrees in writing that the continued maintenance of the full-time jobs in this state by the other person, as determined by the authority, is a condition of receiving tax credits under the written agreement. A full-time job maintained by another person under this subdivision, that otherwise meets the requirements of section 3(*i*), shall be considered a full-time job, notwithstanding the requirement that a full-time job be performed by an individual employed by an authorized business, or an employee leasing company or professional employer organization on behalf of an authorized business.

(d) Except as otherwise provided in this subdivision, the wage paid for each retained job and qualified new job is equal to or greater than 150% of the federal minimum wage. However, if the eligible business is a qualified high-wage activity, then the wage paid for each qualified new job is equal to or greater than 300% of the federal minimum wage.

(e) The plans for the expansion, retention, or location are economically sound.

(f) Except for an eligible business described in subsection (5)(c), the eligible business has not begun construction of the facility.

(g) The expansion, retention, or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(h) The tax credits offered under this act are an incentive to expand, retain, or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state.

(i) A cost/benefit analysis reveals that authorizing the eligible business to receive tax credits under this act will result in an overall positive fiscal impact to the state.

(j) If the eligible business is a qualified high-technology business described in section 3(m)(*i*), the eligible business agrees that not less than 25% of the total operating expenses of the business will be maintained for research and development for the first 3 years of the written agreement.

(2) If the authority determines that the requirements of subsection (1), (5), (9), or (11) have been met, the authority shall determine the amount and duration of tax credits to be authorized under section 9, and shall enter into a written agreement as provided in this section. The duration of the tax credits shall not exceed 20 years or for an authorized business that is a distressed business, 3 years. In determining the amount and duration of tax credits authorized, the authority shall consider the following factors:

(a) The number of qualified new jobs to be created or retained jobs to be maintained.

(b) The average wage and health care benefit level of the qualified new jobs or retained jobs relative to the average wage and health care benefit paid by private entities in the county in which the facility is located.

(c) The total capital investment or new capital investment the eligible business will make.

(d) The cost differential to the business between expanding, locating, or retaining new jobs in Michigan and a site outside of Michigan.

(e) The potential impact of the expansion, retention, or location on the economy of Michigan.

(f) The cost of the credit under section 9, the staff, financial, or economic assistance provided by the local government unit, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(g) Whether the expansion, retention, or location will occur in this state without the tax credits offered under this act.

(h) Whether the authorized business reuses or redevelops property that was previously used for an industrial or commercial purpose in locating the facility.

(3) A written agreement between an eligible business and the authority shall include, but need not be limited to, all of the following:

(a) A description of the business expansion, retention, or location that is the subject of the agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business and the loss or reduction of future credits under section 9.

(d) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the refund of credits received under section 9.

(e) A method for measuring full-time jobs before and after an expansion, retention, or location of an authorized business in this state.

(f) A written certification from the eligible business regarding all of the following:

(*i*) The eligible business will follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and that this process will be open to all Michigan residents and firms. The eligible business may not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(*ii*) The eligible business will make a good faith effort to employ, if qualified, Michigan residents at the facility.

(*iii*) The eligible business will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(*iv*) The eligible business is encouraged to make a good faith effort to utilize Michigan-based suppliers and vendors when purchasing goods and services.

(g) A condition that if the eligible business qualified under subsection (5)(b)(*ii*) and met the subsection (1)(e) requirement by filing a chapter 11 plan of reorganization, the plan must be confirmed by the bankruptcy court within 6 years of the date of the agreement or the agreement is rescinded.

(4) Upon execution of a written agreement as provided in this section, an eligible business is an authorized business.

(5) Through December 31, 2007, after receipt of an application, the authority may enter into a written agreement with an eligible business that meets 1 or more of the following criteria:

(a) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(b) Meets 1 or more of the following criteria:

(*i*) Relocates production of a product to this state after the date of the application, makes capital investment of $500,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(*ii*) Maintains 150 retained jobs at a facility, maintains 1,000 or more full-time jobs in this state, and makes new capital investment in this state.

(*iii*) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of $100,000.00 per retained job maintained at that facility or $10,000,000.00 to be completed or contracted for not later than December 31, 2007.

(*iv*) Maintains 300 retained jobs at a facility; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility, unless otherwise provided in this subparagraph; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after

December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are excluded from the requirements of subsection (1)(e), (f), (h), and (i) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(g), (h), and (k) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement for new management if the existing management and labor make a commitment to improve the viability and productivity of the facility to better meet international competition as determined by the authority.

(*v*) Maintains 100 retained jobs at a facility; is a rural business, unless otherwise provided in this subparagraph; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are excluded from the requirements of subsection (1)(e), (f), and (h) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(g), (h), and (e) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement that the business be a rural business if the business is located in a county with a population of 500,000 or more and 600,000 or less.

(*vi*) Maintains 175 retained jobs and makes new capital investment at a facility in a county with a population of not less than 7,500 but not greater than 8,000.

(*vii*) Is located in this state on the date of the application, maintains at least 675 retained jobs at a facility, agrees to create 400 new jobs, and agrees to make a new capital investment of at least $45,000,000.00 to be completed or contracted for not later than December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 1 written agreement under this subparagraph that is excluded from the requirements of subsection (1)(f) if the authority considers it in the public interest.

(*viii*) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 or more in this state, and makes that capital investment at a facility located north of the 45th parallel.

(c) Is a distressed business.

(6) Each year, the authority shall not execute new written agreements that in total provide for more than 400 yearly credits over the terms of those agreements entered into that year for eligible businesses that are not qualified high-technology businesses, distressed businesses, rural businesses, or an eligible business described in subsection (11).

(7) The authority shall not execute more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural business. Only 25 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural businesses.

(8) The authority shall not execute more than 20 new written agreements each year for eligible businesses that are distressed businesses. The authority shall not execute more than 5 of the written agreements described in this subsection each year for distressed businesses that had 1,000 or more full-time jobs at a facility 4 years immediately preceding the application to the authority under this act. The authority shall not execute more than 5 new written agreements each year for eligible businesses described in subsection (11). The authority shall

not execute more than 4 new written agreements each year for eligible businesses described in subsection (11) in local governmental units that have a population greater than 16,000.

(9) Beginning January 1, 2008, after receipt of an application, the authority may enter into a written agreement with an eligible business that does not meet the criteria described in subsection (1), if the eligible business meets all of the following:

(a) Agrees to retain not fewer than 50 jobs.

(b) Agrees to make new capital investment at a facility equal to $50,000.00 or more per retained job maintained at the facility.

(c) Certifies to the authority that, without the credits under this act and without the new capital investment, the facility is at risk of closing and the work and jobs would be removed to a location outside of this state.

(d) Certifies to the authority that the management or ownership is committed to improving the long-term viability of the facility in meeting the national and international competition facing the facility through better management techniques, best practices, including state of the art lean manufacturing practices, and market diversification.

(e) Certifies to the authority that it will make best efforts to keep jobs in Michigan when making plant location and closing decisions.

(f) Certifies to the authority that the workforce at the facility demonstrates its commitment to improving productivity and profitability at the facility through various means.

(10) Beginning on the effective date of the amendatory act that added this subsection, if the authority enters into a written agreement with an eligible business, the written agreement shall include a repayment provision of all or a portion of the credits received by the eligible business for a facility if the eligible business moves full-time jobs outside this state during the term of the written agreement and for a period of years after the term of the written agreement, as determined by the authority.

(11) Beginning January 1, 2008, after receipt of an application, the authority may enter into a written agreement with an eligible business that does not meet the criteria described in subsection (1), if the eligible business meets all of the following:

(a) Agrees to create or retain not fewer than 15 jobs.

(b) Agrees to occupy property that is a historic resource as that term is defined in section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, and that is located in a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651.

(c) The average wage paid for each retained job and full-time job is equal to or greater than 150% of the federal minimum wage.

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. 1187.

(b) Senate Bill No. 1188.

(c) Senate Bill No. 1190.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 28, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1187 was filed with the Secretary of State April 28, 2008, and became 2008 PA 108, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1188 was filed with the Secretary of State April 28, 2008, and became 2008 PA 109, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1190 was filed with the Secretary of State April 28, 2008, and became 2008 PA 111, Imd. Eff. Apr. 28, 2008.

[No. 111]

(SB 1190)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 431 (MCL 208.1431).

The People of the State of Michigan enact:

208.1431 Business authorized under Michigan economic growth authority; tax credit; amount; certificate; attachment to annual return; statement; number of years; refund; effect of failure to meet requirements or removal of new jobs from state; statement as to number of new jobs created in state; definitions.

Sec. 431. (1) Except as otherwise provided under this subsection, for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may claim a credit against the tax imposed by this act equal to the amount certified each year by the Michigan economic growth authority as follows:

(a) Except as otherwise provided under this subdivision, for an authorized business for the tax year, an amount not to exceed the payroll of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate; beginning after the effective date of the amendatory act that added subdivision (d), for an authorized business for the tax year, an amount not to exceed the sum of the payroll and health care benefits of the authorized business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(b) For an eligible business as determined under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 50% of the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(c) For an eligible business as determined under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed the payroll of the authorized business attributable to employees who perform retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(d) For an authorized business that is a qualified high-technology business, for a period of time not to exceed 7 years as determined by the Michigan economic growth authority, an amount not to exceed 200% of the sum of the payroll and health care benefits of the qualified high-technology business attributable to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, for the first 3 tax years of the credit, multiplied by the tax rate and, for each of the remaining tax years of the credit, an amount not to exceed 100% of the sum of the payroll and health care benefits of the qualified high-technology business attributable

to employees who perform qualified new jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

(e) For an authorized business as determined under section 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount up to, but not to exceed 100% of, the sum of the payroll and health care benefits of the authorized business attributable to employees who perform retained jobs multiplied by a fraction, the numerator of which is the amount of new capital investment made at the facility and the denominator of which is the product of the number of retained jobs multiplied by $100,000.00, and then multiplied by the tax rate for the tax year.

(f) For an authorized business as determined under section 8(11) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount not to exceed 100% of the sum of the payroll and health care benefits of the authorized business attributable to employees who perform new full-time jobs and retained jobs as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the tax year.

(2) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the annual return filed under this act on which a credit under this section is claimed.

(3) The certificate required by subsection (2) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan department of treasury number assigned to the taxpayer.

(4) The Michigan economic growth authority may certify a credit under this section based on an agreement entered into prior to January 1, 2008 pursuant to section 37c of former 1975 PA 228. The number of years for which the credit may be claimed under this section shall equal the maximum number of years designated in the resolution reduced by the number of years for which a credit has been claimed or could have been claimed under section 37c of former 1975 PA 228.

(5) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer shall be refunded.

(6) Except as otherwise provided under this subsection, a taxpayer that claims a credit under subsection (1) or section 37c or 37d of former 1975 PA 228, that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(p)(*ii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, and that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer. Beginning after the effective date of the amendatory act that added subsection (1)(d), a taxpayer that claims a credit under subsection (1) and subsequently fails to meet the requirements of this section or any other conditions included in an agreement entered into with the Michigan economic growth authority in order to obtain a certificate for the credit claimed under this section or removes any of the qualified new jobs from this state during the term of the written agreement and for a period of years after the term of

the written agreement, as determined by the Michigan economic growth authority, may have its credit reduced or terminated or have a percentage of the credit amount previously claimed under this section added back to the tax liability of the taxpayer in the tax year that the taxpayer fails to comply with this section or the agreement.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer that claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) A credit shall not be claimed by a taxpayer under this section if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2013.

(9) For purposes of this section, taxpayer includes a person subject to the tax imposed under chapters 2A and 2B.

(10) As used in this section:

(a) "Authorized business", "facility", "full-time job", "qualified high-technology business", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Health care benefits" means all costs paid for a self-funded health care benefit plan or for an expense-incurred hospital, medical, or surgical policy or certificate, nonprofit health care corporation certificate, or health maintenance organization contract. Health care benefit does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical payment insurance.

(c) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(e) "Qualified new jobs" means 1 or more of the following:

(*i*) The average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(*ii*) The average number of full-time jobs at a facility created by an eligible business up to 90 days before becoming an authorized business that is in excess of the average number of full-time jobs that the business maintained in this state up to 90 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(f) "Tax rate" means the rate imposed under section 51 of the income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

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. 1187.

(b) Senate Bill No. 1188.

(c) Senate Bill No. 1189.

This act is ordered to take immediate effect.
Approved April 24, 2008.
Filed with Secretary of State April 28, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 1187 was filed with the Secretary of State April 28, 2008, and became 2008 PA 108, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1188 was filed with the Secretary of State April 28, 2008, and became 2008 PA 109, Imd. Eff. Apr. 28, 2008.
Senate Bill No. 1189 was filed with the Secretary of State April 28, 2008, and became 2008 PA 110, Imd. Eff. Apr. 28, 2008.

[No. 112]

(HB 5531)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 11, 11j, 22a, 22b, 22d, 51a, 51c, 56, 62, and 104 (MCL 388.1611, 388.1611j, 388.1622a, 388.1622b, 388.1622d, 388.1651a, 388.1651c, 388.1656, 388.1662, and 388.1704), as amended by 2007 PA 137, and by adding sections 32e, 54c, 99n, and 99p.

The People of the State of Michigan enact:

388.1611 Appropriations.

Sec. 11. (1) For the fiscal year ending September 30, 2008, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $11,386,866,600.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $34,909,600.00 from the general fund. In addition, available federal funds are appropriated for the fiscal year ending September 30, 2008.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall be deposited into the school aid stabilization fund created in section 11a.

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under

section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or $5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). If proration is necessary, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, or if the department of treasury determines that further proration is required under this subsection after an initial proration has already been made for a fiscal year, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) If proration is necessary under subsection (3), the department shall calculate the proration in district and intermediate district payments that is required under subsection (3) as follows:

(a) The department shall calculate the percentage of total state school aid allocated under this act for the affected fiscal year for each of the following:

(*i*) Districts.

(*ii*) Intermediate districts.

(*iii*) Entities other than districts or intermediate districts.

(b) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*i*) for districts by reducing payments to districts. This reduction shall be made by calculating an equal dollar amount per pupil as necessary to recover this percentage of the proration amount and reducing each district's total state school aid from state sources, other than payments under sections 11f, 11g, 11j, 22a, 26a, 26b, 31d, 31f, 51a(2), 51a(12), 51c, and 53a, by that amount.

(c) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*ii*) for intermediate districts by reducing payments to intermediate districts. This reduction shall be made by reducing the payments to each intermediate district, other than payments under sections 11f, 11g, 26a, 26b, 51a(2), 51a(12), 53a, and 56, on an equal percentage basis.

(d) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*iii*) for entities other than districts and intermediate districts by reducing payments to these entities. This reduction shall be made by reducing the payments to each of these entities, other than payments under sections 11j, 26a, and 26b, on an equal percentage basis.

(5) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a.

388.1611j School loan bond redemption fund; allocation.

Sec. 11j. From the appropriation in section 11, there is allocated an amount not to exceed $3,900,000.00 for 2007-2008 for payments to the school loan bond redemption fund in the department of treasury on behalf of districts and intermediate districts. Notwithstanding section 11 or any other provision of this act, funds allocated under this section are not subject to proration and shall be paid in full.

388.1622a Allocation for 2007-2008; payments to districts, university schools, and public school academies; definitions.

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $5,951,000,000.00 for 2007-2008 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, or the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than $6,500.00, the state payment under this subsection shall be the sum of the amount calculated under subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus $6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986

PA 281, MCL 125.2151 to 125.2174, the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, or the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899, divided by the district's membership.

(3) Beginning in 2003-2004, for pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than $6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(*i*) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(*ii*) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

388.1622b Allocations for 2007-2008; discretionary nonmandated payments; duties of district; purchase of software; payments for litigation costs; allegation of unfunded constitutional requirement; escrowed funds as work project; purpose; determination; review of claim by local claims review board; removal to court of appeals; payment provisions; amount allocated.

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed $3,683,275,000.00 for 2007-2008 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall do all of the following:

(a) Administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3. Also, if the revised school code is amended to require annual assessments at additional grade levels, in order to receive an allocation under this section each district shall comply with that requirement.

(b) Comply with sections 1278a and 1278b of the revised school code, MCL 380.1278a and 380.1278b.

(c) Furnish data and other information required by state and federal law to the center and the department in the form and manner specified by the center or the department, as applicable.

(d) Comply with section 1230g of the revised school code, MCL 380.1230g.

(4) Districts are encouraged to use funds allocated under this section for the purchase and support of payroll, human resources, and other business function software that is compatible with that of the intermediate district in which the district is located and with other districts located within that intermediate district.