or contravening any of the provisions of this act," by amending sections 520a, 520b, 520c, 520d, and 520e (MCL 750.520a, 750.520b, 750.520c, 750.520d, and 750.520e), sections 520a and 520c as amended by 2006 PA 171, section 520b as amended by 2006 PA 169, and sections 520d and 520e as amended by 2002 PA 714.

The People of the State of Michigan enact:

750.520a Definitions.

Sec. 520a. As used in this chapter:

(a) "Actor" means a person accused of criminal sexual conduct.

(b) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior which meets all of the following criteria:

(*i*) It originated before the person became 18 years of age.

(*ii*) It has continued since its origination or can be expected to continue indefinitely.

(*iii*) It constitutes a substantial burden to the impaired person's ability to perform in society.

(*iv*) It is attributable to 1 or more of the following:

(A) Mental retardation, cerebral palsy, epilepsy, or autism.

(B) Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.

(c) "Electronic monitoring" means that term as defined in section 85 of the corrections code of 1953, 1953 PA 232, MCL 791.285.

(d) "Intermediate school district" means a corporate body established under part 7 of the revised school code, 1976 PA 451, MCL 380.601 to 380.705.

(e) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.

(f) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Mentally disabled" means that a person has a mental illness, is mentally retarded, or has a developmental disability.

(i) "Mentally incapable" means that a person suffers from a mental disease or defect that renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

(j) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

(k) "Mentally retarded" means significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior.

(*l*) "Nonpublic school" means a private, denominational, or parochial elementary or secondary school.

(m) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(n) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(o) "Public school" means a public elementary or secondary educational entity or agency that is established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(p) "School district" means a general powers school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(q) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:

(*i*) Revenge.

(*ii*) To inflict humiliation.

(*iii*) Out of anger.

(r) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

(s) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

750.520b Criminal sexual conduct in the first degree; felony; consecutive terms.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related to the victim by blood or affinity to the fourth degree.

(*iii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.

(*v*) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

(*v*) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.

(b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

(c) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

(d) In addition to any other penalty imposed under subdivision (a) or (b), the court shall sentence the defendant to lifetime electronic monitoring under section 520n.

(3) The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

750.520c Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related by blood or affinity to the fourth degree to the victim.

(*iii*) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.

(*v*) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that

operates a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(*l*) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable as follows:

(a) By imprisonment for not more than 15 years.

(b) In addition to the penalty specified in subdivision (a), the court shall sentence the defendant to lifetime electronic monitoring under section 520n if the violation involved sexual contact committed by an individual 17 years of age or older against an individual less than 13 years of age.

750.520d Criminal sexual conduct in the third degree; felony.

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(*i*) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(*ii*) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(f) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(*i*) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(*ii*) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

750.520e Criminal sexual conduct in the fourth degree; misdemeanor.

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision.

A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(*i*) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(*ii*) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(g) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(*i*) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(*ii*) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2008.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 164]

(SB 410)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending the title and sections 101,

102, 201, 202, 203, 205, 301, 302, 303, 307, 308, 312, 319, 320, and 401 (MCL 484.1101, 484.1102, 484.1201, 484.1202, 484.1203, 484.1205, 484.1301, 484.1302, 484.1303, 484.1307, 484.1308, 484.1312, 484.1319, 484.1320, and 484.1401), the title and section 308 as amended by 1994 PA 29, sections 102 and 303 as amended by 1999 PA 80, section 201 as amended by 1999 PA 78, section 205 as amended by 1998 PA 23, sections 301 and 401 as amended by 2006 PA 249, section 319 as added by 1989 PA 36, and section 320 as amended by 1998 PA 122, and by adding sections 401a, 401b, 401c, 401d, and 401e.

The People of the State of Michigan enact:

TITLE

An act to provide for the establishment of emergency 9-1-1 districts; to provide for the installation, operation, modification, and maintenance of universal emergency 9-1-1 service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, service suppliers, and others; to create an emergency 9-1-1 service committee; to provide remedies and penalties; and to repeal acts and parts of acts.

484.1101 Short title.

Sec. 101. This act shall be known and may be cited as the "emergency 9-1-1 service enabling act".

484.1102 Definitions.

Sec. 102. As used in this act:

(a) "Automatic location identification" or "ALI" means a 9-1-1 service feature provided by the service supplier that automatically provides the name and service address or, for a CMRS service supplier, the location associated with the calling party's telephone number as identified by automatic number identification to a 9-1-1 public safety answering point.

(b) "Automatic number identification" or "ANI" means a 9-1-1 service feature provided by the service supplier that automatically provides the calling party's telephone number to a 9-1-1 public safety answering point.

(c) "Commercial mobile radio service" or "CMRS" means commercial mobile radio service regulated under section 3 of title I and section 332 of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 USC 153 and 332, and the rules of the federal communications commission or provided under the wireless emergency service order. Commercial mobile radio service or CMRS includes all of the following:

(*i*) A wireless 2-way communication device, including a radio telephone used in cellular telephone service or personal communication service.

(*ii*) A functional equivalent of a radio telephone communications line used in cellular telephone service or personal communication service.

(*iii*) A network radio access line.

(d) "Commission" means the Michigan public service commission.

(e) "Committee" means the emergency 9-1-1 service committee created under section 712.

(f) "Common network costs" means the costs associated with the common network required to deliver a 9-1-1 call with ALI and ANI from a selective router to the proper PSAP and the costs associated with the 9-1-1 database and data distribution system of the primary 9-1-1 service supplier identified in a county 9-1-1 plan. As used in this subdivision, "common network" means the elements of a service supplier's network that are not exclusive to the supplier or technology capable of accessing the 9-1-1 system.

(g) "Communication service" means a service capable of accessing, connecting with, or interfacing with a 9-1-1 system, exclusively through the numerals 9-1-1, by dialing, initializing, or otherwise activating the 9-1-1 system through the numerals 9-1-1 by means of a local telephone device, cellular telephone device, wireless communication device, interconnected voice over the internet device, or any other means.

(h) "CMRS connection" means each number assigned to a CMRS customer.

(i) "Consolidated dispatch" means a countywide or regional emergency dispatch service that provides dispatch service for 75% or more of the law enforcement, fire fighting, emergency medical service, and other emergency service agencies within the geographical area of a 9-1-1 service district or serves 75% or more of the population within a 9-1-1 service district.

(j) "County 9-1-1 charge" means the charge allowed under sections 401b, 401c, and 401e.

(k) "Database service provider" means a service supplier who maintains and supplies or contracts to maintain and supply an ALI database or an MSAG.

(*l*) "Direct dispatch method" means that the agency receiving the 9-1-1 call at the public safety answering point decides on the proper action to be taken and dispatches the appropriate available public safety service unit located closest to the request for public safety service.

(m) "Emergency response service" or "ERS" means a public or private agency that responds to events or situations that are dangerous or that are considered by a member of the public to threaten the public safety. An emergency response service includes a police or fire department, an ambulance service, or any other public or private entity trained and able to alleviate a dangerous or threatening situation.

(n) "Emergency service zone" or "ESZ" means the designation assigned by a county to each street name and address range that identifies which emergency response service is responsible for responding to an exchange access facility's premises.

(o) "Emergency telephone charge" means emergency telephone operational charge and emergency telephone technical charge allowed under section 401.

(p) "Emergency 9-1-1 district" or "9-1-1 service district" means the area in which 9-1-1 service is provided or is planned to be provided to service users under a 9-1-1 system implemented under this act.

(q) "Emergency 9-1-1 district board" means the governing body created by the board of commissioners of the county or counties with authority over an emergency 9-1-1 district.

(r) "Emergency telephone operational charge" means a charge allowed under section 401 for nonnetwork technical equipment and other costs directly related to the dispatch facility and the operation of 1 or more PSAPs including, but not limited to, the costs of dispatch personnel and radio equipment necessary to provide 2-way communication between PSAPs and a public safety agency. Emergency telephone operational charge does not include non-PSAP related costs such as response vehicles and other personnel.

(s) "Emergency telephone technical charge" means a charge as allowed under section 401 or 401d for costs directly related to 9-1-1 service including plant-related costs associated with the use of the public switched telephone network from the end user to the selective router, the network start-up costs, customer notification costs, common network costs, administrative costs, database management costs, and network nonrecurring and recurring installation, maintenance, service, and equipment charges of a service supplier providing 9-1-1 service under this act. Emergency telephone technical charge does not include costs recovered under sections 401b(9) and 408(2).

(t) "Exchange access facility" means the access from a particular service user's premises to the communication service. Exchange access facilities include service supplier provided access lines, PBX trunks, and centrex line trunk equivalents, all as defined by tariffs of the service suppliers as approved by the public service commission. Exchange access facilities do not include telephone pay station lines or WATS, FX, or incoming only lines.

(u) "Final 9-1-1 service plan" means a tentative 9-1-1 service plan that has been modified only to reflect necessary changes resulting from any exclusions of public agencies from the 9-1-1 service district of the tentative 9-1-1 service plan under section 306 and any failure of public safety agencies to be designated as PSAPs or secondary PSAPs under section 307.

(v) "Master street address guide" or "MSAG" means a perpetual database that contains information continuously provided by a service district that defines the geographic area of the service district and includes an alphabetical list of street names, the range of address numbers on each street, the names of each community in the service district, the emergency service zone of each service user, and the primary service answering point identification codes.

(w) "Obligations" means bonds, notes, installment purchase contracts, or lease purchase agreements to be issued by a public agency under a law of this state.

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

(y) "Primary public safety answering point", "PSAP", or "primary PSAP" means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any.

(z) "Prime rate" means the average predominant prime rate quoted by not less than 3 commercial financial institutions as determined by the department of treasury.

(aa) "Private safety entity" means a nongovernmental organization that provides emergency fire, ambulance, or medical services.

(bb) "Public agency" means a village, township, charter township, or city within the state and any special purpose district located in whole or in part within the state.

(cc) "Public safety agency" means a functional division of a public agency, county, or the state that provides fire fighting, law enforcement, ambulance, medical, or other emergency services.

(dd) "Qualified obligations" means obligations that meet 1 or more of the following:

(*i*) The proceeds of the obligations benefit the 9-1-1 district, and for which all of the following conditions are met:

(A) The proceeds of the obligations are used for capital expenditures, costs of a reserve fund securing the obligations, and costs of issuing the obligations. The proceeds of obligations shall not be used for operational expenses.

(B) The weighted average maturity of the obligations does not exceed the useful life of the capital assets.

(C) The obligations shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

(*ii*) The obligations are issued to refund obligations that meet the conditions described in subparagraph (*i*) and the net present value of the principal and interest to be paid on the refunding obligations, excluding the cost of issuance, will be less than the net present value

of the principal and interest to be paid on the obligations being refunded, as calculated using a method approved by the department of treasury.

(ee) "Relay method" means that a PSAP notes pertinent information and relays it by a communication service to the appropriate public safety agency or other provider of emergency services that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(ff) "Secondary public safety answering point" or "secondary PSAP" means a communications facility of a public safety agency or private safety entity that receives 9-1-1 calls by the transfer method only and generally serves as a centralized location for a particular type of emergency call.

(gg) "Service supplier" means a person providing a communication service to a service user in this state.

(hh) "Service user" means a person receiving a communication service.

(ii) "State 9-1-1 charge" means the charge provided for under sections 401a and 401c.

(jj) "Tariff" means the rate approved by the public service commission for 9-1-1 service provided by a particular service supplier. Tariff does not include a rate of a commercial mobile radio service by a particular supplier.

(kk) "Tentative 9-1-1 service plan" means a plan prepared by 1 or more counties for implementing a 9-1-1 system in a specified 9-1-1 service district.

(*ll*) "Transfer method" means that a PSAP transfers the 9-1-1 call directly to the appropriate public safety agency or other provider of emergency service that has an available emergency service unit located closest to the request for emergency service for dispatch of an emergency service unit.

(mm) "Universal emergency number service" or "9-1-1 service" means public communication service that provides service users with the ability to reach a public safety answering point by dialing the digits "9-1-1".

(nn) "Universal emergency number service system" or "9-1-1 system" means a system for providing 9-1-1 service under this act.

(oo) "Wireless emergency service order" means the order of the federal communications commission, FCC docket No. 94-102, adopted June 12, 1996 with an effective date of October 1, 1996.

484.1201 Implementation of emergency 9-1-1 service system; conditions; creation by 1 or more counties or cities; access.

Sec. 201. (1) An emergency 9-1-1 service system shall not be implemented in this state except as provided under this act.

(2) One or more counties may create an emergency 9-1-1 service system under this act.

(3) With the approval of the county board of commissioners in a county with a population of 1,800,000 or more, 4 or more cities may create an emergency 9-1-1 service district under this act.

(4) Each service supplier in this state is required to provide each of its service users access to the 9-1-1 system. Each service supplier shall provide the committee with contact information to allow for notifications as required under section 714.

484.1202 Technical modifications to existing system; cost.

Sec. 202. A public agency which is excluded from a 9-1-1 service district in a 9-1-1 system implemented under this act, but which is operating an existing emergency 9-1-1 service at the time the 9-1-1 system is implemented, shall permit any technical modifications to its

existing system which are necessary for compatibility with the 9-1-1 system. Any cost of the service supplier associated with such modifications shall be collected from service users in the 9-1-1 service district.

484.1203 Primary emergency 9-1-1 number; secondary backup number; number for nonemergency contacts.

Sec. 203. The digits 9-1-1 shall be the primary emergency 9-1-1 number within every 9-1-1 system established pursuant to this act. A public safety agency whose services are available through a 9-1-1 system implemented under this act may maintain a separate secondary backup number for emergencies, and shall maintain a separate number for nonemergency contacts.

484.1205 Capabilities and requirements of 9-1-1 system.

Sec. 205. (1) A 9-1-1 system established under this act shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to 1 or more public safety agencies which provide the requested service to the place where the call originates.

(2) A 9-1-1 system shall process all 9-1-1 calls originating from telephones within an exchange any part of which is within the emergency 9-1-1 district served by the system. This requirement does not apply to any part of an exchange not located within the county or counties that established the 9-1-1 system if that part has been included in an implemented 9-1-1 system for the county within which that part is located.

(3) A 9-1-1 system may provide for transmittal of requests for other emergency services, such as poison control, suicide prevention, and civil defense. Conferencing capability with counseling, aid to persons with disabilities, and other services as considered necessary for emergency response determination may be provided by the 9-1-1 system.

484.1301 Emergency 9-1-1 district; establishment; implementation of 9-1-1 service; modification or alteration of existing emergency 9-1-1 service; emergency 9-1-1 district board; creation and powers.

Sec. 301. (1) The board of commissioners of a county may establish an emergency 9-1-1 district within all or part of the county and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(2) The board of commissioners of a county all or part of which is operating an existing emergency telephone service shall modify the existing emergency telephone service or may alter the scope or method of financing of 9-1-1 service within all or part of the county by establishing an emergency 9-1-1 district and causing 9-1-1 service to be implemented within the emergency 9-1-1 district under this act.

(3) The board of commissioners of a county may create an emergency 9-1-1 district board and delegate certain powers to the board.

484.1302 Emergency 9-1-1 district; joint establishment; implementation of 9-1-1 service; actions; notices.

Sec. 302. Two or more county boards of commissioners may jointly establish an emergency 9-1-1 district within all or part of the counties and may cause 9-1-1 service to be implemented within the emergency 9-1-1 district under this act. If 2 or more county boards of commissioners wish to jointly establish an emergency 9-1-1 district under this act, then all actions required or permitted to be taken by a county or its officials under this act shall be taken by each county or the officials of each county, and all notices required or permitted to be given to a county or its officials under this act shall be given to each county or the officials of each county.

484.1303 Tentative 9-1-1 service plan; adoption by resolution; requirements; payments for installation and recurring charges associated with PSAP.

Sec. 303. (1) To establish an emergency 9-1-1 district and to cause 9-1-1 service to be implemented within that emergency 9-1-1 district, the board of commissioners of a county shall first adopt a tentative 9-1-1 service plan by resolution.

(2) A tentative 9-1-1 service plan shall comply with chapter II and shall address at a minimum all of the following:

(a) Technical considerations of the service supplier, including but not limited to, system equipment for facilities to be used in providing emergency 9-1-1 service.

(b) Operational considerations, including but not limited to, the designation of PSAPs and secondary PSAPs, the manner in which 9-1-1 calls will be processed, the dispatch functions to be performed, plans for documenting closest public safety service unit dispatching requirements, the dispatch of Michigan state police personnel, and identifying information systems to be utilized.

(c) Managerial considerations including the organizational form and agreements that would control technical, operational, and fiscal aspects of the emergency 9-1-1 service.

(d) Fiscal considerations including projected nonrecurring and recurring costs with a financial plan for implementing and operating the system.

(3) The tentative 9-1-1 service plan shall require each public agency operating a PSAP under the 9-1-1 system to pay directly for all installation and recurring charges for terminal equipment, including customer premises equipment, associated with the public agency's PSAP, and may require each public agency operating a PSAP under the 9-1-1 system to pay directly to the service supplier all installation and recurring charges for all 9-1-1 exchange and tie lines associated with the public agency's PSAP.

484.1307 Notice of intent to function as PSAP or secondary PSAP.

Sec. 307. (1) Any public safety agency designated in the tentative 9-1-1 service plan to function as a PSAP or secondary PSAP shall be so designated under the final 9-1-1 service plan if the public safety agency files with the county clerk a notice of intent to function as a PSAP or secondary PSAP within 45 days after the public agency which the public safety agency has been designated to serve by the tentative 9-1-1 service plan receives a copy of the resolution and the tentative 9-1-1 service plan adopted under section 303. The notice of intent to function as a PSAP or secondary PSAP shall be in substantially the following form:

NOTICE OF INTENT TO FUNCTION
AS A PSAP OR SECONDARY PSAP

Pursuant to section 307 of the emergency 9-1-1 service enabling act, _____ shall function as a (check one) _____ PSAP _____ Secondary PSAP within the 9-1-1 service district of the tentative 9-1-1 service plan adopted by resolution of the board of commissioners for the county of _____ , on _____ , 19_____ .

_____
(Acknowledgment)

(2) If a public safety agency designated as a PSAP or secondary PSAP in the tentative 9-1-1 service plan fails to file a notice of intent to function as a PSAP or secondary PSAP within the time period specified in subsection (1), the public safety agency shall not be designated as a PSAP or secondary PSAP in the final 9-1-1 service plan.

484.1308 Hearing on final 9-1-1 service plan; notice.

Sec. 308. The clerk of each county which has adopted a tentative 9-1-1 service plan under section 303 shall give notice by publication of the hearing on the final 9-1-1 service plan to be held under section 309. The notice shall be published twice in a newspaper of general circulation within the county, the first publication of the notice occurring at least 30 days prior to the date of the hearing. The notice shall state all of the following:

(a) The time, date, and place of the hearing.

(b) A description of the boundaries of the 9-1-1 service district of the final 9-1-1 service plan.

(c) That if the board of commissioners of the county, after a hearing, adopts the final 9-1-1 service plan under this act, the state 9-1-1 charge and, if a county 9-1-1 charge has been approved, a county 9-1-1 charge shall be collected on a uniform basis from all service users within the 9-1-1 service district.

484.1312 Amendment of final 9-1-1 service plan.

Sec. 312. (1) Except as otherwise provided under subsection (2), after a final 9-1-1 service plan has been adopted under section 310, a county may amend the final 9-1-1 service plan only by complying with the procedures described in sections 301 to 310. Upon adoption of an amended final 9-1-1 service plan by the county board of commissioners, the county shall forward the amended final 9-1-1 service plan to the service supplier or suppliers designated to provide 9-1-1 service within the 9-1-1 service district as amended. Upon receipt of the amended final 9-1-1 service plan, each designated service supplier shall implement as soon as feasible the amendments to the final 9-1-1 service plan in the 9-1-1 service district as amended.

(2) The county board of commissioners may by resolution make minor amendments to the final 9-1-1 service plan for any of the following:

(a) Changes in PSAP premises equipment, including, but not limited to, computer-aided dispatch systems, call processing equipment, and computer mapping.

(b) Changes involving the participating public safety agencies within a 9-1-1 service district.

(c) Changes in the 9-1-1 charges collected by the county subject to the limits under this act.

484.1319 Duties of certain public agencies.

Sec. 319. A public agency that plans to establish a 9-1-1 system without using the financing method provided under this act shall do all of the following:

(a) Provide public notice of its intent to enter into a contract for 9-1-1 services. The public notice shall be provided in the same manner as required under section 308.

(b) Provide public notice of its intent to enter into a contract for 9-1-1 services to the county board of commissioners of the county within which the public agency is located and to all other public agencies that share wire centers with the contracting public agency. The public notice shall be provided in the same manner as required under section 308.

(c) Conduct a public hearing in the same manner as required under section 309.

484.1320 Emergency 9-1-1 district board; creation; membership, powers, and duties; appropriations to board; contracts; system to be used in dispatching participating service units; basis for determination.

Sec. 320. (1) The county shall create an emergency 9-1-1 district board if a county creates a consolidated dispatch within an emergency 9-1-1 district after March 2, 1994.

(2) The membership of the board and the board's powers and duties shall be determined by the county board of commissioners. The membership of the board shall include a representative of the county sheriff or his or her designated representative, a representative of the Michigan state police designated by the director of the Michigan state police, and a firefighter. If the emergency 9-1-1 district consists of more than 1 county, the sheriff representative shall be appointed by the president of the Michigan sheriffs' association.

(3) A county or other public agency may make appropriations to the emergency 9-1-1 district board.

(4) A public agency may contract with the emergency 9-1-1 district board, and persons who are both members of the board and of the governing body of the public agency may vote both on the board and the body if approved by the contract.

(5) The basis under which a consolidated dispatch meets the requirement for being a dispatch under section 102(c) shall determine the system to be used in dispatching participating service units.

484.1401 Agreement; emergency telephone technical charge and emergency operational charge; billing and collection service; computation; monthly charge for recurring costs and charges; ballot question; annual accounting; distribution of operational charge; limitation on levy and collection; applicability of subsections (3) through (13) after June 30, 2008.

Sec. 401. (1) An emergency 9-1-1 district board, a 9-1-1 service district as defined in section 102 and created under section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the county 9-1-1 charge or state 9-1-1 charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency 9-1-1 district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed

10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners under section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board

of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of $20.00 or the highest monthly flat rate charged for primary basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER).".

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved under this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected under this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before the effective date of the amendatory act that added this subsection, then the emergency telephone operational charge collected under this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) This act does not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge collected under this section and the emergency telephone operational charge shall not be levied or collected after June 30, 2008. If all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

(16) Subsections (3) through (13) do not apply after June 30, 2008.

484.1401a Billing and collection of state 9-1-1 charge; amount; limitation; listing on bill or payment receipt; review and adjustment of charge; separate charges imposed on access points or lines; effective date of section.

Sec. 401a. (1) Except as otherwise provided under section 401c, each service supplier within a 9-1-1 service district shall bill and collect a state 9-1-1 charge from all service users of the service supplier within the geographical boundaries of the 9-1-1 service district or as

otherwise provided by this section. The billing and collection of the state 9-1-1 charge shall begin July 1, 2008. The state 9-1-1 charge shall be uniform per each service user within the 9-1-1 service district.

(2) The amount of the state 9-1-1 charge payable monthly by a service user shall be established as provided under subsection (4). The amount of the state 9-1-1 charge shall not be more than 25 cents or less than 15 cents. The charge may be adjusted annually as provided under subsection (4).

(3) The state 9-1-1 charge shall be collected in accordance with the regular billings of the service supplier. Except as otherwise provided under this act, the amount collected for the state 9-1-1 charge shall be remitted quarterly by the service supplier to the state treasurer and deposited in the emergency 9-1-1 fund created under section 407. The charge allowed under this section shall be listed separately on the customer's bill or payment receipt.

(4) The initial state 9-1-1 charge shall be 19 cents and shall be effective July 1, 2008. The state 9-1-1 charge shall reflect the actual costs of operating, maintaining, upgrading, and other reasonable and necessary expenditures for the 9-1-1 system in this state. The state 9-1-1 charge may be reviewed and adjusted as provided under subsection (5).

(5) The commission in consultation with the committee shall review and may adjust the state 9-1-1 charge under this section and the distribution percentages under section 408 to be effective on January 1, 2009 and January 1, 2010. Any adjustment to the charge by the commission shall be made no later than October 1 of the preceding year and shall be based on the committee's recommendations under section 412. Any adjustments to the state 9-1-1 charge or distribution percentages after December 31, 2010 shall be made by the legislature.

(6) If a service user has multiple access points or access lines, the state 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

(7) This section takes effect July 1, 2008.

484.1401b Additional charge assessed by county board of commissioners; limitation; approval of charge by voters; statement on service provider's bill; annual accounting; payment and distribution; methods; adjustment; county having multiple emergency response districts; distribution to secondary PSAPs; retention of percentage to cover supplier's costs; listing as separate charge on customer's bill; exemption from disclosure; separate charges imposed on access points or lines.

Sec. 401b. (1) In addition to the charge allowed under section 401a, after June 30, 2008 a county board of commissioners may, by resolution, millage as otherwise allowed by law, with the approval of the voters in the county, or any combination thereof, assess a county 9-1-1 charge. The board of commissioners shall state in the resolution, ballot question, or millage request the anticipated amount to be generated.

(2) The charge assessed under this section and section 401e shall not exceed the amount necessary and reasonable to implement, maintain, and operate the 9-1-1 system in the county.

(3) If the voters approve the charge to be assessed on the service user's monthly bill on a ballot question under this section, the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your service supplier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER).".

(4) Within 90 days after the first day of each fiscal or calendar year of a county, an annual accounting shall be made of the charge approved under this section.

(5) Except as otherwise provided in subsection (9), the county 9-1-1 charge collected under this section shall be paid quarterly directly to the county and distributed by the county to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to population within the emergency 9-1-1 district.

(6) The county may adjust the county 9-1-1 charge annually to be effective July 1. The county shall notify the committee no later than April 1 of each year of any change in the county 9-1-1 charge under this section.

(7) If a county has multiple emergency response districts, the county 9-1-1 charge collected under this section shall be distributed under subsection (5) in proportion to the population within the emergency 9-1-1 district.

(8) This section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency 9-1-1 district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(9) The service supplier may retain 2% of the approved county 9-1-1 charge to cover the supplier's costs for billings and collections under this section.

(10) The charge allowed under this section shall be listed separately on the customer's bill and shall state by which means the charge was approved under subsection (1).

(11) Information submitted by a service supplier to a county under this section is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released by the county without the consent of the service supplier.

(12) If a service user has multiple access points or access lines, the county 9-1-1 charge will be imposed separately on each of the first 10 access points or access lines and then 1 charge for each 10 access points or access lines per billed account.

484.1401c Collection of emergency 9-1-1 charge by CMRS supplier or reseller from prepaid customers; amount; method of determining amount; annual review; deposit of amount collected; effective date of section; definitions.

Sec. 401c. (1) Each CMRS supplier or reseller shall collect an emergency 9-1-1 charge from each of its prepaid customers. The amount of the emergency 9-1-1 charge shall be established annually by the committee by combining the amounts determined under subsections (2) and (3).

(2) The CMRS supplier or reseller shall have a 1-time option of selecting 1 of the following methods of determining the portion of the emergency 9-1-1 charge that represents the state 9-1-1 charge amount:

(a) By dividing the total earned prepaid revenue received by the CMRS supplier or reseller within the monthly 9-1-1 reporting period by $50.00 and then multiplying that number by the amount of the state 9-1-1 charge as established under section 401a.

(b) By multiplying the amount of the state 9-1-1 charge as established under section 401a for each active prepaid account of the CMRS supplier or reseller.

(3) The committee shall review and annually establish the portion of the emergency 9-1-1 charge assessed under this section that represents the county 9-1-1 charge amount. The charge shall be based on the weighted average of all county 9-1-1 charges imposed statewide.

(4) The CMRS shall deposit the amount collected under this section into the emergency 9-1-1 fund to be distributed as provided under section 408.

(5) This section takes effect July 1, 2008.

(6) As used in this section:

(a) "Active prepaid accounts" means a customer who has recharged or replenished his or her account at least once during the billing period or calendar month and has a sufficient positive balance at the end of each month equal to or greater than the amount of the emergency 9-1-1 charge established under this section.

(b) "CMRS reseller" means a provider who purchases telecommunication services from another telecommunication service provider and then resells, uses a component part of, or integrates the purchased services into a mobile telecommunication service.

(c) "Earned prepaid revenue" means new revenue that has been generated from prepaid service accounts since the close of the last billing period or calendar month.

(d) "Prepaid customer" means a CMRS subscriber who pays in full prospectively for the service and has 1 of the following:

(*i*) A Michigan telephone number or a Michigan identification number for the service.

(*ii*) A service for exclusive use in an automotive vehicle and whose place of primary use is within this state. As used in this sub-subparagraph, "place of primary use" means that phrase as defined under 4 USC 124.

484.1401d Billing and collection of emergency telephone technical charge; "local exchange provider" defined.

Sec. 401d. (1) Each local exchange provider within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge from all service users of the provider within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge shall continue to be billed to the service user.

(2) The amount of the emergency telephone technical charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge by the number of exchange access facilities within the 9-1-1 service district.

(3) The amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of $20.00 or the highest monthly rate charged by the local exchange provider for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of $20.00 or the highest monthly rate charged by the provider for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (2) and the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(4) The emergency telephone technical charge shall be collected in accordance with the regular billings of the local exchange provider. The emergency telephone technical charge payable by service users under this act shall be added to and shall be stated separately in the billings to service users.

(5) As used in this section, "local exchange provider" means a provider of basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

484.1401e Surcharge; assessment; submission of certain information to commission; review and approval or disapproval of surcharge.

Sec. 401e. (1) No later than February 15, 2008, each county that decides to assess a surcharge under section 401b shall with the assistance of the state 9-1-1 office submit to the commission all of the following:

(a) The initial county 9-1-1 surcharge for each 9-1-1 service district to be effective July 1, 2008.

(b) The estimated amount of revenue to be generated in each 9-1-1 service district for 2007.

(c) Based on the surcharge established under this subsection, the estimated amount of revenue to be generated for 2008.

(2) If the amount to be generated in 2008 exceeds the amount received in 2007 plus an amount not to exceed 2.7% of the 2007 revenues, the commission, in consultation with the committee, shall review and approve or disapprove the county 9-1-1 surcharge adopted under section 401b. If the commission does not act by March 17, 2008, the county 9-1-1 surcharge shall be deemed approved. If the surcharge is rejected, it shall be adjusted to ensure that the revenues generated do not exceed the amounts allowed under this subsection. In reviewing the surcharge under this subsection, the commission shall consider the allowable and disallowable costs as approved by the committee on June 21, 2005.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 411 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

Compiler's note: Senate Bill No. 411, referred to in enacting section 1, was filed with the Secretary of State December 21, 2007, and became 2007 PA 165, Imd. Eff. Dec. 21, 2007.

[No. 165]

(SB 411)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending sections 402, 403, 404, 405, 406, 407, 408, 412, 413, 502, 504, 601, 602, 605, 712, 714, 716, and 717 (MCL 484.1402, 484.1403, 484.1404, 484.1405, 484.1406, 484.1407, 484.1408, 484.1412, 484.1413, 484.1502, 484.1504, 484.1601, 484.1602, 484.1605, 484.1712, 484.1714, 484.1716, and 484.1717), sections 403, 404, 405, and 406 as amended by 1999 PA 81, sections 407 and 412 as added by 1999 PA 78, section 408 as amended by 2006 PA 74, section 413 as added and section 717 as amended by 2006 PA 249, section 601 as amended and section 605 as added by 1999 PA 80, section 602 as amended by 2004 PA 515, and sections 712, 714, and 716 as added by 1999 PA 79; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

484.1402 Liability for charge.

Sec. 402. Each billed service user shall be liable for any state, county, or technical 9-1-1 charge imposed on the service user under this act.

484.1403 Responsibility for billing charge and transmitting money.

Sec. 403. Each service supplier shall be solely responsible for the billing of the state and county 9-1-1 charge and the transmittal of money collected to the emergency 9-1-1 fund and to the counties as required under this act.

484.1404 Alteration of state or county 9-1-1 charge.

Sec. 404. A service supplier providing or designated to provide 9-1-1 service under this act shall not alter the state or county 9-1-1 charge collected from service users within the 9-1-1 service district except as provided under this act.

484.1405 Service user with multiline telephone system; installation of equipment and software; rules.

Sec. 405. The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 to require each service user with a multiline telephone system to install no later than December 31, 2011 the necessary equipment and software to provide specific location information of a 9-1-1 call. This section applies to multiline telephone systems regardless of the system technology.

484.1406 Expenditure of funds; accounting, auditing, monitoring, and evaluation procedures provided by PSAP or secondary PSAP; annual audit; authorization or expenditure of increase in charges; receipt of 9-1-1 funds.

Sec. 406. (1) The funds collected and expended under this act shall be expended exclusively for 9-1-1 services and in compliance with the rules promulgated under section 413.

(2) Each PSAP or secondary PSAP shall assure that fund accounting, auditing, monitoring, and evaluation procedures are provided as required by this act and the rules promulgated under this act.

(3) An annual audit shall be conducted by an independent auditor using generally accepted accounting principles and copies of the annual audit shall be made available for public inspection.

(4) An increase in the charges allowed under this act shall not be authorized or expended for the next fiscal year unless according to the most recently completed annual audit the expenditures are in compliance with this act.

(5) The receipt of 9-1-1 funds under this act is dependent on compliance with the standards established by the commission under section 413.

484.1407 Emergency 9-1-1 fund; creation; disposition of assets; money remaining in fund; expenditure; disbursement; audit.

Sec. 407. (1) The emergency 9-1-1 fund is created within the state treasury.

(2) The state treasurer may receive money or other assets as provided under this act and from any source for deposit into the fund. Money may be deposited into the fund by electronic funds transfer. Money in the CMRS emergency telephone fund on the effective date of the amendatory act that added section 401a shall be deposited into the fund and expended as provided by this act. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of treasury shall expend money from the fund only as provided in this act. The disbursement of money may be by electronic funds transfer.

(5) The auditor general shall audit the fund at least annually.

484.1408 State 9-1-1 service charge by service supplier; retention of percentage to cover supplier's costs; deposit of money in emergency 9-1-1 fund; collection, deposit, and distribution of money; feasibility study of IP-based 9-1-1 system; methods of distribution to primary PSAPs by county; rules to establish standards for receipt and expenditure of funds.

Sec. 408. (1) Except as otherwise provided under this act, starting July 1, 2008, a service supplier shall include a state 9-1-1 service charge per month as determined under section 401a. The service supplier shall list the state 9-1-1 service charge authorized under this act as a separate line item on each bill. The service charge shall be listed on the bill as the "state 9-1-1 charge".

(2) Each service supplier may retain 2% of the state 9-1-1 charge collected under this act to cover the supplier's costs for billing and collection.

(3) Except as otherwise provided under subsection (2), the money collected as the state 9-1-1 charge under subsection (1) shall be deposited in the emergency 9-1-1 fund created in section 407 no later than 30 days after the end of the quarter in which the state 9-1-1 charge was collected.

(4) Except as otherwise provided under section 401a(5), all money collected and deposited in the emergency 9-1-1 fund created in section 407 shall be distributed as follows:

(a) 82.5% shall be disbursed to each county that has a final 9-1-1 plan in place. Forty percent of the 82.5% shall be distributed quarterly on an equal basis to each county, and 60% of the 82.5% shall be distributed quarterly based on a population per capita basis. Money received by a county under this subdivision shall only be used for 9-1-1 services as allowed under this act. Money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund.

(b) 7.75% shall be available to reimburse local exchange providers for the costs related to wireless emergency service. Any cost reimbursement allowed under this subdivision shall not include a cost that is not related to wireless emergency service. A local exchange provider may submit an invoice to the commission for reimbursement from the emergency 9-1-1 fund for allowed costs. Within 45 days after the date an invoice is submitted to the commission, the commission shall approve, either in whole or in part, or deny the invoice.

(c) 6.0% shall be available to PSAPs for training personnel assigned to 9-1-1 centers. A written request for money from the fund shall be made by a public safety agency or county to the committee. The committee shall semiannually authorize distribution of money from the fund to eligible public safety agencies or counties. A public safety agency or county that receives money under this subdivision shall create, maintain, and make available to the committee upon request a detailed record of expenditures relating to the preparation, administration, and carrying out of activities of its 9-1-1 training program. Money expended by an eligible public safety agency or county for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund. The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under section 413 establishing training standards for 9-1-1 system personnel. Money shall be disbursed on a biannual basis to an eligible public safety agency or county for training of PSAP personnel through courses certified by the committee only for either of the following purposes:

(*i*) To provide basic 9-1-1 operations training.

(*ii*) To provide in-service training to employees engaged in 9-1-1 service.

(d) 1.88% credited to the department of state police to operate a regional dispatch center that receives and dispatches 9-1-1 calls, and 1.87% credited to the department of state police for costs to administer this act and to maintain the office of the state 9-1-1 coordinator.

(5) For fiscal year 2007-2008 only, an amount not to exceed $500,000.00 to the department of state police to study the feasibility of an IP-based 9-1-1 system in this state.

(6) Money received by a county under subsection (4)(a) shall be distributed by the county to the primary PSAPs geographically located within the 9-1-1 service district by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the 9-1-1 service plan under subdivision (a), then according to any agreement for distribution between a county and a public agency.

(c) If distribution is not provided for in the 9-1-1 service plan under subdivision (a) or by agreement between the county and public agency under subdivision (b), then according to the population within the geographic area for which the PSAP serves as primary PSAP.

(d) If a county has multiple emergency 9-1-1 districts, money for that county shall be distributed as provided in the emergency 9-1-1 districts' final 9-1-1 service plans.

(7) The commission shall consult with and consider recommendations of the committee in the promulgation of rules under section 413 establishing the standards for the receipt and expenditures of 9-1-1 funds under this act. Receipt of 9-1-1 funds under this act is dependent on compliance with the standards established under this subsection.

484.1412 Report on 9-1-1 system and charge.

Sec. 412. (1) The committee shall make a report annually on the 9-1-1 system in this state and the state and county 9-1-1 charge required under sections 401, 401a, 401b, 401c, 401d, and 401e and distributed under section 408 not later than August 1 of each year. The report shall include at a minimum all of the following:

(a) The extent of emergency 9-1-1 service implementation in this state.

(b) The actual 9-1-1 service costs incurred by PSAPs and counties.

(c) The state 9-1-1 charge required under section 401a and a recommendation of any changes in the state 9-1-1 charge amount or in the distribution percentages under section 408.

(d) A description of any commercial applications developed as a result of implementing this act.

(e) The charge allowed under sections 401a, 401b, 401c, 401d, and 401e and a detailed record of expenditures by each county relating to this act.

(2) The committee shall deliver the report required under subsection (1) to the secretary of the senate, the clerk of the house of representatives, and the standing committees of the senate and house of representatives having jurisdiction over issues pertaining to communication technology.

484.1413 Rules.

Sec. 413. (1) The commission may promulgate rules to establish 1 or more of the following:

(a) Uniform procedures, policies, and protocols governing 9-1-1 services in counties and PSAPs in this state.

(b) Standards for the training of PSAP personnel under section 408(2)(b).

(c) Uniform procedures, policies, and standards for the receipt and expenditure of 9-1-1 funds under sections 401a, 401b, 401c, 401d, 401e, 406, and 408.

(d) The requirements for multiline telephone systems under section 405.

(e) The penalties and remedies for violations of this act and the rules promulgated under this act.

(2) The commission shall consult with and consider the recommendations of the committee in the promulgation of rules under this section.

(3) The commission's rule-making authority is limited to that expressly granted under this section.

(4) The rules promulgated under this section do not apply to service suppliers.

484.1502 Cessation of function as PSAP or secondary PSAP; notice; payment of costs for equipment removal or system modification.

Sec. 502. (1) After installation and commencement of operation of a 9-1-1 system implemented under this act, a public safety agency serving a public agency or county within the 9-1-1 service district shall cease to function as a PSAP or a secondary PSAP 60 days after giving written notice to the county clerk. Within 5 days after receipt of the notice, the county clerk shall forward the written notice to the service supplier.

(2) Notwithstanding any provision of this act, any costs incurred by a service supplier for equipment removal or system modification necessary for a public safety agency to cease functioning as a PSAP or secondary PSAP under subsection (1) shall be paid directly by the public safety agency.

484.1504 Forwarding certified copy of resolution to service supplier by certified mail; commencement of service and collection of state and county 9-1-1 charge.

Sec. 504. Within 5 days after receipt of a certified copy of a resolution adopted by a public agency under section 503, the county clerk shall forward the certified copy of the resolution to the service supplier by certified mail, return receipt requested. Within a reasonable time after the service supplier receives the certified copy of the resolution, the service supplier

shall commence 9-1-1 service to all or part of the jurisdiction of the public agency, as the case may be, and after commencement of the service shall commence the collection of the state and county 9-1-1 charge, in accordance with this act, from service users within all or part of the jurisdiction of the public agency added to the 9-1-1 service district.

484.1601 Technical assistance and assistance in resolving dispute.

Sec. 601. The emergency 9-1-1 service committee created in section 712, upon request by a service supplier, county, public agency, or public service agency, shall provide, to the extent possible, technical assistance regarding the formulation or implementation, or both, of a 9-1-1 service plan and assistance in resolving a dispute between or among a service supplier, county, public agency, or public safety agency regarding their respective rights and duties under this act.

484.1602 Development of voluntary informal dispute resolution process; hearing dispute as contested case.

Sec. 602. (1) The committee shall develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of 9-1-1 services in this state.

(2) Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

484.1605 Prohibited use of emergency 9-1-1 service; violation; penalty; exception.

Sec. 605. (1) A person shall not use an emergency 9-1-1 service authorized by this act for any reason other than to call for an emergency response service from a primary public safety answering point.

(2) A person who knowingly uses or attempts to use an emergency 9-1-1 service for a purpose other than authorized in subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than $5,000.00, or both.

(3) A person who violates subsection (2) and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $10,000.00, or both.

(4) This section does not apply to a person who calls a public safety answering point to report a crime or seek assistance that is not an emergency unless the call is repeated after the person is told to call a different number.

484.1712 Emergency 9-1-1 service committee; creation; purpose; authority and duties.

Sec. 712. An emergency 9-1-1 service committee is created within the department of state police to develop statewide standards and model system considerations and make other recommendations for emergency telephone services. The committee shall only have the authority and duties granted to the committee under this act.

484.1714 Duties of committee; staff assistance.

Sec. 714. (1) The committee shall do all of the following:

(a) Organize and adopt standards governing the committee's formal and informal procedures.

(b) Meet not less than 4 times per year at a place and time specified by the chairperson.

(c) Keep a record of the proceedings and activities of the committee.

(d) Provide recommendations to public safety answering points and secondary public safety answering points on statewide technical and operational standards for PSAPs and secondary PSAPs.

(e) Provide recommendations to public agencies concerning model systems to be considered in preparing a 9-1-1 service plan.

(f) Perform all duties as required under this act relating to the development, implementation, operation, and funding of 9-1-1 systems in this state.

(g) Provide notice to the service suppliers of any changes in the state or county 9-1-1 charge under sections 401a, 401b, and 401c.

(2) The department of state police and the public service commission shall provide staff assistance to the committee as necessary to carry out the committee's duties under this act.

484.1716 Availability of writing to public.

Sec. 716. Except as otherwise provided under this act, a writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

484.1717 Repeal of act.

Sec. 717. This act is repealed effective February 28, 2009.

Repeal of sections.

Enacting section 1. Sections 201a, 201b, 306, 410, 411, 506, and 711 of the emergency telephone services enabling act, 1986 PA 32, MCL 484.1201a, 484.1201b, 484.1306, 484.1410, 484.1411, 484.1506, and 484.1711, are repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 410 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

Compiler's note: Senate Bill No. 410, referred to in enacting section 2, was filed with the Secretary of State December 21, 2007, and became 2007 PA 164, Imd. Eff. Dec. 21, 2007.

[No. 166]

(HB 5354)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to

prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 16315 (MCL 333.16315), as amended by 2001 PA 232.

The People of the State of Michigan enact:

333.16315 Health professions regulatory fund; nurse professional fund; pain management education and controlled substances electronic monitoring and antidiversion fund.

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in this section, the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. The money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.

(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department of community health shall use the health professions regulatory fund to carry out its powers and duties under this article and article 7 including, but not limited to, reimbursing the department of attorney general for the reasonable cost of services provided to the department of community health under this article and article 7. For the fiscal year ending September 30, 2007 only, subject to appropriations by the legislature and approval by the governor, the department of community health may also use the health professions regulatory fund to support health information technology initiatives.

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit $2.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department of community health shall use the nurse professional fund each fiscal year only as follows:

(a) The department may use not more than 1/3 of the nurse professional fund for the establishment and operation of a nurse continuing education program.

(b) The department may use not more than 1/3 of the nurse professional fund to perform research and development studies to promote and advance the nursing profession.

(c) The department shall use not less than 1/3 of the nurse professional fund to establish and operate a nursing scholarship program.

(10) The pain management education and controlled substances electronic monitoring and antidiversion fund is established in the state treasury.

(11) The state treasurer shall direct the investment of the pain management education and controlled substances electronic monitoring and antidiversion fund. Interest and earnings from investment of the pain management education and controlled substances electronic monitoring and antidiversion fund shall be credited to the pain management education and controlled substances electronic monitoring and antidiversion fund.

(12) The unencumbered balance in the pain management education and controlled substances electronic monitoring and antidiversion fund at the close of the fiscal year shall remain in the pain management education and controlled substances electronic monitoring and antidiversion fund and shall not revert to the general fund. The pain management education and controlled substances electronic monitoring and antidiversion fund may receive gifts and devises and other money as provided by law. Twenty dollars of the license fee received by the department of community health under section 16319 shall be deposited with the state treasurer to the credit of the pain management education and controlled substances electronic monitoring and antidiversion fund. The department shall use the pain management education and controlled substances electronic monitoring and antidiversion fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and development and maintenance of the electronic monitoring system for controlled substances data required by section 7333a.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 167]

(SB 540)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 552 (MCL 750.552).

The People of the State of Michigan enact:

750.552 Trespass upon lands or premises of another; violation; penalty.

Sec. 552. (1) A person shall not do any of the following:

(a) Enter the lands or premises of another without lawful authority after having been forbidden so to do by the owner or occupant or the agent of the owner or occupant.

(b) Remain without lawful authority on the land or premises of another after being notified to depart by the owner or occupant or the agent of the owner or occupant.

(c) Enter or remain without lawful authority on fenced or posted farm property of another person without the consent of the owner or his or her lessee or agent. A request to leave the premises is not a necessary element for a violation of this subdivision. This subdivision does not apply to a person who is in the process of attempting, by the most direct route, to contact the owner or his or her lessee or agent to request consent.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 30 days or by a fine of not more than $250.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 168]

(SB 794)

AN ACT to amend 1987 PA 231, entitled "An act to create a transportation economic development fund in the state treasury; to prescribe the uses of and distributions from this fund; to create the office of economic development and to prescribe its powers and duties; to prescribe the powers and duties of the state transportation department, state transportation commission, and certain other bodies; and to permit the issuance of certain bonds," by amending section 11 (MCL 247.911), as amended by 1993 PA 149.

The People of the State of Michigan enact:

247.911 Bonds; categories and amounts in which projects to be funded; percentages on which funding based; obligation authority for federal funds; distribution.

Sec. 11. (1) Bonds may be issued as authorized by the commission for the purpose of funding projects under this act in the manner provided in sections 18b and 18k of 1951 PA 51, MCL 247.668b and 247.668k, and in accordance with the adopted policies of the commission. Bonds shall not be committed for any project under this act until the requirements set forth under section 3(1) have been satisfied.

(2) Projects shall be funded in the following categories in the following amounts:

(a) The first $5,000,000.00 of the fund shall be distributed each fiscal year to each qualified county in a percentage amount equal to the same percentage amount that the number of acres of commercial forest, national park, and national lakeshore land in each qualified county bears to the total number of acres of commercial forest, national park, and national lakeshore land in all qualified counties in this state. Revenue distributed under this subdivision shall be used for the construction or reconstruction of roads.

(b) The next $2,500,000.00 of the fund shall be distributed each fiscal year for improvements to roads and streets that are eligible for federal aid in cities and villages having a population of 5,000 or greater within rural counties.

(3) Of the balance remaining after funding projects pursuant to subsection (2), projects shall be funded in the categories described in section 9 based on the following percentages:

(a) Except as otherwise provided in this subdivision, 50% for economic development road projects in any of the targeted industries. For the period beginning October 1, 2006 and continuing through September 30, 2007, allocations made to targeted industries under this subdivision shall be reduced by $6,000,000.00.

(b) 25% for projects to reduce congestion on county primary and city major streets within urban counties including advanced traffic management systems. The funds shall be distributed to counties with populations in excess of 400,000 in accordance with the following formula:

Population	Percentage of Funds
1,750,000 or more	16%
1,000,000 to 1,750,000	40%
600,000 to 1,000,000	20%
400,000 to 600,000	24%

When 2 or more counties occupy the same category, the funds shall be divided equally.

Projects funded under this category shall be used for the widening of county primary roads or city major streets or for advanced traffic management systems in eligible counties.

(c) 25% for development projects within rural counties. These revenues shall be distributed for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less. Funds distributed under this subdivision shall be allocated by the commission to the regional rural task force areas defined in section 12a in the same proportion that the rural primary mileage of the regional rural task force area bears to the total rural primary mileage of all counties. Each rural county shall be credited with an allocation in the proportion that the county's rural primary mileage is to the total rural primary mileage of those rural counties within the same regional rural task force area. Projects funded under this subdivision shall be limited to upgrading rural primary roads and major streets to create an all-season road network.

(4) The obligation authority for any federal funds allocated under section 10 of 1951 PA 51, MCL 247.660, shall be distributed equally among urban task forces and regional rural task forces according to the distribution formula outlined in subsection (3)(c) and (d). An additional 1.5% of the obligation authority for federal funds identified in section 10 of 1951 PA 51, MCL 247.660, shall be distributed among the regional rural task forces according to the distribution formula outlined in subsection (3)(d). These funds shall be obligated and used consistent with section 10 of 1951 PA 51, MCL 247.660.

This act is ordered to take immediate effect.

Approved December 20, 2007.

Filed with Secretary of State December 21, 2007.

[No. 169]

(SB 925)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 395 (MCL 18.1395), as amended by 2007 PA 2.

The People of the State of Michigan enact:

18.1395 Financing from federal, state restricted, local, or private funding; financing by multiple fund sources; spending of state matching money; reductions; notice; adjustments; corrective action; prohibited transfer.

Sec. 395. (1) Appropriation line items in a budget act financed from federal, state restricted, local, or private funding authorize spending only for the amount of the funds actually earned up to the amount appropriated. When an appropriation line item that is financed from federal, state restricted, local, or private funding sources is earning funds less than the appropriated amount, the department shall reduce the overall level of expenditures from the appropriation line item to reflect the estimated funding shortfall. In an appropriation line item financed by multiple fund sources, any state general fund/general purpose appropriation shall be used only after the federal, state restricted, local, or private funds have been expended.

(2) Except as otherwise provided in this section, spending of state matching money in an appropriation shall be maintained in the proportion appropriated. When federal money is earned in an amount less than appropriated and the matching requirements have not been reduced, spending of any state matching appropriation shall be reduced accordingly.

(3) When federal matching formulas are adjusted to increase the federal share of the costs of a program, spending of any state matching appropriation shall be reduced accordingly. Within 15 days after receipt of a notice of such a change, the state agency shall notify the state budget director. The state budget director shall within 15 days make a recommendation to the senate and house appropriations committees and the fiscal agencies to adjust existing appropriations to implement the change in the federal matching rate.

(4) When federal matching formulas are adjusted to reduce the federal share of the costs of a program, the affected state agency shall notify the department. After receipt of the notice of such a change the state budget director shall take appropriate corrective action. For purposes of this subsection, a transfer to increase the state matching appropriations shall not be permitted under section 393(1).

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 170]

(SB 928)

AN ACT to amend 1979 PA 72, entitled "An act to require the governor to report certain tax information with the annual budget message to the legislature," by amending section 3 (MCL 21.273), as amended by 2003 PA 38.

The People of the State of Michigan enact:

21.273 Fiscal years ending before January 1, 2008; reporting pursuant to single business tax act; fiscal years beginning on or after January 1, 2008; reporting pursuant to Michigan business tax act.

Sec. 3. (1) For fiscal years ending before January 1, 2008, the governor shall report the following compiled pursuant to the single business tax act, 1975 PA 228, MCL 208.1 to 208.145:

(a) Amount of capital investment write off for real and personal property separately by size of final liability of taxpayer.

(b) Amount of business loss by size of final liability of taxpayer.

(c) Amount of carryforward loss by size of final liability of taxpayer.

(d) Number of taxpayers filing under the gross receipt limitation provided by section 31(2) of the single business tax act, 1975 PA 228, MCL 208.31, and amount of tax foregone.

(e) Number of taxpayers filing under section 31(4) of the single business tax act, 1975 PA 228, MCL 208.31, and amount of tax foregone.

(f) Number of taxpayers claiming the basic exemption under section 35(1)(a) of the single business tax act, 1975 PA 228, MCL 208.35, and amount of tax foregone.

(g) Number of taxpayers filing for the added exemption for partnerships as provided in section 35(1)(a) of the single business tax act, 1975 PA 228, MCL 208.35, and amount of tax foregone.

(h) Number of claimants and amount of tax foregone under section 35(1)(e) of the single business tax act, 1975 PA 228, MCL 208.35.

(i) Number of claimants and amount of tax foregone under section 35(1)(f) of the single business tax act, 1975 PA 228, MCL 208.35.

(j) Number of claimants and amount of tax foregone under section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35.

(k) Number of claimants by size of final liability and amount of tax foregone under section 36 of the single business tax act, 1975 PA 228, MCL 208.36.

(*l*) Number of claimants by size of final liability and amount of tax foregone under section 37 of the single business tax act, 1975 PA 228, MCL 208.37.

(m) Number of claimants by size of final liability and amount of tax foregone under section 38 of the single business tax act, 1975 PA 228, MCL 208.38.

(n) Number of claimants by size of final liability and amount of tax foregone under section 39(1) of the single business tax act, 1975 PA 228, MCL 208.39.

(o) Other deductions or credits as provided by law.

(2) For fiscal years beginning on and after January 1, 2008, the governor shall report the following compiled pursuant to the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601:

(a) Amount of capital investment write off for real and personal property separately by size of final liability of taxpayer.

(b) Amount of business loss by size of final liability of taxpayer.

(c) Amount of carryforward loss by size of final liability of taxpayer.

(d) Number of taxpayers claiming an exemption under section 207 of the Michigan business tax act, 2007 PA 36, MCL 208.1207, and amount of tax foregone.

(e) Number of claimants by size of final liability and amount of tax foregone under section 417 of the Michigan business tax act, 2007 PA 36, MCL 208.1417.

(f) Number of claimants by size of final liability and amount of tax foregone under sections 403, 405, 421, 422, and 425 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, 208.1405, 208.1421, 208.1422, and 208.1425.

(g) Number of claimants by size of final liability and amount of tax foregone under section 413 of the Michigan business tax act, 2007 PA 36, MCL 208.1413.

(h) Other deductions or credits as provided by law.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 171]

(SB 929)

AN ACT to amend 1895 PA 215, entitled "An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe penalties and provide remedies," by amending section 20 (MCL 110.20).

The People of the State of Michigan enact:

110.20 Tax or loan to raise greater amount; vote of electors; maximum amount; limitation on amount of indebtedness; fire, flood, or other calamity requiring emergency fund; exclusions from computation of net indebtedness; deducting resources of sinking fund; validation of bonds or contract or assessment obligations; calculating assessed value equivalent.

Sec. 20. (1) If a greater amount is required in any year for a lawful purpose than can be raised by the council under the provisions of this chapter, the amount may be raised by tax or loan, or partly by tax and partly by loan. The amount that may be voted or raised by tax, if approved by a majority vote of the electors at an annual or special city election, in any year under the provisions of this act, shall not exceed 2% of the assessed valuation of the real and personal property in the city as shown by the last preceding tax rolls made in the city.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, shall not exceed 10% of the assessed valuation of the real and personal property within the city subject to taxation as shown by the last preceding assessment roll of the city.

(3) In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the city, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the council may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the assessed valuation of the city, notwithstanding the loan may increase the indebtedness of the city beyond the limitations fixed by the city charter or in this act.

(4) In computing the net indebtedness the following shall be excluded:

(a) Bonds issued in anticipation of the collection of special assessments even though they are a general obligation of the city.

(b) Motor vehicle highway fund bonds even though they are a general obligation of the city.

(c) Revenue bonds.

(d) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction even though they are a general obligation of the city.

(e) Obligations incurred for water supply, sewage, drainage, or refuse disposal projects necessary to protect the public health by abating pollution even though they are a general obligation of the city.

(f) Mortgage bonds which are secured only by a mortgage on the property and revenues, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the franchise; which franchise shall not extend for more than 20 years after the date of the sale of the utility and franchise on foreclosure.

(g) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of indebtedness.

(6) Bonds issued before the effective date of this subsection, or contract or assessment obligations incurred before the effective date of this subsection, are validated.

(7) In computing the net indebtedness determined under subsection (2) there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use pursuant to section 13 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.913. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

This act is ordered to take immediate effect.

Approved December 20, 2007.

Filed with Secretary of State December 21, 2007.

[No. 172]

(SB 930)

AN ACT to amend 1991 PA 180, entitled "An act to assist in the financing of stadia or convention facilities; to permit eligible municipalities to impose and collect an excise tax on businesses engaged in the preparation and delivery of food and beverages for immediate consumption, in leasing or renting motor vehicles in the eligible municipality, and in providing accommodations for dwelling, lodging, or sleeping purposes; to limit the rate of that excise tax; to authorize voter approval in a single ballot question of the excise tax authorized by this act and of certain purposes for which the excise tax is imposed; to provide for the establishment of procedures for the collection, administration, and enforcement of the excise tax; to prescribe the powers and duties of certain state departments and state and local officials; to provide for the disposition and transmittal of the revenues from the tax for stadia or convention facility development and other purposes and authorize the pledge of those revenues; to authorize the appointment of employees and officials of a local governmental unit to an authority to which revenues from the tax may be pledged; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," by amending section 1 (MCL 207.751).

The People of the State of Michigan enact:

207.751 Definitions.

Sec. 1. As used in this act:

(a) "Accommodations" means the room or other space provided for sleeping, including furnishings and other accessories in the room but not including the provision of food, beverages, telephone services, television or movie services, or other similar services, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or community substance abuse treatment facility, or campground.

(b) "Chief executive officer" means for a county the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners and for a city, the mayor.

(c) "Convention facility" means a convention exhibition facility, including meeting rooms and necessary sites, related parking lots or structures, and appurtenant properties and facilities, if the facility itself contains not less than 50,000 square feet of exhibition space and if the eligible municipality is a county, the facility is located within the boundaries of the most populous city in the county.

(d) "Eligible county" means a county with a population of 1,500,000 or more persons that adopts or has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, and that intends to impose the tax authorized by this act for purposes related to a stadium as defined under subdivision (i)(*i*).

(e) "Eligible municipality" means any of the following:

(*i*) An eligible county that intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*i*).

(*ii*) A county that is not a charter county that has a population of more than 500,000 and contains a city with a population of 180,000 or more persons, or the most populous city in that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*iii*) A county with a population of less than 200,000 that contains a city with a population of more than 40,000 but less than 50,000, or the most populous city in that county if either

intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*iv*) A county with a population of less than 300,000 with a city with a population of more than 100,000 persons, or the most populous city within that county if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(*v*) A county with a population of more than 250,000 with an optional unified form of government or a city within that county that levies a city income tax if either intends to impose a tax under this act for purposes related to a stadium as defined under subdivision (i)(*ii*) or a convention facility.

(f) "Gross receipts" means that term as defined in section 7 of the single business tax act, 1975 PA 228, MCL 208.7, or section 111 of the Michigan business tax act, 2007 PA 36, MCL 208.1111. Gross receipts do not include any amount received as reimbursement of sales tax or as charges for use tax.

(g) "Motor vehicle" means a motor vehicle subject to registration and certificate of title under section 216 of the Michigan vehicle code, 1949 PA 300, MCL 257.216, that is designed and intended to be used primarily in the transportation of passengers. Motor vehicle does not include a road tractor, school bus, special mobile equipment, tank vehicle, truck tractor, implement of husbandry, or farm tractor as these terms are defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

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

(i) "Stadium" means a facility, including necessary sites, related parking lots or structures, and appurtenant properties and facilities, that is intended to provide space for any of the following:

(*i*) A professional baseball franchise, if the facility itself contains not less than 25,000 seats and is located in the downtown area of the most populous city in the eligible county.

(*ii*) Professional sports or entertainment, if the facility itself contains not less than 3,000 seats, is not a facility as defined by subparagraph (*i*).

(j) "Transient guest" means a person who occupies an accommodation for less than 30 consecutive days.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 173]

(SB 931)

AN ACT to amend 2003 PA 296, entitled "An act to promote investment in certain businesses; to promote economic development in this state; to provide for a Michigan early stage venture investment corporation; to prescribe the powers and duties of a Michigan early stage venture investment corporation; to prescribe the powers and duties of certain public officers and departments; to establish the Michigan early stage venture investment fund and other funds; to provide for tax credits and incentives; to authorize certain investments; to provide for the expiration of the fund; to provide or allow for appropriations; and to provide penalties and remedies," by amending sections 17, 19, and 23 (MCL 125.2247, 125.2249, and 125.2253), as amended by 2005 PA 102.

The People of the State of Michigan enact:

125.2247 Agreements with investors.

Sec. 17. (1) To secure investment in the fund, the Michigan early stage venture investment corporation shall enter into agreements with investors.

(2) Each agreement shall contain all of the following:

(a) An established and agreed-upon investment amount and repayment schedule.

(b) A negotiated amount or negotiated return on qualified investment by the investor over the term of the agreement.

(c) A maximum amount of tax vouchers that the investor may use to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the first year in which that tax voucher may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, including any withholding tax imposed on the investor under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(3) The Michigan early stage venture investment corporation shall notify the department of treasury when agreements are entered into under this section and send a copy of each agreement to the department of treasury. After making the determination required under section 23(2), the department of treasury shall issue an approval letter to the investor that states that the investor is entitled to a tax voucher that is equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the investor and the Michigan early stage venture investment corporation.

(4) The fund shall repay any amounts due from proceeds from the funds raised based on the agreements made under this section and from the proceeds of investments made by the fund.

(5) For tax years that begin after December 31, 2008, investors that have tax voucher certificates issued pursuant to section 23 may use the tax voucher to pay a liability owed by the investor under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, as provided in this act, up to an amount equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the taxpayer and the Michigan early stage venture investment corporation. The Michigan early stage venture investment corporation shall notify the department of treasury when tax voucher certificates are issued under section 23(5).

(6) Repayment of a debt under this section may be restricted to specific funds or assets of the Michigan early stage venture investment corporation.

(7) The Michigan early stage venture investment corporation may purchase securities and may manage, transfer, or dispose of those securities.

(8) The Michigan early stage venture investment corporation and its directors are not broker-dealers, agents, investment advisors, or investment advisor representatives when carrying out their duties and responsibilities under this act.

125.2249 Michigan early stage venture investment fund; investment plan; criteria.

Sec. 19. (1) A Michigan early stage venture investment corporation shall create a Michigan early stage venture investment fund, which shall be a restricted fund.

(2) The fund manager shall establish an investment plan approved by the board for the investment of the money in the fund using the following criteria:

(a) Not more than 15% of the total capital and outstanding commitments of the fund shall be invested in any single venture capital company.

(b) The fund manager with the approval of the board shall undertake to invest the fund in such a way as to promote that at least $2.00 will be invested in qualified businesses for every $1.00 of principal for which tax vouchers may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(c) That investments facilitate the transfer of technologies from the state's various universities and research institutions.

(d) Any other professional portfolio management criteria that the fund manager and board consider appropriate.

(e) Priorities for investment in venture capital may be based on an evaluation, which shall consider the following criteria:

(*i*) The retention of those businesses that would be likely to leave this state absent the investment.

(*ii*) The revitalization and diversification of the economic base of this state.

(*iii*) Generating and retaining jobs and investment in this state.

(3) Consistent with the plan established under subsection (2), the fund manager shall select venture capital companies from among those venture capital companies that apply for money from the fund considering the following criteria:

(a) The venture capital company's probability of success in generating above-average returns through investing in qualified businesses.

(b) The venture capital company's probability of success in soliciting investments. The level of investment from the fund committed to each venture capital company shall not be more than 25% of the venture capital company's total capital under management.

(c) The venture capital company's probability of success as it relates to the investment plan criteria under subsection (2)(b).

(d) The venture capital company has a significant presence in this state as determined by the Michigan early stage venture investment corporation.

(e) The venture capital company will undertake to invest in qualified businesses, as determined at the point of initial investment, a percentage of invested capital equal to or greater than the percentage of invested capital that the venture capital company received from the fund.

(f) The venture capital company's consideration of minority owned businesses in its investment activities.

125.2253 Tax voucher certificates.

Sec. 23. (1) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, and the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the amount of the tax voucher or vouchers allowed to each investor.

(2) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under this section and submit proposed tax voucher

certificates that meet the criteria under subsection (3) to the department of treasury for approval. The department of treasury shall approve or deny proposed tax voucher certificates within 30 days after receipt of the proposed tax voucher certificates. If the department of treasury denies a proposed tax voucher certificate, the department of treasury shall notify the Michigan early stage venture investment corporation and the investor of the denial and the reason for the denial. If a proposed tax voucher certificate is denied under this subsection, the Michigan early stage venture investment corporation is not prohibited from subsequently submitting a proposed tax voucher certificate on behalf of that same investor. If the department of treasury does not approve or deny the proposed tax voucher certificates within 30 days, the proposed tax voucher certificates are considered approved as submitted. The approval by the department of treasury under this section may be a condition to the effectiveness of the agreement between the investor and the Michigan early stage investment corporation required under section 17(1).

(3) At the time permitted under subsection (5), the Michigan early stage venture investment corporation shall issue a tax voucher certificate approved under subsection (2) to each investor in the name of the investor that states all of the following:

(a) The taxpayer is an investor.

(b) The taxpayer's federal employer identification number or the number assigned to the taxpayer by the department of treasury for filing purposes under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(c) The amount of the tax voucher that any taxpayer that uses the tax voucher may use to pay its tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(d) The tax years for which the tax voucher under subdivision (c) may be used and the maximum annual amount that may be used each tax year.

(e) The amount of the tax vouchers that may be used shall not exceed the tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, of the taxpayer that uses the tax voucher.

(f) The tax voucher may be transferred in whole or in part.

(g) If the amount of any tax voucher certificate exceeds the investor's tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the amount that exceeds the investor's tax liability may be retained and used to pay a future liability of the investor under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) The fund manager shall invest, budget, and plan scheduled payments and repayments so that no tax voucher is used in any tax year before tax years that begin after December 31, 2008.

(5) The Michigan early stage investment corporation shall issue tax voucher certificates under this section to an investor at the time that the Michigan early stage venture investment corporation determines that, for that investor, it is unable to pay the negotiated amount or the negotiated return on qualified investment of that investor on or before the date on which payment is due. The total of all tax voucher certificates issued under this section shall not exceed the maximum amount allowed under section 37e(2) of the single business tax

act, 1975 PA 228, MCL 208.37e, or, after December 31, 2007, the maximum amount allowed under section 419(2) of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(6) Tax voucher certificates under this section shall not be issued until December 31, 2008.

(7) A tax voucher certificate issued under subsection (5), or the right to be issued and receive a tax voucher certificate from the Michigan early stage venture investment corporation, may be transferred in whole or in part by a holder to another person if the holder notifies the department of treasury and the Michigan early stage venture investment corporation in writing of the transfer, the amount of the tax voucher certificate to be transferred, and the name and tax identification information provided for under subsection (3) of the proposed transferee. The tax voucher certificate transferred under this subsection shall be made on a form prescribed by the department of treasury. The holder shall send a copy of the completed transfer form to the department of treasury within 60 days after the date of the transfer.

(8) A transfer under this section is irrevocable. If the holder is transferring less than all of the tax voucher certificate to a transferee, the department of treasury may issue new tax voucher certificates to the holder and transferee representing the allocated values of the tax voucher certificates held by the holder and the transferee after the transfer.

(9) A holder of a tax voucher certificate shall attach a copy of the tax voucher certificate and, if applicable, a completed transfer form to its annual return for the tax toward which the tax voucher certificate is used by the holder. If the amount of any tax voucher certificate eligible to be used by a holder is in excess of the holder's tax liability under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the excess may be retained and used to pay any future business tax or income tax liability of the holder.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 174]

(SB 932)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 8716, 14501, 36109, and 73301 (MCL 324.8716, 324.14501, 324.36109, and 324.73301), section 8716 as amended by 2003 PA 163, section 14501 as amended by 2006 PA 254, section 36109 as amended by 2002 PA 75, and section 73301 as added by 1995 PA 58.

The People of the State of Michigan enact:

324.8716 Freshwater protection fund.

Sec. 8716. (1) The freshwater protection fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including general fund general purpose appropriations, gifts, grants, and bequests. The director shall annually seek matching general fund general purpose appropriations in amounts equal to the groundwater protection fees collected under section 8715 that are deposited into the fund pursuant to this part. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall be the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Direct assistance.

(b) Indirect assistance.

(c) Emergency response and removal of potential sources of groundwater contamination. Expenditures pursuant to this subdivision shall not exceed $15,000.00 per location.

(d) Groundwater protection and groundwater regulatory program.

(e) Administrative costs. Expenditures pursuant to this subdivision shall not exceed 20% of the annual appropriations from the fund.

(6) The department shall establish criteria and procedures for approving proposed expenditures from the fund.

(7) Notwithstanding section 8715, if at the close of any fiscal year the amount of money in the fund exceeds $3,500,000.00, the department shall not collect a groundwater protection fee for the following year. After the groundwater protection fees have been suspended under this subsection, the fees shall only be reinstated if, at the close of any succeeding fiscal year, the amount of money in the fund is less than $1,000,000.00.

(8) The department of treasury shall, before November 1 of each year, notify the department of the balance in the fund at the close of the preceding fiscal year.

(9) As used in this section:

(a) "Administrative costs" includes, but is not limited to, costs incurred during any of the following:

(*i*) Groundwater monitoring for pesticides and fertilizers.

(*ii*) Development and enforcement of groundwater protection rules.

(*iii*) Coordination of programs under this part with the United States environmental protection agency and other state programs with groundwater and pesticide management responsibilities.

(*iv*) Management of pesticide sales information.

(b) "Direct assistance" includes, but is not limited to, programs that will provide for any of the following:

(*i*) Provision of alternate noncommunity water supplies.

(*ii*) Closure of wells that may impact groundwater, such as abandoned, improperly constructed, or drainage wells.

(*iii*) The environmentally sound disposal or recycling of specialty pesticide containers.

(*iv*) The environmentally sound disposal or recycling of nonspecialty pesticide containers.

(*v*) Specialty and nonspecialty pesticide pickup programs for pesticides not currently registered for use.

(*vi*) Programs devoted to integrated pest and crop management that strive to encourage the judicious use of pesticides and fertilizers through targeted applications as part of a systems approach to pest control and related crop management decisions.

(*vii*) Incentive and cost share programs for persons in the groundwater stewardship program for implementation of groundwater stewardship practices or groundwater protection rules.

(*viii*) Incentive and cost share programs for persons who notify the director of potential sources of groundwater contamination on their property.

(*ix*) Monitoring of private well water for pesticides and fertilizers.

(*x*) Removal of soils and waters contaminated by pesticides and fertilizers and the land application of those materials at agronomic rates.

(*xi*) Groundwater stewardship program grants pursuant to section 8710.

(*xii*) Other programs established pursuant to this part.

(c) "Indirect assistance" includes, but is not limited to, programs that will provide for any of the following:

(*i*) Public education and demonstration programs on specialty pesticide container recycling and environmentally sound disposal methods.

(*ii*) Educational programs for pesticide and fertilizer end users.

(*iii*) Technical assistance programs for pesticide and fertilizer end users.

(*iv*) The promotion and implementation of on-site evaluation systems and groundwater stewardship practices.

(*v*) Research programs for determination of the impacts of alternate pesticide and fertilizer management practices.

(*vi*) Research program for determination of aquifer sensitivity and vulnerability to contamination by pesticides and fertilizers.

324.14501 Definitions.

Sec. 14501. As used in this part:

(a) "Agricultural biomass" means residue and waste generated on a farm or by farm co-operative members from the production and processing of agricultural products, animal wastes, food processing wastes, or other materials as approved by the director.

(b) "Department" means the department of environmental quality.

(c) "Director" means the director of the department of environmental quality.

(d) "Eligible farmer or agricultural processor" means a person who processes agricultural products or a person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207.

(e) "Environmental wastes" means all environmental pollutants, wastes, discharges, and emissions, regardless of how they are regulated and regardless of whether they are released to the general environment or the workplace environment.

(f) "Pollution prevention" means all of the following:

(*i*) "Source reduction" as defined in 42 USC 13102.

(*ii*) "Pollution prevention" as described in the United States environmental protection agency's pollution prevention statement dated June 15, 1993.

(*iii*) Environmentally sound on-site or off-site reuse or recycling including, but not limited to, the use of agricultural biomass by qualified agricultural energy production systems.

(g) "Qualified agricultural energy production system" means the structures, equipment, and apparatus to be used to produce a gaseous fuel from the noncombustive decomposition of agricultural biomass and the apparatus and equipment used to generate electricity or heat from the gaseous fuel or store the gaseous fuel for future generation of electricity or heat. Qualified agricultural energy production system may include, but is not limited to, a methane digester, biomass gasification technology, or thermal depolymerization technology.

(h) "RETAP" means the retired engineers technical assistance program created in section 14511.

(i) "Retap fund" means the retired engineers technical assistance program fund created in section 14512.

(j) "Small business" means a business that is not dominant in its field as described in 13 CFR part 121 and meets both of the following requirements:

(*i*) Is independently owned or operated, by a person that employs 500 or fewer individuals.

(*ii*) Is a small business concern as defined in 15 USC 632.

324.36109 Credit against state income tax or state single business tax.

Sec. 36109. (1) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation easements or purchases of development rights under section 36111b or 36206 who is required or eligible to file a return as an individual or a claimant under the state income tax act may claim a credit against the state income tax liability for the amount by which the property taxes on the land and structures used in the farming operation, including the homestead, restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the household income as defined in section 508 of the income tax act of 1967, 1967 PA 281, MCL 206.508, excluding a deduction if taken under section 613 of the internal revenue code of 1986, 26 USC 613. For the purposes of this section, all of the following apply:

(a) A partner in a partnership is considered an owner of farmland and related buildings owned by the partnership and covered by a development rights agreement, agricultural conservation easement, or purchase of development rights. A partner is considered to pay a proportion of the property taxes on that property equal to the partner's share of ownership of capital or distributive share of ordinary income as reported by the partnership to the internal revenue service or, if the partnership is not required to report that information to the internal revenue service, as provided in the partnership agreement or, if there is no written partnership agreement, a statement signed by all the partners. A partner claiming a credit under this section based upon the partnership agreement or a statement shall file a copy of the agreement or statement with his or her income tax return. If the agreement or statement is not filed, the department of treasury shall deny the credit. All partners in a partnership claiming the credit allowed under this section shall compute the credit using the same basis for the apportionment of the property taxes.

(b) A shareholder of a corporation that has filed a proper election under subchapter S of chapter 1 of subtitle A of the internal revenue code of 1986, 26 USC 1361 to 1379, is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the corporation. A shareholder is considered to pay a proportion of the property taxes on that property equal to the shareholder's percentage of stock ownership for the tax year as reported by the corporation to the internal revenue service. Except as provided in subsection (8), this subdivision applies to tax years beginning after 1987.

(c) Except as otherwise provided in this subdivision, an individual in possession of property for life under a life estate with remainder to another person or holding property under

a life lease is considered the owner of that property if it is farmland and related buildings covered by a development rights agreement. Beginning January 1, 1986, if an individual in possession of property for life under a life estate with remainder to another person or holding property under a life lease enters into a written agreement with the person holding the remainder interest in that land and the written agreement apportions the property taxes in the same manner as revenue and expenses, the life lease or life estate holder and the person holding the remainder interest may claim the credit under this act as it is apportioned to them under the written agreement upon filing a copy of the written agreement with the return.

(d) If a trust holds farmland and related buildings covered by a development rights agreement and an individual is treated under subpart E of subchapter J of subchapter A of chapter 1 of the internal revenue code of 1986, 26 USC 671 to 679, as the owner of that portion of the trust that includes the farmland and related buildings, that individual is considered the owner of that property.

(e) An individual who is the sole beneficiary of a trust that is the result of the death of that individual's spouse is considered the owner of farmland and related buildings covered by a development rights agreement and held by the trust if the trust conforms to all of the following:

(*i*) One hundred percent of the trust income is distributed to the beneficiary in the tax year in which the trust receives the income.

(*ii*) The trust terms do not provide that any portion of the trust is to be paid, set aside, or otherwise used in a manner that would qualify for the deduction allowed by section 642(c) of the internal revenue code of 1986, 26 USC 642.

(f) A member in a limited liability company is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the limited liability company. A member is considered to pay a proportion of the property taxes on that property equal to the member's share of ownership or distributive share of ordinary income as reported by the limited liability company to the internal revenue service.

(2) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation easements or purchases of development rights under section 36111b or 36206 to whom subsection (1) does not apply may claim a credit under the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the amount by which the property taxes on the land and structures used in farming operations restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the adjusted business income of the owner as defined in section 36 of the former single business tax act, 1975 PA 228, or the business income tax base of the owner as defined in section 201 of the Michigan business tax act, 2007 PA 36, MCL 208.1201, plus compensation to shareholders not included in adjusted business income or the business income tax base, excluding any deductions if taken under section 613 of the internal revenue code of 1986, 26 USC 613. When calculating adjusted business income for tax years beginning before 1987, federal taxable income shall not be less than zero for the purposes of this subsection only. A participant is not eligible to claim a credit and refund against the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, unless the participant demonstrates that the participant's agricultural gross receipts of the farming operation exceed 5 times the property taxes on the land for each of 3 out of the 5 tax years immediately preceding the year in which the credit is claimed. This eligibility requirement does not apply to those participants who executed farmland development rights agreements under this part before January 1, 1978. A participant may compare, during the contract period, the average of the most recent 3 years of agricultural gross receipts to property taxes in the first year that the participant entered the program

under the present contract in calculating the gross receipts qualification. Once an election is made by the participant to compute the benefit in this manner, all future calculations shall be made in the same manner.

(3) If the farmland and related buildings covered by a development rights agreement under section 36104 or an agricultural conservation easement or purchase of development rights under section 36111b or 36206 are owned by more than 1 owner, each owner is allowed to claim a credit under this section based upon that owner's share of the property tax payable on the farmland and related buildings. The department of treasury shall consider the property tax equally apportioned among the owners unless a written agreement signed by all the owners is filed with the return, which agreement apportions the property taxes in the same manner as all other items of revenue and expense. If the property taxes are considered equally apportioned, a husband and wife shall be considered 1 owner, and a person with respect to whom a deduction under section 151 of the internal revenue code of 1986, 26 USC 151, is allowable to another owner of the property shall not be considered an owner.

(4) A beneficiary of an estate or trust to which subsection (1) does not apply is entitled to the same percentage of the credit provided in this section as that person's percentage of all other distributions by the estate or trust.

(5) If the allowable amount of the credit claimed exceeds the state income tax or the state business tax otherwise due for the tax year or if there is no state income tax or the state business tax due for the tax year, the amount of the claim not used as an offset against the state income tax or the state business tax, after examination and review, shall be approved for payment to the claimant pursuant to 1941 PA 122, MCL 205.1 to 205.31. The total credit allowable under this part and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, or the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, shall not exceed the total property tax due and payable by the claimant in that year. The amount the credit exceeds the property tax due and payable shall be deducted from the credit claimed under this part.

(6) For purposes of audit, review, determination, appeals, hearings, notices, assessments, and administration relating to the credit program provided by this section, the state income tax act, 1967 PA 281, MCL 206.1 to 206.36, the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, applies according to which tax the credit is claimed against. If an individual is allowed to claim a credit under subsection (1) based upon property owned or held by a partnership, S corporation, or trust, the department of treasury may require that the individual furnish to the department a copy of a tax return, or portion of a tax return, and supporting schedules that the partnership, S corporation, or trust files under the internal revenue code.

(7) The department of treasury shall account separately for payments under this part and not combine them with other credit programs. A payment made to a claimant for a credit claimed under this part shall be issued by 1 or more warrants made out to the county treasurer in each county in which the claimant's property is located and the claimant, unless the claimant specifies on the return that a copy of the receipt showing payment of the property taxes that became a lien in the year for which the credit is claimed, or that became a lien in the year before the year for which the credit is claimed, is attached to the income tax or business tax return filed by the claimant. If the claimant specifies that a copy of the receipt is attached to the return, the payment shall be made directly to the claimant. A warrant made out to a claimant and a county treasurer shall be used first to pay delinquent property taxes, interest, penalties, and fees on property restricted by the development rights agreement. If the warrant exceeds the amount of delinquent taxes, interest, penalties, and fees, the county treasurer shall remit the excess to the claimant. If a claimant falsely specifies that the receipt showing payment of the property taxes is attached to the return and if the property taxes on the land subject to that development rights agreement were not paid before the return

was filed, all future payments to that claimant of credits claimed under this act attributable to that development rights agreement may be made payable to the county treasurer of the county in which the property subject to the development rights agreement is located and to that claimant.

(8) For property taxes levied after 1987, a person that was an S corporation and had entered into a development rights agreement before January 1, 1989, and paid property taxes on that property, may claim the credit allowed by this section as an owner eligible under subsection (2). A subchapter S corporation claiming a credit as permitted by this subsection for taxes levied in 1988 through 1990 shall claim the credit by filing an amended return under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145. If a subchapter S corporation files an amended return as permitted by this subsection and if a shareholder of the subchapter S corporation claimed a credit under subsection (1)(b) for the same property taxes, the shareholder shall file an amended return under the state income tax act. A subchapter S corporation is not entitled to a credit under this subsection until all of its shareholders file the amended returns required by this subsection. The department of treasury shall first apply a credit due to a subchapter S corporation under this subsection to repay credits claimed under this section by the subchapter S corporation's shareholders for property taxes levied in 1988 through 1990 and shall refund any remaining credit to the S corporation. Interest or penalty is not due or payable on an income tax liability resulting from an amended return required by this subsection. A subchapter S corporation electing to claim a credit as an owner eligible under subsection (2) shall not claim a credit under subsection (1) for property taxes levied after 1987.

324.73301 Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaning agricultural or farm products, fishing or hunting, or picking and purchasing agricultural or farm products at farm or "u-pick" operation; definition.

Sec. 73301. (1) Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of entering or exiting from or using a Michigan trailway as designated under part 721 or other public trail, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. For purposes of this subsection, a Michigan trailway or public trail may be located on land of any size including, but not limited to, urban, suburban, subdivided, and rural land.

(3) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaning agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(4) A cause of action shall not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner,

tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(5) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:

(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.

(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(c) The person injured did not know or did not have reason to know of the condition or risk.

(6) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 175]

(SB 934)

AN ACT to amend 1990 PA 100, entitled "An act to permit the imposition, revival, and continued collection by cities of a population of 750,000 or more of a utility users tax; to provide the procedure for, and to require the adoption of a prescribed uniform city utility users tax ordinance by cities desiring to impose and collect such a tax; to limit the rate of such tax; to prescribe the powers and duties of the state commissioner of revenue; and to provide for appeals," by amending section 5 (MCL 141.1155), as amended by 2004 PA 322.

The People of the State of Michigan enact:

141.1155 Applicability; exemption; qualified start-up business.

Sec. 5. (1) The uniform city utility users tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax provided for in the uniform city utility users tax ordinance.

(2) For tax years beginning after December 31, 1996, a person or corporation, except a casino, is exempt from the tax imposed under this ordinance for public utility services provided in a renaissance zone to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a

casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) For tax years beginning after December 31, 2004, a qualified start-up business is exempt from the tax imposed under this ordinance for the 12-month period beginning November 1 for each tax year in which all of the following occur:

(a) The qualified start-up business applies for the exemption as provided in subsection (4).

(b) The governing body of the city adopts a resolution approving the exemption as provided in subsection (5).

(4) A qualified start-up business may claim the exemption under subsection (3) by filing an exemption affidavit claiming the exemption with the treasurer of the city that imposes the tax under this ordinance on a form prescribed by the city. The affidavit under this subsection shall be filed on or before September 1 of each year that a taxpayer claims the exemption under subsection (3) and shall include all of the following:

(a) A statement that the qualified start-up business was eligible for and claimed the credit allowed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, in the tax year that ended immediately before the November 1 in which the exemption under subsection (3) will be claimed.

(b) A copy of the qualified start-up business's annual return required under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the year in which the credit was claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which the exemption under subsection (3) is based.

(c) A statement authorizing the department of treasury to release information contained in the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that pertains to the qualified start-up business credit claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which an exemption under subsection (3) is based to the city.

(5) An exemption under subsection (3) is not allowed unless the governing body of the city that collects the tax under this act adopts a resolution approving the exemption. Exemptions under subsection (3) shall be approved at the last official meeting of the governing body of the city in September of each year. The resolution adopted by the governing body of the city may approve the exemption provided in subsection (3) for 1 or more of the qualified start-up businesses that claim the exemption under subsection (3) by filing an affidavit on or before September 1 as provided in subsection (4).

(6) A qualified start-up business shall not receive the exemption under subsection (3) for more than a total of 5 tax years. A qualified start-up business may receive the exemption under subsection (3) in nonconsecutive tax years.

(7) As used in this section, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 176]

(SB 935)

AN ACT to amend 1855 PA 105, entitled "An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies," by amending section 2a (MCL 21.142a), as amended by 2002 PA 16.

The People of the State of Michigan enact:

21.142a Investment of surplus funds; conditions and restrictions; valid public purpose; approval of documentation; agricultural loans; disposition of earnings; reducing general fund by amount of interest deficiency or loss of principal; duration of certain investments; compliance; separate reports; definitions; value of qualified agricultural loans; deduction of grant; use of existing deposits for loans to farmers; appropriation; reduction of maximum amount of investments; effect of money not invested for qualified agricultural loans; action to ensure successful operation of section; disposition of affidavit; use of federal grant.

Sec. 2a. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or in a financial institution that qualifies with proof of financial viability acceptable to the state treasurer under this act to receive deposits or investments of surplus funds. In addition to terms that may be prescribed in the investment agreement by the state treasurer, an investment under this section shall be subject to all of the following conditions and restrictions:

(a) The interest accruing on the investment shall not be more than the interest earned by the financial institution on qualified agricultural loans made after the date of the investment.

(b) The financial institution shall provide good and ample security as the state treasurer requires and shall identify the qualified agricultural loans and the terms and conditions of those loans that are made after the date of the investment that are attributable to that investment together with other information required by this act.

(c) As established in the investment agreement by the state treasurer, a qualified agricultural loan shall be made at a rate or rates of interest, if any.

(d) To the extent the financial institution has not made qualified agricultural loans as defined by subsection (9)(a) in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer invested the surplus funds.

(e) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement shall provide that the financial institution does not have to repay any principal within the first 24 months after which the investment is made unless the investment is no longer being used to make a qualified agricultural loan as defined by subsection (9)(a), or to the extent the qualified agricultural loan has been repaid.