(f) Investment earnings on the revenues described in subdivisions (a) to (e).

(2) The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(3) Notwithstanding any other provision of law to the contrary, an authority shall not have the power to impose or levy a tax.

(4) The board by resolution may establish a regional convention facility operating trust fund for the purpose of accumulating funds to pay for the cost of operating and maintaining a qualified convention facility. Money for operating and maintaining a qualified convention facility, at the authority's discretion, may be provided from this fund or any other money of the authority. The resolution establishing the fund shall include all of the following:

(a) The designation of a person or persons who shall act as the fund's investment fiduciary.

(b) A restriction of withdrawals from the fund solely for the payment of reasonable operating and maintenance expenses of a convention facility and the payment of the expenses of administration of the fund.

(5) An investment fiduciary shall invest the assets of the fund in accordance with an investment policy adopted by the board that complies with section 13 of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133. However, the investment fiduciary shall discharge his or her duties solely in the interest of the authority. The authority may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(6) An authority shall not expend more than $279,000,000.00 to develop an expanded or renovated convention facility under this act. Contracts for the development of an expanded or renovated convention facility shall be fixed price contracts and shall not exceed $279,000,000.00 in total.

(7) A financial obligation of an authority is a financial obligation of the authority only and not a financial obligation of this state, a qualified city, a qualified county, or a county bordering a qualified county. A financial obligation of the authority shall not be transferred to this state, a qualified city, a qualified county, or a county bordering a qualified county.

141.1375 Bonds or municipal securities; issuance; interest rate exchange or swap, hedge, or similar agreements; creation of reserve fund; pledge; filing; issuance and delivery of notes; maturity; use of proceeds; exemptions.

Sec. 25. (1) For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, developing, refinancing, or repairing a convention facility transferred under section 19 or subsequently acquired by an authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are a debt of the authority and not a debt of any qualified county, county, qualified city, city, or this state.

(2) The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The authority may issue a bond or municipal security that bears no interest and appreciates as to principal amount. The bonds or municipal securities authorized by this subsection shall be exempt from section 305(2) and (3) of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(4) All bonds, notes, or other evidences of indebtedness issued by an authority under this act, and the interest on the bonds or other evidences of indebtedness, are free and exempt from all taxation within this state, except for transfer and franchise taxes.

(5) The issuance of bonds, notes, or other evidences of indebtedness by an authority shall require approval of the board.

(6) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of bonds, notes, or other evidences of indebtedness or in connection with its then outstanding bonds, notes, or other evidences of indebtedness.

(7) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(8) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues specified by the agreement, securing the bonds, notes, or evidences of indebtedness in connection with which the agreement is entered into.

(9) An authority upon approval by resolution of the authority board may issue notes in anticipation of the proceeds of a proposed authority bond issuance. The authority may pledge for the payment of the principal, interest, or redemption premiums on the notes security from 1 or more of the sources to secure the bonds and the proceeds of the bonds to be issued to refund the notes. The pledge shall be valid and binding from the time made. The security pledged and received by an authority is immediately subject to the lien of the pledge without physical delivery of the security or further action. The lien is valid and binding against a person with a claim of any kind against the authority whether or not the person has notice of the pledge. Neither the resolution, trust indenture, nor any other instrument creating a pledge must be filed or recorded to establish and perfect a lien or security interest in the property pledged. In the resolution, the authority shall declare the necessity of the notes, the purpose of the notes, the principal amount of the notes to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the notes. The issuance and delivery of the notes shall be conclusive as to the existence of the facts entitling the notes to be issued in the principal amount of the notes and shall not be subject to attack. The notes shall mature not more than the earlier of 3 years from the date of issuance or 90 days after the expected date of issuance of the bonds in anticipation of which the notes are issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum. The proceeds of notes issued under this subsection shall be used only for the purpose to which the proceeds of the bonds may be applied, the costs of issuance of the notes, and the payment of principal and interest on the notes. Notes issued under this section are exempt from the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

141.1377 Evidences of indebtedness or liability as contract; assumption and performance of obligations.

Sec. 27. (1) Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government in respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed

by an authority pursuant to this act, if any, shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability and are enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this act shall be payable from and secured by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government and shall not constitute a full faith and credit obligation of the authority or of this state.

(3) Nothing in this act or in any other law shall be held to relieve the local government from which a convention facility has been transferred from any bonded or other debt or liability lawfully contracted by the local government, to which the full faith and credit of the local government has been pledged and that remains outstanding as of the transfer date, notwithstanding that the proceeds of the debt or liability have been used by the local government in support of the convention facility.

(4) Upon the transfer of a convention facility to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been expressly assumed by the authority under section 19 shall perform all of their duties and obligations and provide all notices related to the obligations as if the authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority under section 19 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

141.1379 Applicability of restrictions standards or prerequisites of local government; additional powers; construction of act.

Sec. 29. (1) Unless permitted by this act or approved by an authority, any restrictions standards or prerequisites of a local government otherwise applicable to an authority and enacted after the effective date of this act shall not apply to an authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applicable to other persons or entities.

(2) The powers conferred in this act upon any authority or local government shall be in addition to any other powers the authority or local government possesses by charter or statute. The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary.

(3) This act shall be construed liberally to effectuate the legislative intent and the purpose of this act as complete and independent authorization for the performance of each and every act and thing authorized in the act, and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as to limitation of powers.

Conditional effective date.

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

(a) House Bill No. 5691.

(b) Senate Bill No. 1633.

(c) Senate Bill No. 880.

(d) Senate Bill No. 881.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
House Bill No. 5691 was filed with the Secretary of State January 16, 2009, and became 2008 PA 553, Eff. Mar. 31, 2009.
Senate Bill No. 1633 was filed with the Secretary of State January 20, 2009, and became 2008 PA 586, Imd. Eff. Jan. 20, 2009.
Senate Bill No. 880 was filed with the Secretary of State January 16, 2009, and became 2008 PA 555, Eff. Jan. 20, 2009.
Senate Bill No. 881 was filed with the Secretary of State January 16, 2009, and became 2008 PA 556, Eff. Jan. 20, 2009.

[No. 555]

(SB 880)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment, and collection of a specific excise tax on the storage, use, or consumption in this state of tangible personal property and certain services; to appropriate the proceeds of that tax; to prescribe penalties; and to make appropriations," by amending section 4p (MCL 205.94p), as added by 1999 PA 117, and by adding section 4z.

The People of the State of Michigan enact:

205.94p Extractive operations; exemption; limitation; eligible property; definitions.

Sec. 4p. (1) The tax under this act does not apply to property sold to an extractive operator for use or consumption in extractive operations.

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

(3) Extractive operations include the actual production of oil, gas, brine, or other natural resources. Property eligible for the exemption includes the following:

(a) Casing pipe or drive pipe.

(b) Tubing.

(c) Well-pumping equipment.

(d) Chemicals.

(e) Explosives or acids used in fracturing, acidizing, or shooting wells.

(f) Christmas trees, derricks, or other wellhead equipment.

(g) Treatment tanks.

(h) Piping, valves, or pumps used before movement or transportation of the natural resource from the production area.

(i) Chemicals or acids used in the treatment of crude oil, gas, brine, or other natural resources.

(j) Tangible personal property used or consumed in depositing tailings from hard rock mining processing.

(k) Tangible personal property used or consumed in extracting the lithologic units necessary to process iron ore.

(4) The extractive operation exemption does not include the following:

(a) Tangible personal property consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.

(b) Tangible personal property consumed or used in transporting the product from the place of extraction, except for tangible personal property consumed or used in transporting extracted materials from the extraction site to the place where the extracted materials first come to rest in finished goods inventory storage.

(c) Tangible personal property that is a product the extractive operator produces and that is consumed or used by the extractive operator for a purpose other than the manufacturing or producing of a product for ultimate sale. The extractor shall account for and remit the tax to the state based upon the product's fair market value.

(d) Equipment, materials, and supplies used in exploring, prospecting, or drilling for oil, gas, brine, or other natural resources.

(e) Equipment, materials, and supplies used in the storing, withdrawing, or distribution of oil, gas, or brine from a storage facility.

(f) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways.

(5) As used in this section:

(a) "Extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site. Extractive operations for timber include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that will remove the timber from the extraction site.

(b) An extractive operator is a person who, either directly or by contract, performs extractive operations.

205.94z Certain property affixed or structural part of qualified convention facility; exception.

Sec. 4z. The tax levied under this act does not apply to tangible personal property acquired before January 1, 2014 by a person engaged in the business of altering, repairing, or improving real estate for others if the property is to be affixed to or made a structural part of a qualified convention facility under the regional convention facility authority act.

Conditional effective date.

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

(a) Senate Bill No. 881.

(b) Senate Bill No. 1630.

(c) Senate Bill No. 1633.

(d) House Bill No. 5691.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 881 was filed with the Secretary of State January 16, 2009, and became 2008 PA 556, Eff. Jan. 20, 2009.
Senate Bill No. 1630 was filed with the Secretary of State January 16, 2009, and became 2008 PA 554, Eff. Jan. 20, 2009.
Senate Bill No. 1633 was filed with the Secretary of State January 20, 2009, and became 2008 PA 586, Imd. Eff. Jan. 20, 2009.
House Bill No. 5691 was filed with the Secretary of State January 16, 2009, and became 2008 PA 553, Eff. Mar. 31, 2009.

[No. 556]

(SB 881)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 4d, 4u, and 6a (MCL 205.54d, 205.54u, and 205.56a), section 4d as added and section 4u as amended by 2004 PA 173 and section 6a as amended by 1993 PA 325.

The People of the State of Michigan enact:

205.54d Additional sales excluded from tax.

Sec. 4d. The following are exempt from the tax under this act:

(a) The sale of tangible personal property to a person who is a lessor licensed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and whose rental receipts are taxed or specifically exempt under the use tax act.

(b) The sale of a vehicle acquired for lending or leasing to a public or parochial school for use in a course in driver education.

(c) The sale of a vehicle purchased by a public or parochial school if that vehicle is certified for driver education and is not reassigned for personal use by the school's administrative personnel.

(d) The sale of water through water mains, the sale of water delivered in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

(e) The sale of tangible personal property to a person for demonstration purposes. For a dealer selling a new car or truck, the exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding year without regard to specific make or style in accordance with the following schedule of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in a calendar year for demonstration purposes.

(f) Specific charges for technical support or for adapting or modifying prewritten computer software programs to a purchaser's needs or equipment if those charges are separately stated and identified.

(g) The sale of computer software originally designed for the exclusive use and special needs of the purchaser.

(h) The sale of a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an illustration, retouching, and mechanical or keyline instructions. This exemption does not include black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(i) A sale made outside of the ordinary course of the seller's business.

(j) An isolated transaction by a person not licensed or required to be licensed under this act, in which tangible personal property is offered for sale, sold, or transferred and delivered by the owner.

(k) The sale of oxygen for human use dispensed pursuant to a prescription.

(*l*) The sale of insulin for human use.

(m) Before January 1, 2014, the sale of tangible personal property for use in construction or renovation of a qualified convention facility under the regional convention facility authority act.

205.54u Extractive operation; exemptions; definition.

Sec. 4u. (1) A sale of tangible personal property to an extractive operator for use or consumption in extractive operations is exempt from the tax under this act.

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

(3) Extractive operations include the actual production of oil, gas, brine, or other natural resources. Property eligible for the exemption includes the following:

(a) Casing pipe or drive pipe.

(b) Tubing.

(c) Well-pumping equipment.

(d) Chemicals.

(e) Explosives or acids used in fracturing, acidizing, or shooting wells.

(f) Christmas trees, derricks, or other wellhead equipment.

(g) Treatment tanks.

(h) Piping, valves, or pumps used before movement or transportation of the natural resource from the production area.

(i) Chemicals or acids used in the treatment of crude oil, gas, brine, or other natural resources.

(j) Tangible personal property used or consumed in depositing tailings from hard rock mining processing.

(k) Tangible personal property used or consumed in extracting the lithologic units necessary to process iron ore.

(4) The extractive operation exemption does not include the following:

(a) Tangible personal property consumed or used in the construction, alteration, improvement, or repair of buildings, storage tanks, and storage and housing facilities.

(b) Tangible personal property consumed or used in transporting the product from the place of extraction, except for tangible personal property consumed or used in transporting extracted materials from the extraction site to the place where the extracted materials first come to rest in finished goods inventory storage.

(c) Tangible personal property that is a product the extractive operator produces and that is consumed or used by the extractive operator for a purpose other than the manufacturing or producing of a product for ultimate sale. The extractor shall account for and remit the tax to this state based upon the product's fair market value.

(d) Equipment, materials, and supplies used in exploring, prospecting, or drilling for oil, gas, brine, or other natural resources.

(e) Equipment, materials, and supplies used in the storing, withdrawing, or distribution of oil, gas, or brine from a storage facility.

(f) Vehicles, including special bodies or attachments, required to display a vehicle permit or license plate to operate on public highways.

(5) As used in this section:

(a) "Extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operation includes all necessary processing operations before shipment from the place of extraction. Extractive operations include all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site. Extractive operations for timber include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that will remove the timber from the extraction site.

(b) An extractive operator is a person who, either directly or by contract, performs extractive operations.

205.56a Prepayment of tax by purchaser or receiver of gasoline; rate of prepayment; claiming estimated prepayment credits; bad debt deduction; actual shrinkage; accounting for and remitting prepayments; schedule; penalties; deduction prohibited; liability; definitions.

Sec. 6a. (1) At the time of purchase or shipment from a refiner, pipeline terminal operator, or marine terminal operator, a purchaser or receiver of gasoline shall prepay a portion of the tax imposed by this act at the rate provided in this section to the refiner, pipeline terminal operator, or marine terminal operator for the purchase or receipt of gasoline. If the purchase or receipt of gasoline is made outside this state for shipment into and subsequent sale within this state, the purchaser or receiver, other than a refiner, pipeline terminal operator, or marine terminal operator, shall make the prepayment required by this section directly to the department. Prepayments shall be made at a cents per gallon rate determined by the department and shall be based on 6% of the statewide average retail price of a gallon of self-serve unleaded regular gasoline as determined and certified by the department rounded up to the nearest 1/10 of 1 cent. A person who makes prepayments directly to the department shall make those prepayments according to the schedule in subsection (4).

(2) The rate of prepayment applied pursuant to subsection (1) shall be determined every 3 months by the department unless the department certifies that the change in the statewide average retail price of a gallon of self-serve unleaded regular gasoline has been less than 10% since the establishment of the rate of prepayment then in effect.

(3) A person subject to tax under this act who makes prepayment to another person as required by this section may claim an estimated prepayment credit on its regular monthly return filed pursuant to section 6. The credit shall be for prepayments made during the month for which the return is required and shall be based upon the difference between prepayments made in the immediately preceding month and collections of prepaid tax received from sales or transfers. A sale or transfer for which collection of prepaid tax is due the taxpayer is subject to a bad debt deduction under section 4i, whether or not the sale or transfer is a sale at retail. The credit shall not be reduced because of actual shrinkage. A taxpayer who does not, in the ordinary course of business sell gasoline in each month of the year, may, with the approval of the department, base the initial prepayment deduction in each tax year on prepayments made in a month other than the immediately preceding month. The difference in actual prepayments shall be reconciled on the annual return in accordance with procedures prescribed by the department.

(4) Notwithstanding the other provisions for the payment and remitting of tax due under this act, a refiner, pipeline terminal operator, or marine terminal operator shall account for and remit to the department the prepayments received pursuant to this section in accordance with the following schedule:

(a) On or before the twenty-fifth of each month, prepayments received after the end of the preceding month and before the sixteenth of the month in which the prepayments are made.

(b) On or before the tenth of each month, payments received after the fifteenth and before the end of the preceding month.

(5) A refiner, pipeline terminal operator, or marine terminal operator who fails to remit prepayments made by a purchaser or receiver of gasoline is subject to the penalties provided by 1941 PA 122, MCL 205.1 to 205.31.

(6) The refiner, pipeline terminal operator, or marine terminal operator shall not receive a deduction under section 4 for receiving and remitting prepayments from a purchaser or receiver pursuant to this section.

(7) The purchaser or receiver of gasoline who makes prepayments is not subject to further liability for the amount of the prepayment if the refiner, pipeline terminal operator, or marine terminal operator fails to remit the prepayment.

(8) As used in this section:

(a) "Marine terminal operator" means a person who stores gasoline at a boat terminal transfer defined as a dock, a tank, or equipment contiguous to a dock or a tank, including equipment used in the unloading of gasoline from a ship and in transferring the gasoline to a tank pending wholesale bulk reshipment.

(b) "Pipeline terminal operator" means a person who stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate and intrastate pipelines pending wholesale bulk reshipment.

(c) "Purchase" or "shipment" does not include an exchange of gasoline, or an exchange transaction, between refiners, pipeline terminal operators, or marine terminal operators.

(d) "Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

Conditional effective date.

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

(a) Senate Bill No. 880.

(b) Senate Bill No. 1630.

(c) Senate Bill No. 1633.

(d) House Bill No. 5691.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 880 was filed with the Secretary of State January 16, 2009, and became 2008 PA 555, Eff. Oct. 1, 2009.
Senate Bill No. 1630 was filed with the Secretary of State January 16, 2009, and became 2008 PA 554, Eff. Jan. 20, 2009.
Senate Bill No. 1633 was filed with the Secretary of State January 20, 2009, and became 2008 PA 586, Imd. Eff. Jan. 20, 2009.
House Bill No. 5691 was filed with the Secretary of State January 16, 2009, and became 2008 PA 553, Eff. Mar. 31, 2009.

[No. 557]

(HB 6193)

AN ACT to establish the children's miracle network fund in the department of community health; to provide for the distribution of the money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

The People of the State of Michigan enact:

333.26561 Short title.

Sec. 1. This act shall be known and may be cited as the "children's miracle network fund act".

333.26563 Definitions.

Sec. 3. As used in this act:

(a) "Department" means the department of community health.

(b) "Fund" means the children's miracle network fund created in section 5.

333.26565 Children's miracle network fund; creation; purpose; credit to fund; investment; interest and earnings.

Sec. 5. (1) The children's miracle network fund is created in the department to provide funds for donation to the children's miracle network to support the children's miracle network hospitals located in this state in providing life-saving pediatric care, education, and research.

(2) The state treasurer shall credit to the fund all amounts appropriated for this purpose under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, and money from any other source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. The fund shall consist of the money credited to the fund pursuant to section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any interest and earnings accruing from the saving and investment of that money, and money from any other source.

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

333.26567 Money, interest, and earnings; expenditures; report.

Sec. 7. The money, interest, and earnings of the fund shall be expended solely for donations to the children's miracle network to support the children's miracle network hospitals located in this state in providing life-saving pediatric care, education, and research. The money, interest, and earnings of the fund shall be expended among the children's miracle network hospitals in this state in the same proportion that each children's miracle network hospital's annual fund-raising revenue is to the total annual amount of fund-raising revenue of all children's miracle network hospitals in this state as reported to the national children's miracle network organization. Each children's miracle network hospital in this state shall annually report to the department its fund-raising revenue on a form prescribed by the department.

333.26569 Appropriation.

Sec. 9. The money in the fund that is available for distribution shall be appropriated each year. Money granted or received as a gift or donation to the fund is available for distribution upon appropriation.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6194 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

Compiler's note: House Bill No. 6194, referred to in enacting section 1, was filed with the Secretary of State January 16, 2009, and became 2008 PA 558, Imd. Eff. Jan. 16, 2009.

[No. 558]

(HB 6194)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 435 (MCL 206.435), as amended by 2008 PA 322.

The People of the State of Michigan enact:

206.435 Contribution designations; duration; cessation by department; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of $5.00, $10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the

children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(d) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(e) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(f) The Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a.

(g) The Michigan law enforcement officers memorial monument fund created in section 3 of the Michigan law enforcement officers memorial act, 2004 PA 177, MCL 28.783.

(h) For the 2009 tax year and each tax year after the 2009 tax year, the renewable fuels fund created in section 5a of the motor fuels quality act, 1984 PA 44, MCL 290.645a.

(i) The children's miracle network fund created in section 5 of the children's miracle network fund act.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after November 1, 2007 shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise $100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall

be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 559]

(SB 1374)

AN ACT to amend 2001 PA 63, entitled "An act to create a department of history, arts, and libraries; to provide for its administration; and to provide for its powers, duties, functions, and responsibilities," by amending the title and section 2 (MCL 399.702), section 2 as amended by 2008 PA 85, and by adding section 9.

The People of the State of Michigan enact:

TITLE

An act to create a department of history, arts, and libraries; to provide for its administration; to provide for its powers, duties, functions, and responsibilities; and to establish the Michigan council for the arts fund.

399.702 Definitions.

Sec. 2. As used in this act:

(a) "Council" means the Michigan council for arts and cultural affairs established by Executive Order No. 1991-21.

(b) "Department" means the department of history, arts, and libraries created in section 3.

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

(d) "Fund" means the Michigan council for the arts fund created in section 9.

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

(f) "Type II transfer" means that term as it is defined in section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

399.709 Michigan council for the arts fund; creation; administration; money credited; interest and earning accrued; investment; disbursement; money in fund at close of year; report.

Sec. 9. (1) The Michigan council for the arts fund is created in the department. The fund shall be administered by the department, and money in the fund shall be expended only to fund grants administered by the council.

(2) The department shall credit to the fund all amounts appropriated to the fund under this act and any money received as contributions for purposes under this act, including money credited to the fund pursuant to section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any interest and earnings accruing from the saving and investment of that money, and any other appropriations, money, or other things of value received by the fund.

(3) The state treasurer shall direct the investment of the fund.

(4) Money appropriated or money received as a contribution to the fund shall be available for disbursement upon appropriation.

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

(6) By November 1 of each year, the department shall provide a report to the senate and house of representatives appropriations subcommittees on history, arts, and libraries of all revenues to and expenditures from the fund. The report shall include an estimated fund balance for the fiscal year.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1353 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 15, 2009.

Filed with Secretary of State January 16, 2009.

Compiler's note: Senate Bill No. 1353, referred to in enacting section 1, was filed with the Secretary of State January 16, 2009, and became 2008 PA 560, Imd. Eff. Jan. 16, 2009.

[No. 560]

(SB 1353)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 435 (MCL 206.435), as amended by 2008 PA 322.

The People of the State of Michigan enact:

206.435 Contribution designations; separate contributions schedule; cessation by department; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of $5.00, $10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(d) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(e) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(f) The Michigan housing and community development fund created in section 58a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1458a.

(g) The Michigan law enforcement officers memorial monument fund created in section 3 of the Michigan law enforcement officers memorial act, 2004 PA 177, MCL 28.783.

(h) For the 2009 tax year and each tax year after the 2009 tax year, the renewable fuels fund created in section 5a of the motor fuels quality act, 1984 PA 44, MCL 290.645a.

(i) The Michigan council for the arts fund created in section 9 of the history, arts, and libraries act, 2001 PA 63, MCL 399.709.

(j) For the 2009 tax year and each tax year after the 2009 tax year, the foster care trust fund created in section 5 of the foster care trust fund act.

(k) For the 2009 tax year and each tax year after the 2009 tax year, the children's miracle network fund created in section 5 of the children's miracle network fund act.

(*l*) For the 2009 tax year and each tax year after the 2009 tax year, the children's hospital of Michigan fund created in section 15 of the children's hospital of Michigan act.

(m) For the 2009 tax year and each tax year after the 2009 tax year, the united way fund created in section 3 of the united way fund act.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after November 1, 2007 shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise $100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed

to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1374 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 15, 2009.

Filed with Secretary of State January 16, 2009.

Compiler's note: Senate Bill No. 1374, referred to in enacting section 1, was filed with the Secretary of State January 16, 2009, and became 2008 PA 559, Imd. Eff. Jan. 16, 2009.

[No. 561]

(HB 6726)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 20, 20j, and 32b (MCL 388.1620, 388.1620j, and 388.1632b), as amended by 2008 PA 268.

The People of the State of Michigan enact:

388.1620 Foundation allowance; payments to districts, public school academies, and university schools; definitions.

Sec. 20. (1) For 2007-2008, the basic foundation allowance is $8,433.00. For 2008-2009, the basic foundation allowance is $8,489.00.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) For 2007-2008, for a district that had a foundation allowance for 2006-2007, including any adjustment under subdivision (f), that was at least equal to $7,108.00 but less than $8,385.00, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for 2006-2007 plus the difference between $96.00 and [($48.00 minus $20.00) times (the difference between the district's foundation allowance for 2006-2007, including any adjustment under subdivision (f), and $7,108.00) divided by $1,325.00].

Beginning in 2008-2009, for a district that had a foundation allowance for the immediately preceding state fiscal year that was at least equal to the sum of $7,108.00 plus the total dollar amount of all adjustments made from 2006-2007 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts, but less than the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance and [(the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance minus $20.00) times (the difference between the district's foundation allowance for the immediately preceding state fiscal year and the sum of $7,108.00 plus the total dollar amount of all adjustments made from 2006-2007 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts) divided by the difference between the basic foundation allowance for the current state fiscal year and the sum of $7,108.00 plus the total dollar amount of all adjustments made from 2006-2007 to the immediately preceding state fiscal year in the lowest foundation allowance among all districts]. However, the foundation allowance for a district that had less than the basic foundation allowance for the immediately preceding state fiscal year shall not exceed the basic foundation allowance for the current state fiscal year.

(b) Except as otherwise provided in this subsection, beginning in 2008-2009, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance.

(c) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(d) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(e) For a district that received a payment under section 22c as that section was in effect for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under section 22c as that section was in effect for 2001-2002.

(f) For a district that received a payment under section 22c as that section was in effect for 2006-2007, the district's 2006-2007 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2006-2007 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2006-2007 under section 22c as that section was in effect for 2006-2007.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or the basic

foundation allowance for the current state fiscal year, whichever is less, minus the difference between the sum of the product of the taxable value per membership pupil of all property in the district that is nonexempt property times the district's certified mills and, for a district with certified mills exceeding 12, the product of the taxable value per membership pupil of property in the district that is commercial personal property times the certified mills minus 12 mills and the quotient of the ad valorem property tax revenue of the district captured under tax increment financing acts divided by the district's membership excluding special education pupils. For a district described in subsection (3)(c), the state portion of the district's foundation allowance is an amount equal to $6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the sum of the product of the taxable value per membership pupil of all property in the district that is nonexempt property times the district's certified mills and, for a district with certified mills exceeding 12, the product of the taxable value per membership pupil of property in the district that is commercial personal property times the certified mills minus 12 mills and the quotient of the ad valorem property tax revenue of the district captured under tax increment financing acts divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled in a district other than the pupil's district of residence, if the foundation allowance of the pupil's district of residence has been adjusted pursuant to subsection (19), the allocation calculated under this section shall not include the adjustment described in subsection (19). For a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) For 2007-2008, subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or $7,475.00, whichever is less. Beginning in 2008-2009, subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the state maximum public school academy allocation, whichever is less. Notwithstanding section 101, for a public school academy that begins operations after the pupil membership count day, the

amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the sum of the product of the taxable value per membership pupil of all property in the district that is nonexempt property times the district's certified mills and, for a district with certified mills exceeding 12, the product of the taxable value per membership pupil of property in the district that is commercial personal property times the certified mills minus 12 mills and the quotient of the ad valorem property tax revenue of the district captured under tax increment financing acts divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a principal residence, qualified agricultural property, qualified forest property, industrial personal property, and commercial personal property under section 1211 of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies the district's certified mills on property that is nonexempt property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a principal residence, qualified agricultural property, qualified forest property, industrial personal property, and commercial personal property are exempt and not to levy school operating taxes on a principal residence, qualified agricultural property, qualified forest property, industrial personal property, and commercial personal property as provided in section 1211 of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a principal residence, qualified agricultural property, qualified forest property, industrial personal property, and commercial personal property at the rate authorized for the district under section 1211 of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy the district's

certified mills on property that is nonexempt property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the district's certified mills.

(10) Subject to subsection (4), for a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district who reside in the geographic area of each of the original or affected districts. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. However, for 2008-2009, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the lowest foundation allowance among all districts for the

subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the lowest foundation allowance among all districts for the immediately preceding state fiscal year.

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be $67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed the basic foundation allowance for the current state fiscal year, plus a room and board stipend not to exceed $10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or $700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus $250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 and each succeeding fiscal year shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of 100% of the amount of the grant award to the district

for 2001-2002 under former section 32e divided by the number of pupils in the district's membership for 2001-2002 who were residents of and enrolled in the district. Except as otherwise provided in this subsection, a district qualifying for a foundation allowance adjustment under this subsection shall use the funds resulting from this adjustment for at least 1 of grades K to 3 for purposes allowable under former section 32e as in effect for 2001-2002, and may also use these funds for an early intervening program described in subsection (20). For an individual school or schools operated by a district qualifying for a foundation allowance under this subsection that have been determined by the department to meet the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district may submit to the department an application for flexibility in using the funds resulting from this adjustment that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to reduce class size, but that may be different from the purposes otherwise allowable under this subsection. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to reduce class size. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(20) An early intervening program that uses funds resulting from the adjustment under subsection (19) shall meet either or both of the following:

(a) Shall monitor individual pupil learning for pupils in grades K to 3 and provide specific support or learning strategies to pupils in grades K to 3 as early as possible in order to reduce the need for special education placement. The program shall include literacy and numeracy supports, sensory motor skill development, behavior supports, instructional consultation for teachers, and the development of a parent/school learning plan. Specific support or learning strategies may include support in or out of the general classroom in areas including reading, writing, math, visual memory, motor skill development, behavior, or language development. These would be provided based on an understanding of the individual child's learning needs.

(b) Shall provide early intervening strategies for pupils in grades K to 3 using schoolwide systems of academic and behavioral supports and shall be scientifically research-based. The strategies to be provided shall include at least pupil performance indicators based upon response to intervention, instructional consultation for teachers, and ongoing progress monitoring. A schoolwide system of academic and behavioral support should be based on a support team available to the classroom teachers. The members of this team could include the principal, special education staff, reading teachers, and other appropriate personnel who would be available to systematically study the needs of the individual child and work with the teacher to match instruction to the needs of the individual child.

(21) For a district that levied 1.9 mills in 1993 to finance an operating deficit, the district's foundation allowance shall be calculated as if those mills were included as operating mills in the calculation of the district's 1994-1995 foundation allowance. A district is not entitled to any retroactive payments for fiscal years before 2006-2007 due to this subsection. A district receiving an adjustment under this subsection shall not receive more than $800,000.00 for a fiscal year as a result of this adjustment.

(22) For a district that levied 2.23 mills in 1993 to finance an operating deficit, the district's foundation allowance shall be calculated as if those mills were included as operating mills in the calculation of the district's 1994-1995 foundation allowance. A district is not entitled to any retroactive payments for fiscal years before 2006-2007 due to this subsection. A district

receiving an adjustment under this subsection shall not receive more than $500,000.00 for a fiscal year as a result of this adjustment.

(23) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(24) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(25) As used in this section:

(a) "Certified mills" means the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94.

(b) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(c) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

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

(e) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(f) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(g) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(h) "Maximum public school academy allocation" means the maximum per-pupil allocation as calculated by adding the highest per-pupil allocation among all public school academies for the immediately preceding state fiscal year plus the difference between twice the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance and [(the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year made in the basic foundation allowance minus $20.00) times (the difference between the highest per-pupil allocation among all public school academies for the immediately preceding state fiscal year and the sum of $7,108.00 plus the total dollar amount of all adjustments made from 2006-2007 to the immediately preceding state fiscal year in the lowest per-pupil allocation among all public school academies) divided by the difference between the basic foundation allowance for the current state fiscal year and the sum of $7,108.00 plus the total dollar amount of all adjustments made from 2006-2007 to the immediately preceding state fiscal year in the lowest per-pupil allocation among all public school academies].

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

(j) "Nonexempt property" means property that is not a principal residence, qualified agricultural property, qualified forest property, industrial personal property, or commercial personal property.

(k) "Principal residence", "qualified agricultural property", "qualified forest property", "industrial personal property", and "commercial personal property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, and section 1211 of the revised school code, MCL 380.1211.

(*l*) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

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

(n) "Tax increment financing acts" means 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, or the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

(o) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

388.1620j Foundation allowance supplemental payments; amounts.

Sec. 20j. (1) Foundation allowance supplemental payments for 2008-2009 to districts that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00 shall be calculated under this section.

(2) The per pupil allocation to each district under this section shall be the difference between the basic foundation allowance for the 1998-99 state fiscal year and $7,204.00 less $271.00 minus the dollar amount of the adjustment from the 1998-99 state fiscal year to 2007-2008 in the district's foundation allowance.

(3) If a district's local revenue per pupil does not exceed the sum of its foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the per pupil allocation under subsection (2) multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the foundation allowance under section 20 but does not exceed the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the difference between the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2) minus the local revenue per pupil multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), there is no payment calculated under this section for the district.

(4) Payments to districts shall not be made under this section. Rather, the calculations under this section shall be made and used to determine the amount of state payments under section 22b.

388.1632b Early childhood investment corporation; grants.

Sec. 32b. (1) From the funds appropriated under section 11, there is allocated an amount not to exceed $6,750,000.00 for 2008-2009 for competitive grants to intermediate districts for the creation and continuance of great start communities or other community purposes as identified by the early childhood investment corporation. These dollars may not be expended until both of the following conditions have been met:

(a) The early childhood investment corporation has identified matching dollars of at least an amount equal to the amount of the matching dollars for 2006-2007.

(b) The executive committee of the corporation includes, in addition to the members of the executive committee provided for by the interlocal agreement creating the corporation under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.510 to 124.512, 4 members appointed by the governor as provided in this subdivision. Not later than 30 days after the convening of a regular legislative session in an odd-numbered year, the speaker of the house of representatives, the house minority leader, the senate majority leader, and the senate minority leader shall each submit to the governor a list of 3 or more individuals as nominees for appointment as members of the executive committee of the corporation. The corporation shall notify each of the legislative leaders of this requirement to submit a list of nominees not later than 30 days before the date that the list is due. Within 60 days of the submission to the governor of nominees by each of the 4 legislative leaders, the governor shall appoint 1 member of the executive committee from each list of nominees submitted by each of the 4 legislative leaders. A member appointed under this subdivision shall serve a term as a member of the executive committee through the next regular legislative session unless he or she resigns or is otherwise unable to serve. When a vacancy occurs other than by expiration of a term, the corporation shall notify the legislative leader who originally nominated the member of the vacancy and that legislative leader shall submit to the governor a list of 3 or more individuals as nominees for appointment to fill the vacancy within 30 days after being notified by the corporation of the vacancy. The governor shall make an appointment to fill that vacancy in the same manner as the original appointment not later than 60 days after the date the vacancy occurs.

(2) The early childhood investment corporation shall award grants to eligible intermediate districts in an amount to be determined by the corporation.

(3) In order to receive funding, each intermediate district applicant shall agree to convene local great start collaboratives to address the availability of the 6 components of a great start system in its communities: physical health, social-emotional health, family supports, basic needs, economic stability and safety, and parenting education and early education and care, to ensure that every child in the community is ready for kindergarten. Specifically, each grant will fund the following:

(a) The completion of a community needs assessment and strategic plan for the creation of a comprehensive system of early childhood services and supports, accessible to all children from birth to kindergarten and their families.

(b) Identification of local resources and services for children with disabilities, developmental delays, or special needs and their families.

(c) Coordination and expansion of high-quality early childhood and childcare programs.

(d) Evaluation of local programs.

(4) Not later than December 1 of each fiscal year, for the grants awarded under this section for the immediately preceding fiscal year, the department shall provide to the house and senate appropriations subcommittees on state school aid, the state budget director, and the house and senate fiscal agencies a report detailing the amount of each grant awarded under this section, the grant recipients, the activities funded by each grant under this section, and an analysis of each grant recipient's success in addressing the development of a comprehensive system of early childhood services and supports.

(5) An intermediate district receiving funds under this section may carry over any unexpended funds received under this section into the next fiscal year and may expend those unused funds in the next fiscal year. A recipient of a grant shall return any unexpended grant funds to the department in the manner prescribed by the department not later than September 30 of the next fiscal year after the fiscal year in which the funds are received.

(6) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 562]

(SB 661)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 16b, 16t, and 43 of chapter XVII (MCL 777.16b, 777.16t, and 777.43), section 16b as amended by 2007 PA 151, section 16t as amended by 2004 PA 112, and section 43 as amended by 2002 PA 666.

The People of the State of Michigan enact:

CHAPTER XVII

777.16b MCL 750.49(2)(a) to (d) to 750.68; felonies to which chapter applicable.

Sec. 16b. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4

750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)(c)	Pub ord	G	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
750.50b(3)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

777.16t MCL 750.410a to 750.411v(2); felonies to which chapter applicable.

Sec. 16t. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
750.411a(1)(b)	Pub ord	F	False report of a felony	4
750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material — subsequent offense	10
750.411b	Pub trst	G	Excess fees to members of legislature	4
750.411h(2)(b)	Person	E	Stalking of a minor	5
750.411i(3)(a)	Person	E	Aggravated stalking	5
750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
750.411*l*	Pub ord	H	Money laundering — fourth degree	2

750.411m	Pub ord	E	Money laundering — third degree	5
750.411n	Pub ord	D	Money laundering — second degree	10
750.411o	Pub ord	B	Money laundering — first degree	20
750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving $10,000 or more	20
750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving $10,000 or more	10
750.411p(2)(c)	Property	E	Money laundering — transactions involving represented proceeds	5
750.411s(2)(a)	Person	G	Unlawful posting of message	2
750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
750.411t(2)(c)	Person	C	Hazing resulting in death	15
750.411u	Pub ord	B	Gang membership felonies	20
750.411v(1)	Person	E	Gang recruitment	5
750.411v(2)	Person	B	Retaliation for withdrawal from gang	20

777.43 Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age ..... 50 points

(b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang ..... 25 points

(c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person ..... 25 points

(d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 ..... 10 points

(e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 ..... 10 points

(f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property ..... 5 points

(g) No pattern of felonious criminal activity existed ..... 0 points

(2) All of the following apply to scoring offense variable 13:

(a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.

(b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.

(c) Except for offenses related to membership in an organized criminal group or that are gang-related, do not score conduct scored in offense variable 11 or 12.

(d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.

(e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.

(f) Do not count more than 1 crime involving the same 1 controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

Effective dates.

Enacting section 1. (1) Section 16b of chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.16b, as amended by this amendatory act, takes effect January 1, 2009.

(2) Sections 16t and 43 of chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.16t and 777.43, as amended by this amendatory act, takes effect April 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 660 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 15, 2009.

Filed with Secretary of State January 16, 2009.

Compiler's note: Senate Bill No. 660, referred to in enacting section 2, was filed with the Secretary of State January 16, 2009, and became 2008 PA 563, Imd. Eff. Apr. 1, 2009.

[No. 563]

(SB 660)

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," (MCL 750.1 to 750.568) by adding section 411v.

The People of the State of Michigan enact:

750.411v Causing, encouraging, recruiting, soliciting, or coercing another to join, participate in, or assist gang in felony; violation as felony; threat of injury or damage as felony; additional sentence; definitions.

Sec. 411v. (1) A person shall not cause, encourage, recruit, solicit, or coerce another to join, participate in, or assist a gang in committing a felony. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(2) A person shall not communicate, directly or indirectly, to another person a threat of injury or damage to the person or property of that person or to an associate or relative of that person with the intent to do either of the following:

(a) Deter the other person from assisting a gang member or associate of a gang to withdraw from the gang.

(b) Punish or retaliate against the other person for having withdrawn from a gang.

(3) A person who violates subsection (2) is guilty of a felony punishable for not more than 20 years or a fine of not more than $20,000.00, or both.

(4) A sentence imposed under this section is in addition to a sentence imposed for the conviction of another felony or attempt to commit a felony arising out of the same transaction and may be ordered to be served consecutively with and preceding a term of imprisonment imposed for the conviction of that felony or attempt to commit that felony.

(5) As used in this section:

(a) "Gang" means an ongoing organization, association, or group of 5 or more people, other than a nonprofit organization, that identifies itself by all of the following:

(*i*) A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, geographical or territorial sites, or boundary or location.

(*ii*) An established leadership or command structure.

(*iii*) Defined membership criteria.

(b) "Gang member" means a person who belongs to a gang.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 661 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved January 15, 2009.

Filed with Secretary of State January 16, 2009.

Compiler's note: Senate Bill No. 661, referred to in enacting section 2, was filed with the Secretary of State January 16, 2009, and became 2008 PA 562, Imd. Eff. Jan. 16, 2009.

[No. 564]

(SB 291)

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," (MCL 750.1 to 750.568) by adding section 411u.

The People of the State of Michigan enact:

750.411u Associate or member of gang; commission or attempt to commit felony; membership in gang as motive, means, or opportunity; penalty; definitions; consecutive sentence.

Sec. 411u. (1) If a person who is an associate or a member of a gang commits a felony or attempts to commit a felony and the person's association or membership in the gang provides the motive, means, or opportunity to commit the felony, the person is guilty of a felony punishable by imprisonment for not more than 20 years. As used in this section:

(a) "Gang" means an ongoing organization, association, or group of 5 or more people, other than a nonprofit organization, that identifies itself by all of the following:

(*i*) A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, geographical or territorial sites, or boundary or location.

(*ii*) An established leadership or command structure.

(*iii*) Defined membership criteria.

(b) "Gang member" or "member of a gang" means a person who belongs to a gang.

(2) A sentence imposed under this section is in addition to the sentence imposed for the conviction of the underlying felony or the attempt to commit the underlying felony and may be served consecutively with and preceding any term of imprisonment imposed for the conviction of the felony or attempt to commit the felony.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2009.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 565]

(SB 292)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws

relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16t of chapter XVII (MCL 777.16t), as amended by 2004 PA 112.

The People of the State of Michigan enact:

CHAPTER XVII

777.16t MCL 750.410a to 750.411u; felonies to which chapter applicable.

Sec. 16t. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
750.411a(1)(b)	Pub ord	F	False report of a felony	4
750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material — subsequent offense	10
750.411b	Pub trst	G	Excess fees to members of legislature	4
750.411h(2)(b)	Person	E	Stalking of a minor	5
750.411i(3)(a)	Person	E	Aggravated stalking	5
750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
750.411*l*	Pub ord	H	Money laundering — fourth degree	2
750.411m	Pub ord	E	Money laundering — third degree	5
750.411n	Pub ord	D	Money laundering — second degree	10
750.411o	Pub ord	B	Money laundering — first degree	20

750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving $10,000 or more	20
750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving $10,000 or more	10
750.411p(2)(c)	Property	E	Money laundering — transactions involving represented proceeds	5
750.411s(2)(a)	Person	G	Unlawful posting of message	2
750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
750.411t(2)(c)	Person	C	Hazing resulting in death	15
750.411u	Pub ord	B	Gang membership felonies	20

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 291 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

Compiler's note: Senate Bill No. 291, referred to in enacting section 2, was filed with the Secretary of State January 16, 2009, and became 2008 PA 564, Eff. Apr. 1, 2009.

[No. 566]

(SB 1445)

AN ACT to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending section 102 (MCL 450.4102), as amended by 2002 PA 686.

The People of the State of Michigan enact:

450.4102 Definitions.

Sec. 102. (1) Unless the context requires otherwise, the definitions in this section control the interpretation of this act.

(2) As used in this act:

(a) "Administrator" means the director of the department or his or her designated representative.

(b) "Articles of organization" means the original documents filed to organize a limited liability company, as amended or restated by certificates of correction, amendment, or merger, by restated articles, or by other instruments filed or issued under any statute.

(c) "Constituent" means a party to a plan of merger, including the survivor.

(d) "Contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership, including cash, property, services performed, or a promissory note or other binding obligation to contribute cash or property, or to perform services.

(e) "Corporation" or "domestic corporation" means any of the following:

(*i*) A corporation formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*ii*) A corporation existing on January 1, 1973 and formed under another statute of this state for a purpose for which a corporation may be formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*iii*) A corporation formed under the professional service corporation act, 1962 PA 192, MCL 450.221 to 450.235.

(f) "Department" means the department of labor and economic growth.

(g) "Distribution" means a direct or indirect transfer of money or other property or the incurrence of indebtedness by a limited liability company to or for the benefit of its members or assignees of its members in respect of the members' membership interests.

(h) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

(*i*) It does not directly involve the physical transmission of paper.

(*ii*) It creates a record that may be retained and retrieved by the recipient.

(*iii*) It may be directly reproduced in paper form by the recipient through an automated process.

(i) "Foreign limited liability company" means a limited liability company formed under laws other than the laws of this state.

(j) "Foreign limited partnership" means a limited partnership formed under laws other than the laws of this state.

(k) "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated membership organization formed under this act.

(*l*) "Limited partnership" or "domestic limited partnership" means a limited partnership formed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(m) "Low-profit limited liability company" means a limited liability company that has included in its articles of organization a purpose that meets, and that at all times conducts its activities to meet, all of the following requirements:

(*i*) The limited liability company significantly furthers the accomplishment of 1 or more charitable or educational purposes described in section 170(c)(2)(B) of the internal revenue code, 26 USC 170, and would not have been formed except to accomplish those charitable or educational purposes.

(*ii*) The production of income or appreciation of property is not a significant purpose of the limited liability company. However, in the absence of other factors, the fact that a limited liability company produces significant income or capital appreciation is not conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(*iii*) The purposes of the limited liability company do not include accomplishing 1 or more political or legislative purposes described in section 170(c)(2)(D) of the internal revenue code, 26 USC 170.

(n) "Majority in interest" means a majority of votes as allocated by an operating agreement, or by the statute in the absence of an allocation by operating agreement, and held by members entitled to vote on a matter submitted for a vote by members.

(o) "Manager" or "managers" means a person or persons designated to manage the limited liability company pursuant to a provision in the articles of organization stating that the business is to be managed by or under the authority of managers.

(p) "Member" means a person who has been admitted to a limited liability company as provided in section 501, or, in the case of a foreign limited liability company, a person that is a member of the foreign limited liability company in accordance with the laws under which the foreign limited liability company is organized.

(q) "Membership interest" or "interest" means a member's rights in the limited liability company, including, but not limited to, any right to receive distributions of the limited liability company's assets and any right to vote or participate in management.

(r) "Operating agreement" means a written agreement by the member of a limited liability company that has 1 member, or between all of the members of a limited liability company that has more than 1 member, pertaining to the affairs of the limited liability company and the conduct of its business. The term includes any provision in the articles of organization pertaining to the affairs of the limited liability company and the conduct of its business.

(s) "Person" means an individual, partnership, limited liability company, trust, custodian, estate, association, corporation, governmental entity, or any other legal entity.

(t) "Services in a learned profession" means services rendered by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney-at-law.

(u) "Surviving company", "surviving entity", or "survivor" means the constituent that survives a merger, as identified in the certificate of merger.

(v) "Vote" means an affirmative vote, approval, or consent.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 567]

(SB 1446)

AN ACT to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending sections 204, 206, 803, and 1004 (MCL 450.4204, 450.4206, 450.4803, and 450.5004), section 204 as amended by 2002 PA 686 and section 206 as amended by 1997 PA 52.

The People of the State of Michigan enact:

450.4204 Limited liability company; low-profit limited liability company; name; requirements; rights.

Sec. 204. (1) Except as provided in subsection (2), the name of a domestic limited liability company shall contain the words "limited liability company", or the abbreviation "L.L.C." or "L.C.", with or without periods or other punctuation.

(2) The name of a low-profit limited liability company shall contain the words "low-profit limited liability company", or the abbreviation "L.3.C." or "l.3.c.", with or without periods or other punctuation.

(3) The name of a domestic or foreign limited liability company formed under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, that indicates or implies that the company is formed for a purpose other than the purpose or purposes permitted by its articles of organization.

(b) Shall not contain the word "corporation" or "incorporated" or the abbreviation "corp." or "inc.".

(c) Shall distinguish the name in the records in the office of the administrator from all of the following:

(*i*) The name of a domestic limited liability company, or a foreign limited liability company authorized to transact business in this state, that is in good standing.

(*ii*) The name of a corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or a nonprofit corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iii*) A name reserved, registered, or assumed under this act, under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iv*) The name of a domestic or foreign limited partnership as filed or registered, reserved, or assumed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(d) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state.

(4) If a foreign limited liability company is unable to obtain a certificate of authority to transact business in this state because its name does not comply with subsections (1), (2), and (3), the foreign limited liability company may apply for authority to transact business in this state by adding to its name in the application a word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed name otherwise available for use. If in the judgment of the administrator that name would comply with subsections (1), (2), and (3), those subsections do not bar the issuance to the foreign limited liability company of a certificate of authority to transact business in this state. The certificate of authority to transact business in this state issued to the foreign limited liability company shall be issued in the name applied for and the foreign limited liability company shall use that name in all its dealings with the administrator and in the transaction of business in this state.

(5) The fact that a limited liability company name complies with this section does not create substantive rights to the use of the name.

450.4206 Transacting business under assumed name; certificate; effective period; extension; notice of expiration; rights not created; same name assumed in partnership or joint venture; transfer of assumed name to survivor; use of name by surviving company.

Sec. 206. (1) A domestic or foreign limited liability company may transact business under an assumed name or names other than its name as set forth in its articles of organization or certificate of authority, if not precluded from use of the assumed name or names under section 204(3), by filing a certificate stating the true name of the company and the assumed name or names under which business is to be transacted.

(2) A certificate of assumed name is effective, unless terminated by filing a certificate of termination or by the dissolution or withdrawal of the company, for a period expiring on December 31 of the fifth full calendar year following the year in which the certificate of assumed name was filed. The certificate of assumed name may be extended for additional consecutive periods of 5 full calendar years each by filing a similar certificate of assumed name not earlier than 90 days before the expiration of the initial or any subsequent 5-year period.

(3) The administrator shall notify a domestic or foreign limited liability company of the impending expiration of a certificate of assumed name not later than 90 days before the expiration of the initial or any subsequent 5-year period described in subsection (2).

(4) Filing a certificate of assumed name under this section does not create substantive rights to the use of a particular assumed name.

(5) The same name may be assumed by 2 or more limited liability companies or by 1 or more limited liability companies and 1 or more corporations, limited partnerships, or other enterprises participating together in a partnership or joint venture. Each participating limited liability company shall file a certificate of assumed name under this section.

(6) A limited liability company participating in a merger, or any other entity participating in a merger under section 705a, may transfer to the survivor the use of an assumed name for which a certificate of assumed name is on file with the administrator before the merger, if the transfer of the assumed name is noted in the certificate of merger as provided in section 703(1)(c), 705a(7)(c), or other applicable statute. The use of an assumed name transferred under this subsection may continue for the remaining effective period of the certificate of assumed name on file before the merger and the survivor may terminate or extend the certificate in accordance with subsection (2).

(7) A limited liability company surviving a merger may use as an assumed name the name of a merging limited liability company, or the name of any other entity participating in the merger under section 705a, by filing a certificate of assumed name under subsection (1) or by providing for the use of the assumed name in the certificate of merger. The surviving limited liability company may also file a certificate of assumed name under subsection (1) or provide in the certificate of merger for the use of an assumed name of a merging entity not transferred pursuant to subsection (6). A provision in the certificate of merger pursuant to this subsection is treated as a new certificate of assumed name.

450.4803 Dissolution; action by attorney general; grounds; other actions not excluded.

Sec. 803. (1) The attorney general may bring an action in the circuit court for the county in which the registered office of a limited liability company is located for dissolution of the limited liability company on the ground that the company has committed any of the following acts:

(a) Procured its organization through fraud.

(b) Repeatedly and willfully exceeded the authority conferred on it by law.

(c) Repeatedly and willfully conducted its business in an unlawful manner.

(d) If the limited liability company is a low-profit limited liability company, ceased to meet any of the requirements described in section 102(m) and for 60 days after it ceased to meet those requirements failed to file a certificate of amendment amending its name to conform with the requirements of section 204.

(2) This section does not exclude any other statutory or common law action by the attorney general for dissolution of a limited liability company.

450.5004 Certificate of authority; satisfaction of MCL 450.4204 required for issuance.

Sec. 1004. The department shall not issue a certificate of authority to a foreign limited liability company unless the name of the company satisfies the requirements of section 204. If the name of a foreign limited liability company does not satisfy the requirements of section 204, the company may take the action authorized by section 204(4).

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 568]

(SB 1066)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," (MCL 257.1 to 257.923) by adding sections 3a and 320d.

The People of the State of Michigan enact:

257.3a "Basic driver improvement course" defined.

Sec. 3a. "Basic driver improvement course" means a course of study that satisfies all of the following conditions:

(a) It meets or exceeds the curriculum standards set forth in the defensive driving course instructor manual, eighth edition, published by the national safety council.

(b) It provides documented evidence from a federal, state, or local agency of course effectiveness in reducing collisions, moving violations, or both.

(c) It contains such other information as is approved by the secretary of state and that is offered over the internet or through classroom instruction.

257.320d Basic driver improvement course; eligibility; database; fees; entering points for moving violation; basic driver improvement course fund; study; report; approval of basic driver improvement course sponsors; "approved sponsor" defined.

Sec. 320d. (1) The secretary of state shall not enter the points corresponding to a moving violation committed by an individual the secretary of state determines to be eligible under this section on the individual's driving record or make information concerning that violation available to any insurance company if the individual attends and successfully completes a basic driver improvement course under this section and provides a certificate of successful completion of that course to the secretary of state within 60 days of the date on which the secretary of state notified the individual that he or she was eligible to take a basic driver improvement course.

(2) The secretary of state shall determine if an individual is eligible under subsection (3) to attend a basic driver improvement course upon receipt of an abstract of a moving violation. If the secretary of state determines that an individual is eligible to attend a basic driver improvement course, the secretary of state shall do all of the following:

(a) Except as otherwise provided under subsection (8), postpone both of the following for a period of not less than 10 business days:

(*i*) The entry of points under section 320a for the moving violation.

(*ii*) Making information contained in the abstract of the moving violation available to the individual's insurance company.

(b) Notify the individual of his or her eligibility by first-class mail at the individual's last known address as indicated on the individual's operator's or chauffeur's license, and inform the individual of the location of basic driver improvement courses, and inform the individual of the manner and time within which the individual is required to notify the secretary of state of the individual's intent to attend a basic driver improvement course.

(c) Notify the individual that if the individual fails to notify the secretary of state of the individual's intent to attend a basic driver improvement course as described under subdivision (b), points will be entered for the moving violation as described in subsection (8).

(3) An individual is ineligible to take a basic driver improvement course if any of the following apply:

(a) The violation occurred while the individual was operating a commercial motor vehicle or was licensed as a commercial driver while operating a noncommercial motor vehicle at the time of the offense.

(b) The violation is a criminal offense.

(c) The violation is a violation for which 4 or more points may be assessed under section 320a.

(d) The violation is a violation of section 626b, 627(9), 627a, or 682.

(e) The individual was cited for more than 1 moving violation arising from the same incident.

(f) The individual's license was suspended under section 321a(2) in connection with the violation.

(g) The individual previously successfully completed a basic driver improvement course.

(h) The individual has 3 or more points on his or her driving record.

(i) The individual's operator's or chauffeur's license is restricted, suspended, or revoked, or the individual was not issued an operator's or chauffeur's license.

(4) The secretary of state shall maintain a computerized database of the following:

(a) Individuals who have attended a basic driver improvement course.

(b) Individuals who have successfully completed a basic driver improvement course.

(5) The database maintained under subsection (4) shall only be used for determining eligibility under subsection (3). The secretary of state shall only make the information contained in the database available to approved sponsors under subsection (10). Information in this database concerning an individual shall be maintained for the life of that individual.

(6) An individual shall be charged a fee of not more than $100.00 to participate in a basic driver improvement course and, if applicable, to obtain a certificate in a form as approved by the secretary of state demonstrating that he or she successfully completed the course.

(7) Fees collected under this subsection shall be credited to the basic driver improvement course fund created under subsection (9).

(8) The secretary of state shall immediately enter the points for the moving violation on the individual's driving record as follows:

(a) Ten business days after an individual described in subsection (2) fails to notify the secretary of state that he or she desires to attend a basic driver improvement course.

(b) Sixty days after an individual described in subsection (2) who has properly notified the secretary of state that he or she desires to attend a basic driver improvement course but has failed to submit a certificate of successful completion of a basic driver improvement course.

(9) The basic driver improvement course fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The secretary of state shall be the administrator of the fund for auditing purposes. The secretary of state shall expend money from the fund, upon appropriation, only to pay the costs of administering this section.

(10) An approved sponsor shall conduct a study of the effect, if any, that the successful completion of its basic driver improvement course has on reducing collisions, moving violations, or both for students completing its course in this state. An approved sponsor shall conduct this study every 5 years on each of the course delivery modalities employed by the approved sponsor. The secretary of state shall make all of the following information available to the approved course sponsor for that purpose, subject to applicable state and federal laws governing the release of information:

(a) The number of individuals who successfully complete a basic driver improvement course under this section.

(b) The number of individuals who are eligible to take a basic driver improvement course under this section but who do not successfully complete that course.

(c) The number and type of moving violations committed by individuals after successfully completing a basic driver improvement course under this section in comparison to the number and type of moving violations committed by individuals who have not taken a basic driver improvement course.

(11) The secretary of state shall report on the findings of all studies conducted under subsection (10) to the standing committees of the house of representatives and senate on transportation issues.

(12) The secretary of state shall approve basic driver improvement course sponsors if the basic driver improvement course offered by that sponsor satisfies the requirements listed in section 3a.

(13) As used in this section, "approved sponsor" means a sponsor of a basic driver improvement course that is approved by the secretary of state under subsection (12).

Effective date.

Enacting section 1. This amendatory act takes effect December 31, 2010.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 569]

(SB 1615)

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 42702 and 42713 (MCL 324.42702 and 324.42713), section 42702 as amended by 2004 PA 537 and section 42713 as added by 1995 PA 57.

The People of the State of Michigan enact:

324.42702 Possession of game for propagation and dealing and selling of game; license; denial; zoning requirements; license nontransferable; validity.

Sec. 42702. (1) The department may, pursuant to part 13, issue licenses to authorize the possession of game for propagation and the dealing in and selling of game.

(2) The department shall deny an application for a new license under subsection (1) if the applicant is not the owner or lessee of the premises to be used for the purposes designated in the license application.

(3) Beginning on the effective date of the amendatory act that added this subsection, unless the premises to be used for the purposes designated in the license application are zoned agricultural, the department shall notify in writing the city or the township and, if applicable, village where the premises are located that an application has been filed under this section. The notice shall include a copy of the application. If, within 30 days after the notice is sent, the local unit of government notifies the department that the use designated in the license application would violate a local ordinance that prohibits the captivity of game animals and that does not violate the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474, the department shall deny the license application.

(4) A license issued under subsection (1) is nontransferable and is valid from July 1 to June 30 of the third license year.

324.42713 Suspension or revocation of license.

Sec. 42713. (1) After providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department may suspend or revoke a license under this part if any of the following apply:

(a) The licensee violates this part.

(b) The licensee fails to provide accurate reports and records within reasonable time limits as designated by the department.

(c) The premises used for the purposes identified in the license are located in a city or village and are zoned residential, the licensed use is a nonconforming use in that zone, and the licensee has been convicted of a crime or held responsible for a civil infraction directly related to the captivity of pheasants on the premises.

(2) If a licensee under this part is convicted of a violation of the game laws of this state, his or her license may be revoked or its renewal denied. In that case, the game held under the license may be disposed of only in a manner approved by the department.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 570]

(SB 1536)

AN ACT to amend 1976 PA 295, entitled "An act to improve and maintain transportation services in this state; to provide for the acquisition and use of funds; to provide for the acquisition of certain railroad facilities and certain property; to provide for the disposition and use of facilities and property acquired under this act; to provide for financial assistance to certain private transportation services; to prescribe the powers and duties of certain state departments and agencies; to provide for the transfer of certain funds; to provide for the creation of certain funds; and to provide for appropriations," by amending section 10 (MCL 474.60), as amended by 1998 PA 235.

The People of the State of Michigan enact:

474.60 Acquiring, leasing, or securing easement for use of real property owned by railroad; conveyance or lease to public or private entity; divestiture or creation of leases; determination of sale terms; exceptions; order of parties to be offered lease; reversion; submission of financial statement and operation plan; "tributary lines" defined; return of proceeds to state; action for relief; determination of lease terms; jurisdiction; preservation of right-of-way for future use as railroad line; disposing of or leasing right-of-way; powers of department; restrictions to assure future rail use.

Sec. 10. (1) In weighing the varied interests of the residents of this state, the department shall give consideration to the individual interest of any person, public or private corporation, local or regional transportation authority, local governmental unit, private carrier, group of rail users, state agency, other public or private entity, including a port authority established under the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.101 to 120.130, or any combination of these entities, expressing a desire to acquire or lease or secure

an easement for the use of a portion or all of the real property owned by a railroad company. The property acquired by the department under this act may be conveyed or leased to an entity or combination of entities listed in this subsection with appropriate reimbursement, as determined by the department.

(2) The department may begin divestiture or offer 10-year leases to the current operator of the properties described in this subsection within 180 days after July 3, 1998. Except as otherwise provided in this act, the department shall accomplish divestiture or create leases, without partitioning a segment or a portion of a segment, in the following order from the smallest segment first to the largest segment last, of the following defined segments of state-owned rail property:

(a) Lenawee county system means the rail lines owned by the state between Adrian and Riga, between Grosvenor and River Raisin and Lenawee Junction.

(b) Hillsdale county system means the rail lines owned by the state between Litchfield and the Indiana state line and between Jonesville and Quincy.

(c) Vassar area system means the rail lines owned by the state between Millington and Munger, between Vassar and Colling, and at Denmark Junction.

(d) Ann Arbor and Northwest Michigan system means the rail lines owned by the state between Durand and Ann Arbor, between Owosso and Thompsonville, between Cadillac and Petoskey excluding the portion of the segment located in Petoskey north of Emmet street, between Walton Junction and Traverse City, between Grawn and Williamsburg, and between Owosso and St. Charles.

(3) The specific terms of a sale will be as determined by the department except for the following required conditions:

(a) Each purchase agreement shall require that the purchase price shall be not less than the net liquidation value of the rail line or lines.

(b) Each purchase agreement shall require that the purchaser provide at a minimum the average level of service adjusted for traffic levels for 3 years after the date of sale unless otherwise mutually agreed upon between the purchaser and shippers that existed on that line on July 3, 1998, and that rates on the segment purchased from the state will not increase more than the average percentage increase in the Detroit consumer price index for the 12-month period each year for the base rate in effect on January 1, 1996 for 3 years after the date of sale.

(c) Trackage in the segments sold by the state shall be maintained at not less than the federal railway administration class of track standards for each segment as of January 1, 1998.

(d) In the case of the sale of the segment described in subsection (2)(d), the purchaser shall be required to charge reasonable freight rates for that section between Durand and Ann Arbor and honor all existing freight rate agreements and trackage rights for 3 years after the date of sale.

(e) Any existing lease or agreement for operation of a segment in effect on July 3, 1998 shall be extended at the same terms and conditions until a sale or lease is executed.

(4) If there are no acceptable offers to purchase, the property shall be offered for a lease of not less than 10 years, by the department to the following parties in descending order:

(a) Current operator.

(b) Current shippers on that segment.

(c) Governmental entities.

(d) Other railroad companies.

(5) If the purchaser or lessee fails to comply with the conditions of sale or lease, the property shall revert back to the department and shall then be offered for sale or lease to the following parties in descending order:

(a) Current shippers on that segment.

(b) Governmental entities.

(c) Other railroad companies.

(6) Before the execution of a purchase agreement, the potential purchaser shall submit to the department its most recent financial statement and a proposed operation plan including tributary lines and including known potential sublease agreements. As used in this subsection, "tributary lines" means spur rail lines that only intersect with a rail line owned by the state on July 3, 1998.

(7) If during the first 10 years after purchase the purchaser abandons service and sells the segment or any portion of the segment that does not involve main line track, or any rails, ties, or ballast, excluding normal salvage, 95% of the proceeds from the sale shall be returned to the state as additional purchase price. A segment or a portion of a segment may be sold with the approval of the department.

(8) A party aggrieved by the performance or failure to perform under the terms of a purchase agreement may bring an action in the circuit court where the party resides or where the property is located for appropriate relief.

(9) The specific terms of a lease will be as determined by the department except for the following required conditions:

(a) Each lease agreement shall require that the lessee provide at a minimum the average level of service adjusted for traffic levels for 3 years after the date of the lease agreement unless otherwise mutually agreed upon between the lessee and shippers that existed on that line on the effective date of the amendatory act that added this subsection, and that rates on that segment leased from the state will not increase more than the average percentage increase in the Detroit consumer price index for the 12-month period each year for the base rate in effect on January 1, 1996 for 3 years after the date of the lease.

(b) Not less than 50% of trackage rights revenues shall be reinvested in eligible expenditures. As used in this subdivision, "eligible expenditures" includes the material and direct expenses required for the installation of railroad ties, track, ballast, crossing improvements, ditch and drainage repair or improvements, brush trimming, and the expenses required to conduct track and signal inspections as specified in federal regulations.

(c) Trackage in the segments leased by the state shall be maintained at not less than the federal railway administration class of track standards for each segment as of January 1, 1998.

(d) In the case of a lease of the segment described in subsection (2)(d), the lessee shall be required to charge reasonable freight rates for that section between Durand and Ann Arbor and honor all existing freight rate agreements and trackage rights for 3 years after the date of sale.

(10) A party aggrieved by the performance or failure to perform under the terms of a lease agreement may bring an action in the circuit court where the party resides or where the property is located for appropriate relief.

(11) Upon acquisition of a right-of-way, the department may preserve the right-of-way for future use as a railroad line and, if preserving it for that use, shall not permit any action which would render it unsuitable for future rail use. However, if the department determines a right-of-way or other property acquired under this act is no longer necessary for railroad transportation purposes, the department may preserve and utilize the right-of-way for other

transportation purposes or may dispose of the right-of-way or other property acquired under this act for the purposes described in section 6, or may dispose of or lease the right-of-way or other property for other purposes, as appropriate. However, the department shall not dispose of or lease a right-of-way without first offering to transfer the right-of-way to the department of natural resources. If the department of natural resources desires to lease or purchase the right-of-way, the department of natural resources must indicate their desire within 60 days and accept the offered transfer within 1 year after the offer is made. If the department of natural resources does not indicate their desires within 60 days, the department may dispose of or lease the right-of-way as otherwise provided for in this act. If the department of natural resources does not accept the offered transfer within 1 year after indicating their desire to lease or purchase the right-of-way, the department may dispose of or lease the right-of-way as otherwise provided for in this act. When appropriate, a right-of-way or other property shall be transferred or leased to a public or private entity with appropriate reimbursement, as determined by the department.

(12) In preserving a right-of-way for future rail use, the department may do 1 or more of the following:

(a) Develop the right-of-way for use as a commuter trail where the use is feasible and needed or lease the right-of-way to a county, city, village, or township expressing a desire to develop the right-of-way as a commuter trail. The lease shall be for an indefinite period of time, cancelable by the department only if the right-of-way is needed for rail usage. The trails, unless leased to a county, city, village, or township, shall remain under the jurisdiction of the department.

(b) Transfer, for appropriate reimbursement, the right-of-way to the department of natural resources for use as a Michigan trailway pursuant to part 721 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.72101 to 324.72113, if the deed includes restrictions on the use of the property that assure that the property remains viable for future rail usage, and includes a clause that provides that the department of natural resources shall transfer, for appropriate reimbursement, the right-of-way to the department, upon a determination of the director of the department that the right-of-way is needed for use as a railroad line.

(c) Lease the right-of-way to the department of natural resources, or upon approval of the department of natural resources, to a county, city, village, or township for use as a recreational trail. The lease shall be for an indefinite period of time, cancelable by the department only if the right-of-way is needed for rail usage. A recreational trail shall be reserved for non-motorized forms of recreation or snowmobiling only. Snowmobiling shall not be allowed on more than 50% of the mileage of the recreational trails established pursuant to this act.

(d) In cases where a trail serves both a significant commuter and recreation function, authorize the joint development of the trail by the department and the department of natural resources, or the department and any interested county, city, village, or township. Administration of the trail shall be determined jointly by the department and the department of natural resources.

(13) As a term of conveyance, the department may require restrictions on the use of the property that assure that the property remains viable for future rail use and that the rail line is made available by the purchaser for future freight or passenger rail uses and that the property shall revert to the department if the purchaser fails to maintain the property so that it remains viable for future rail use.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 571]

(SB 1175)

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," by amending section 88d (MCL 125.2088d), as amended by 2008 PA 223.

The People of the State of Michigan enact:

125.2088d Loan enhancement program; loan guarantee program; small business capital access program; Michigan film and digital media investment loan program; choose Michigan film and digital media loan fund; choose Michigan fund program; definitions.

Sec. 88d. (1) The fund shall create and operate a loan enhancement program.

(2) As a separate and distinct part of the loan enhancement program, the fund may create a loan guarantee program that does all of the following:

(a) Provide a loan guarantee mechanism to financial institutions located in this state that provide commercial loans to qualified businesses, public authorities, and local units of government.

(b) Ensures that participating financial institutions do not refinance prior debt.

(c) Provide that a qualified business is only eligible for a loan guarantee under this section if it has a documented growth opportunity. As used in this subdivision, "documented growth opportunity" means a plant expansion, capital equipment investment, acquisition of intellectual property or technology, or the hiring of new employees to meet or satisfy a new business opportunity.

(d) Provide that a qualified business that engages primarily in retail sales is not eligible for a loan guarantee under this chapter unless the fund board makes a specific finding that the loan guarantee supports a new concept that has significant growth potential.

(e) Provide repayment provisions for a loan or a guarantee given to a qualified business that leaves Michigan within 3 years of the provision of the loan or guarantee or otherwise breaches the terms of an agreement with the fund.

(3) As a separate and distinct part of the loan enhancement program, the fund shall reestablish the small business capital access program that was previously operated by the fund for small businesses in a manner similar to how that program was operated before January 1, 2002. The small business capital access program shall operate on a market-driven basis and provide for premium payments by borrowers into a special reserve fund. The small business capital access program established by the board shall prohibit an officer, director,

principal shareholder of a participating financial institution, or his or her immediate family members from receiving a small business capital access program loan from the financial institution. A loan under the small business capital access program may be issued to an eligible production company or film and digital media private equity fund even if the eligible production company or film and digital media private equity fund is not a small business. A loan under the small business capital access program shall provide that the proceeds of a loan may only be used for a business purpose within this state and may not be used for any of the following:

(a) The construction or purchase of residential housing.

(b) To finance passive real estate ownership.

(c) To refinance prior debt from the participating financial institution that is not part of the small business capital access program.

(4) As a separate and distinct part of the loan enhancement program, the fund shall establish a Michigan film and digital media investment loan program to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office after a review by the investment advisory committee. If an investment is made under this section, not more than $15,000,000.00 may be loaned to any 1 eligible production company or film and digital media private equity fund for any 1 qualified production. The fund board may make an investment in a qualified production if all of the following are satisfied:

(a) The production is filmed wholly or substantially in this state.

(b) The eligible production company or the film and digital media private equity fund has shown to the satisfaction of the Michigan film office that a distribution contract or plan is in place with a reputable distribution company.

(c) The eligible production company or film and digital media private equity fund agrees that, while filming in this state, a majority of the below the line crew for the qualified production will be residents of this state.

(d) The eligible production company or film and digital media private equity fund posts a completion bond approved by the Michigan film office and has obtained no less than 1/3 of the estimated total production costs from other sources as approved by the chief compliance officer and the Michigan film office or has obtained a full, unconditional, and irrevocable guarantee of the repayment of the amount invested by the fund in favor of the investment fund that satisfies 1 or more of the following:

(*i*) The guarantee is from an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(*ii*) The guarantee is from a substantial subsidiary of an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(*iii*) The eligible production company or the film and digital media private equity fund provides a full, unconditional letter of credit from a bank with a credit rating of not less than A from a national rating agency.

(*iv*) The guarantee is from a substantial and solvent entity as determined by the investment advisory committee.

(e) The fund board may make a loan under this subsection at a market rate of interest for a qualified production of up to 80% of expected and estimated tax credits available to the eligible production company or film and digital media private equity fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459, if the eligible production company or the film and digital media private equity fund agrees to name the

fund as its agent for the purpose of filing for the tax credits should the eligible production company not apply for the tax credits. The Michigan film office and the state treasurer shall determine the estimated amount of tax credits for purposes of this subsection. The fund board shall approve guidelines for the initiation of a loan and the terms of the loan under this subsection.

(f) A loan under this subsection may be converted to an equity investment by the fund board with the approval of the chief compliance officer and the Michigan film office.

(g) An eligible production company or film and digital media production company that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (5).

(h) Fifty percent of any earnings on a loan or investment under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(5) As a separate and distinct part of the loan enhancement program, the fund shall establish and operate the choose Michigan film and digital media loan fund to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds eligible for a tax credit under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of primary incentives, as determined by the fund board.

(d) The value of the loan may not exceed the value of the primary incentive that the eligible production company or film and digital media private equity fund is eligible to receive over 7 years, as discounted by the fund board. A loan authorized by the fund board may provide for a loan amount equal to a portion or all of the discounted value of the primary incentives, as discounted by the fund board.

(e) The eligible production company or film and digital media private equity fund is responsible for repayment of the loan regardless of actual primary incentive amounts received.

(f) The eligible production company or film and digital media private equity fund is responsible for loan preparation and closing costs.

(g) An eligible production company or film and digital media private equity fund that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (4).

(h) The eligible production company or film and digital media private equity fund also obtains an additional loan from an accredited financial institution or other approved lending market.

(i) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(j) Fifty percent of any earnings on a loan under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(6) As a separate and distinct part of the loan enhancement program, the fund shall operate the choose Michigan fund program to invest in loans from the investment fund to a qualified business. The choose Michigan fund program shall operate on an incentive basis and shall provide loans to qualified businesses to promote and enhance significant job creation or retention within this state. The choose Michigan fund shall not make a loan under this subsection after September 30, 2009. Notwithstanding any requirement imposed by the fund before April 1, 2008, to receive a loan under this subsection, the fund board may or may not require a qualified business to obtain an additional loan from an accredited financial institution or other approved lending market to obtain a loan under this subsection. At the discretion of the fund board, not more than 3 loans provided through the choose Michigan fund may be forgivable. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is $500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of any primary incentives, as determined by the fund board.

(d) Except as provided in subdivision (g), the qualified business is responsible for repayment of the loan regardless of any primary incentives received.

(e) The qualified business is responsible for loan preparation and closing costs.

(f) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(g) A loan under this subsection may be converted to an equity investment by the fund board.

(h) The loan shall be subject to repayment provisions. If the loan is with a qualified business that closes down or relocates outside of Michigan anytime within 3 years after the term of the loan, then the provisions of the loan shall also include, at a minimum, immediate repayment of any outstanding principal, payment of a default interest rate, and repayment of any amounts forgiven.

(i) In determining whether to forgive all or a portion of a loan to a qualified business, the fund shall consider the net economic impact of the project on the state's economy. The loan agreement between the fund and the qualified business shall clearly enumerate the terms, conditions and requirements under which all or a portion of the loan may be forgiven, including, but not limited to, job creation and investment in this state.

(7) As used in this section:

(a) "Below the line crew" means that term as defined under section 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1459.

(b) "Eligible production company" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(c) "Film and digital media private equity fund" means any limited partnership, limited liability company, or corporation organized and operating in the United States that satisfies all of the following:

(*i*) Has as its primary business activity the investment of funds in return for equity in qualified productions.

(*ii*) Holds out the prospect for capital appreciation from the investments.

(*iii*) Accepts investments only from accredited investors as that term is defined in section 2 of the federal securities act of 1963 and rules promulgated under that act.

(d) "Investment advisory committee" means the committee created within the department under section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(e) "Michigan film office" means the office created under chapter 2A.

(f) "Primary incentive" means a tax credit an eligible production company is eligible to receive under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(g) "Qualified production" means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

This act is ordered to take immediate effect.
Approved January 15, 2009.
Filed with Secretary of State January 16, 2009.

[No. 572]

(SB 1264)

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending section 409 (MCL 208.1409), as amended by 2007 PA 145.

The People of the State of Michigan enact:

208.1409 Infield renovation, grandstand and infrastructure upgrades; tax credit; limitations; professional fees, additional police officers, and traffic management devices; capital expenditures; definitions.

Sec. 409. (1) For tax years that begin on or after January 1, 2008 and end before January 1, 2013, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount of capital expenditures in this state on infield renovation, grandstand and infrastructure upgrades, and any other construction and upgrades, subject to the following:

(a) For the 2008 through 2010 tax years, the credit shall not exceed $2,100,000.00 or the taxpayer's tax liability under this act, whichever is less.

(b) For the 2011 tax year, the credit shall not exceed $1,580,000.00 or the taxpayer's tax liability under this act, whichever is less.

(c) For the 2012 tax year, the credit shall not exceed $1,050,000.00 or the taxpayer's tax liability under this act, whichever is less.

(2) In addition to the credit allowed under subsection (1), for the 2009 tax year an eligible taxpayer may claim a credit against the tax imposed by this act equal to 50% of the amount of necessary expenditures in this state incurred including any professional fees, additional police officers, and any traffic management devices, to ensure traffic and pedestrian safety while hosting the requisite motorsports events each calendar year. For the 2010 tax year