		For Fiscal Year Ending Sept. 30, 2008
(2) GRANTS		
Renaissance zone tax reimbursement funding	$	10,000
GROSS APPROPRIATION	$	10,000
Appropriated from:		
State general fund/general purpose	$	10,000

Department of community health.

Sec. 105. DEPARTMENT OF COMMUNITY HEALTH

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(82,986,000)
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(82,986,000)
Total federal revenues		(38,113,700)
Total local revenues		(843,200)
Total private revenues		0
Total other state restricted revenues		(100,385,100)
State general fund/general purpose	$	56,356,000
(2) COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE SERVICES PROGRAMS		
Medicaid mental health services	$	(8,738,000)
Medicaid substance abuse services		(394,200)
GROSS APPROPRIATION	$	(9,132,200)
Appropriated from:		
Federal revenues:		
Total federal revenues		(229,000)
Special revenue funds:		
Total local revenues		(843,200)
Total other state restricted revenues		(7,871,500)
State general fund/general purpose	$	(188,500)
(3) CHILDREN'S SPECIAL HEALTH CARE SERVICES		
Medical care and treatment	$	(6,458,400)
GROSS APPROPRIATION	$	(6,458,400)
Appropriated from:		
Federal revenues:		
Total federal revenues		(2,815,300)
State general fund/general purpose	$	(3,643,100)
(4) MEDICAL SERVICES		
Hospital services and therapy	$	(11,959,600)
Physician services		(1,842,300)
Home health services		(297,100)
Hospice services		8,202,500
Transportation		(909,400)
Auxiliary medical services		(665,000)
Dental services		(8,380,300)
Ambulance services		(701,300)
Long-term care services		(23,004,400)
Adult home help services		(20,016,300)
Personal care services		(821,700)
Program of all-inclusive care for the elderly		(1,093,600)

		For Fiscal Year Ending Sept. 30, 2008
MIChild program	$	(5,906,900)
Subtotal basic medical services program		(67,395,400)
GROSS APPROPRIATION	$	(67,395,400)
Appropriated from:		
Federal revenues:		
Total federal revenues		(35,069,400)
Special revenue funds:		
Merit award trust fund		(74,100,000)
Total other state restricted revenues		(18,413,600)
State general fund/general purpose	$	60,187,600

Department of environmental quality.

Sec. 106. DEPARTMENT OF ENVIRONMENTAL QUALITY

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	250,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	250,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		250,000
State general fund/general purpose	$	0

(2) WATER

Water withdrawal assessment program	$	250,000
GROSS APPROPRIATION	$	250,000
Appropriated from:		
Special revenue funds:		
Clean Michigan initiative - clean water fund		250,000
State general fund/general purpose	$	0

Higher education.

Sec. 107. HIGHER EDUCATION

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	0
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	0
Total federal revenues		107,798,600
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		(15,850,000)
State general fund/general purpose	$	(91,948,600)

(2) GRANTS AND FINANCIAL AID

State competitive scholarships	$	0
Tuition grants		0
Tuition incentive program		0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Higher education act of 1965, title IV, 20 USC		(2,900,000)

		For Fiscal Year Ending Sept. 30, 2008
Temporary assistance for needy families	$	110,698,600
Special revenue funds:		
Michigan merit award trust fund		(15,850,000)
State general fund/general purpose	$	(91,948,600)

Department of human services.

Sec. 108. DEPARTMENT OF HUMAN SERVICES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	0
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	0
Total federal revenues		(107,798,600)
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		15,850,000
State general fund/general purpose	$	91,948,600
(2) CHILDREN'S SERVICES		
Families first	$	0
Child safety and permanency planning		0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Total federal revenues		(16,000,000)
Special revenue funds:		
Michigan merit award trust fund		15,850,000
State general fund/general purpose	$	150,000
(3) LOCAL OFFICE STAFF AND OPERATIONS		
Field staff, salaries, and wages	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Total federal revenues		(62,000,000)
State general fund/general purpose	$	62,000,000
(4) CENTRAL SUPPORT ACCOUNTS		
Payroll taxes and fringe benefits	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Total federal revenues		(29,798,600)
State general fund/general purpose	$	29,798,600
(5) COMMUNITY ACTION AND ECONOMIC OPPORTUNITY		
Community services block grants	$	(300,000)
Community services grant		300,000
GROSS APPROPRIATION	$	0
Appropriated from:		
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2008
Department of management and budget.		
Sec. 109. DEPARTMENT OF MANAGEMENT AND BUDGET		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	26,042,800
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	26,042,800
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	26,042,800
(2) SPECIAL PROGRAMS		
Detroit zoo grant	$	4,500,000
GROSS APPROPRIATION	$	4,500,000
Appropriated from:		
State general fund/general purpose	$	4,500,000
(3) MANAGEMENT AND BUDGET SERVICES		
State sponsored group insurance fund	$	21,542,800
GROSS APPROPRIATION	$	21,542,800
Appropriated from:		
State general fund/general purpose	$	21,542,800
Department of military and veterans affairs.		
Sec. 110. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,045,700
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,045,700
Total federal revenues		1,045,700
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) DEPARTMENTWIDE APPROPRIATIONS		
Starbase grant	$	1,045,700
GROSS APPROPRIATION	$	1,045,700
Appropriated from:		
Federal revenues:		
DOD-DOA-NGB		1,045,700
State general fund/general purpose	$	0
Department of state.		
Sec. 111. DEPARTMENT OF STATE		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,495,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,495,000

		For Fiscal Year Ending Sept. 30, 2008
Total federal revenues	$	2,495,000
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) CUSTOMER DELIVERY SERVICES		
Central operations	$	2,495,000
GROSS APPROPRIATION	$	2,495,000
Appropriated from:		
Federal revenues:		
Federal funds		2,495,000
State general fund/general purpose	$	0

Department of state police.

Sec. 112. DEPARTMENT OF STATE POLICE

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	450,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	450,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	450,000
(2) POST UNIFORM SERVICES		
Hart post acquisition and relocation	$	450,000
GROSS APPROPRIATION	$	450,000
Appropriated from:		
State general fund/general purpose	$	450,000

Department of treasury.

Sec. 114. DEPARTMENT OF TREASURY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,100,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,100,000
Total federal revenues		2,100,000
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) FINANCIAL PROGRAMS		
College access challenge grant program	$	2,100,000
GROSS APPROPRIATION	$	2,100,000
Appropriated from:		
Federal revenues:		
Federal - college access challenge grant		2,100,000
State general fund/general purpose	$	0

PART 1A

LINE-ITEM APPROPRIATIONS
FOR FISCAL YEAR 2008-2009

Appropriations; supplemental for fiscal year ending September 30, 2009.

Sec. 151. There is appropriated for the various state departments and agencies to supplement appropriations for the fiscal year ending September 30, 2009, from the following funds:

APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	10,160,300
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	10,160,300
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,160,300
State general fund/general purpose	$	0

Department of agriculture.

Sec. 152. DEPARTMENT OF AGRICULTURE

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	10,160,300
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	10,160,300
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,160,300
State general fund/general purpose	$	0

(2) FAIRS AND EXPOSITIONS

Purses and supplements - fairs/licensed tracks	$	2,370,000
Licensed tracks - light horse racing		132,000
Standardbred breeders' awards		969,000
Standardbred purses and supplements - licensed tracks		1,789,300
Standardbred sire stakes		810,000
Standardbred training and stabling		36,000
Thoroughbred owners' awards		124,000
Thoroughbred program		2,400,000
Thoroughbred sire stakes		830,000
Distribution of outstanding winning tickets		700,000
GROSS APPROPRIATION	$	10,160,300
Appropriated from:		
Special revenue funds:		
Agriculture equine industry development fund		10,160,300
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS
FOR FISCAL YEAR 2007-2008

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending from state resources in part 1 for the fiscal year ending September 30, 2008 is ($16,861,200.00) and state appropriations paid to local units of government are ($8,050,000.00).

Appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 202. The appropriations made and expenditures authorized under this act and the departments, commissions, boards, offices, and programs for which appropriations are made under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

DEPARTMENT OF HUMAN SERVICES

Newberry community action agency; distribution to support social services programs.

Sec. 221. From the money appropriated in part 1 for community services grant, $300,000.00 shall be distributed to the Newberry community action agency to support its social services programs.

DEPARTMENT OF MANAGEMENT AND BUDGET

State sponsored group insurance fund; reimbursement.

Sec. 251. (1) From the funds appropriated in part 1, there is appropriated from the general fund to the state sponsored group insurance fund an amount not to exceed $21,542,800.00. The source of this funding is savings resulting from reductions in the rates charged to state agencies for employer-provided health care.

(2) The amounts appropriated under this section shall be expended to reimburse the state sponsored group insurance fund for retroactive common cash interest earnings for the state fiscal years 2005, 2006, and 2007 as required by the federal department of health and human services.

DEPARTMENT OF STATE

Unexpended appropriations of Public Law 109-13; designation as work project; availability for expenditure; purpose; protection of highly restricted personal information.

Sec. 351. (1) Unexpended appropriations of Public Law 109-13 are designated as work project appropriations and shall not lapse at the end of the fiscal year and shall continue to

be available for expenditure until the project has been completed. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried forward is to improve security of state-issued driver licenses and identification documents only to the extent authorized under the motor vehicle code, 1949 PA 300, MCL 257.1 to 257.923, the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308, and 1972 PA 222, MCL 28.291 to 28.300.

(b) These projects will be accomplished by state employees and/or by contracts with private vendors.

(c) The total estimated cost of all projects is $2,495,000.00.

(d) The tentative completion date is September 30, 2012.

(2) When expending appropriations described in this section, the department of state shall protect highly restricted personal information in the manner required by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and 1972 PA 222, MCL 28.291 to 28.300.

DEPARTMENT OF TREASURY

Unexpended appropriations of college access challenge grant program; designation as work project; availability for expenditure; purpose.

Sec. 502. Unexpended appropriations of the college access challenge grant program are designated as work project appropriations and shall not lapse at the end of the fiscal year and shall continue to be available for expenditure until the project has been completed. The following is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide assistance and training to Michigan families, counselors, teachers, and community leaders in applying for and securing funds for college to low-income students.

(b) The project will be accomplished by state employees and/or by contracts with private vendors.

(c) The total estimated cost of the project is $4,200,000.00.

(d) The tentative completion date is September 30, 2010.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS
FOR FISCAL YEAR 2008-2009

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 1201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending from state resources in part 1A for the fiscal year ending September 30, 2009 is $10,160,300.00 and state appropriations paid to local units of government are $0.

Appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 1202. The appropriations made and expenditures authorized under this act and the departments, commissions, boards, offices, and programs for which appropriations are made under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

DEPARTMENT OF AGRICULTURE

State purse supplements at state licensed pari-mutuel tracks; races comprised of certain Michigan-bred horses.

Sec. 1302. From the amount appropriated in part 1A for purses and supplements – fairs/licensed tracks, $220,000.00 is to be used for state purse supplements at state licensed pari-mutuel tracks for races comprised only of Michigan-bred horses segregated into a 4-year-old colt trot division, a 4-year-old filly trot division, a 4-year-old colt pace division, and a 4-year-old filly pace division.

Thoroughbred yearling show.

Sec. 1303. Included in the appropriation made in part 1A for the thoroughbred program is $23,500.00 for the Michigan united thoroughbred breeders and owners association to conduct a thoroughbred yearling show. The Michigan united thoroughbred breeders and owners association shall submit to the department an itemized list of expenses showing that the expenses of the yearling show were paid.

Thoroughbred owners' awards.

Sec. 1304. From the funds appropriated in part 1A for thoroughbred owners' awards, awards shall be distributed pursuant to section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320.

Overnight purse supplements.

Sec. 1307. Of the amount appropriated in part 1A for purses and supplements - fairs/licensed tracks, a sufficient amount is appropriated to provide for overnight purse supplements pursuant to the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 280]

(SB 1464)

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," by amending section 809 (MCL 257.809), as amended by 2007 PA 71.

The People of the State of Michigan enact:

257.809 Application for transfer of registration; fee; payment of difference in fees; deposit.

Sec. 809. (1) An application for transfer of registration from a vehicle subject to section 801(1)(a) to another vehicle subject to that section shall be accompanied by a fee of $8.00. In addition to the fee of $8.00, if the registration is transferred from a passenger vehicle to a motor home and if the registration fee for the motor home is greater than the fee paid upon registration of the vehicle from which the registration was removed, then the difference in fee shall be paid by the applicant. If the fee is less than that paid for the registration of the vehicle from which the plates were removed, the difference shall not be refunded. The fees required by this subsection shall be considered to include all fees or charges imposed by this act for the transfer of registration, except those which may be assessed under section 234.

(2) An application for a transfer of registration, other than a transfer described in subsection (1), shall be accompanied by a fee of $8.00. In addition to the fee of $8.00, if the registration plates are transferred to another vehicle, as provided in section 233, and if the plate fee for a 12-month registration for the vehicle to which the registration is transferred is greater than the plate fee paid upon registration of the vehicle from which the registration was removed, then the difference shall be paid by the applicant for the new registration. If the fee is less than that paid for registration of the vehicle from which the registration was removed, the difference shall not be refunded.

(3) A transfer of registration fee collected under this section on and after October 1, 2004 through September 30, 2009 shall be deposited into the transportation administration collection fund created under section 810b.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 281]

(SB 1465)

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," by amending section 806 (MCL 257.806), as amended by 2007 PA 70.

The People of the State of Michigan enact:

257.806 Certificate of title or duplicate certificate of title; fees; deposit; special expeditious treatment fee; special identifying number; payment and disposition of tire disposal surcharge.

Sec. 806. (1) Until October 1, 2009, a fee of $10.00 shall accompany each application for a certificate of title required by this act or for a duplicate of a certificate of title. An additional fee of $5.00 shall accompany an application if the applicant requests that the application be given special expeditious treatment. A $3.00 service fee shall be collected, in addition to the other fees collected under this subsection, for each title issued and shall be deposited in the transportation administration collection fund created under section 810b. The $5.00 expeditious treatment fee collected on and after October 1, 2004 through September 30, 2009 shall be deposited into the transportation administration collection fund created under section 810b.

(2) A fee of $10.00 shall accompany an application for a special identifying number as provided in section 230.

(3) In addition to paying the fees required by subsection (1), until December 31, 2012, each person who applies for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title under this act shall pay a tire disposal surcharge of $1.50 for each certificate of title or duplicate of a certificate of title that person receives. The secretary of state shall deposit money received under this subsection into the scrap tire regulatory fund created in section 16908 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16908.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 282]

(HB 6059)

AN ACT to amend 1997 PA 70, entitled "An act to create the compulsive gaming prevention fund; to impose duties on certain licensed entities; to prescribe the duties of certain state officials; and to impose penalties," by amending section 3 (MCL 432.253).

The People of the State of Michigan enact:

432.253 Compulsive gaming prevention fund; creation; disposition; distributions; investment; credit of interest and earnings; lapsed funds; fees for addiction treatment.

Sec. 3. (1) The compulsive gaming prevention fund is created within the department of treasury.

(2) All of the following shall be deposited in the compulsive gaming prevention fund:

(a) The money appropriated from the state services fee fund created in section 12a of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.212a, for the compulsive gaming prevention fund.

(b) A percentage of the net revenue in the state lottery fund created in section 41 of the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.41, that is equal to not less than 10% of each year's state lottery advertising budget but not to exceed $1,000,000.00.

(c) A percentage of the Michigan agriculture equine industry development fund created in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320, that is equal to 1/10 of 1% of the gross wagers made each year in each of the racetracks licensed under the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

(3) Of the money available in the compulsive gaming prevention fund, up to $1,040,000.00 may be distributed annually to the domestic violence and treatment board created in section 2 of 1978 PA 389, MCL 400.1502. The remaining money in the compulsive gaming prevention fund shall be distributed as determined by the director of community health to be used exclusively for the treatment, prevention, education, training, research, and evaluation of pathological gamblers and their families and to fund the toll-free compulsive gaming helpline number.

(4) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(5) Money remaining in the compulsive gaming prevention fund at the close of the fiscal year shall remain in the compulsive gaming prevention fund and shall not lapse to the general fund.

(6) The department of community health may establish fees for the treatment of pathological gambling addictions.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 283]

(HB 5249)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk

retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 224b (MCL 500.224b), as amended by 2007 PA 88.

The People of the State of Michigan enact:

500.224b Quality assurance assessment fee; use; circumstances; definitions.

Sec. 224b. (1) The department of community health shall assess a quality assurance assessment fee as follows:

(a) On each health maintenance organization that has a medicaid managed care contract awarded by the state and administered by the department of community health, a quality assurance assessment fee that equals 6% of non-medicare premiums collected by that health maintenance organization.

(b) On each medicaid managed care organization that is a specialty prepaid health plan under section 109f of the social welfare act, 1939 PA 280, MCL 400.109f, and that has a medicaid managed care contract awarded by the state and administered by the department of community health, a quality assurance assessment fee that equals 6% of non-medicare capitation payments collected by that medicaid managed care organization.

(2) The quality assurance assessment fee collected under subsection (1) and all federal matching funds attributed to that fee shall be used for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee shall be implemented on May 10, 2002 for health maintenance organizations described in subsection (1)(a) and on August 1, 2005 for medicaid managed care organizations described in subsection (1)(b).

(b) The quality assurance assessment fee shall be assessed on the non-medicare premiums collected by each health maintenance organization described in subsection (1)(a) based on the health maintenance organization's most recent statement filed with the commissioner pursuant to sections 438 and 438a. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed. If a health maintenance organization does not have non-medicare premium revenue listed in a filing under section 438 or 438a, the assessment shall be based on an estimate by the department of community health of the health maintenance organization's non-medicare premiums for the quarter and shall be payable upon receipt.

(c) The quality assurance assessment fee shall be assessed on the non-medicare capitation payments collected by each medicaid managed care organization described in subsection (1)(b) based on the medicaid managed care organization's most recent financial status report filed with the department of community health. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed.

(d) The quality assurance assessment fee shall only be assessed on an organization described in subsection (1)(a) or (b) that has in effect a medicaid managed care contract awarded by the state and administered by the department of community health at the time of the assessment.

(e) The department of community health shall implement this section in a manner that complies with federal requirements. If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(a) or is unable to use the fiscal year 2001-2002 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with health maintenance organizations, the quality assurance assessment fee under subsection (1)(a) shall no longer be assessed or collected.

(f) If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(b) or is unable to use the centers for medicare and medicaid services approved fiscal year 2004-2005 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with the managed care organization, the quality assurance assessment fee under subsection (1)(b) shall no longer be assessed or collected.

(g) If an organization fails to pay the quality assurance assessment fee required under subsection (1), the department of community health may assess the organization a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(h) The medicaid health maintenance organization quality assurance assessment fund is established as a separate fund in the state treasury. The designated medicaid managed care organization quality assurance assessment fund is established as a separate fund in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(a) with the state treasurer for deposit in the medicaid health maintenance organization quality assurance assessment fund. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(b) with the state treasurer for deposit in the designated medicaid managed care organization quality assurance assessment fund.

(i) In all fiscal years governed by this section, medicaid reimbursement rates shall not be reduced below the medicaid payment rates in effect on April 1, 2002 for organizations described in subsection (1)(a) or below the medicaid payment rates in effect on July 1, 2005 for organizations described in subsection (1)(b) as a direct result of the quality assurance assessment fee assessed under this section. This subdivision does not apply to a change in medicaid reimbursement rates caused by a change in covered benefits or change in covered populations required under the state's medicaid contract with organizations described in subsection (1)(a) or (b).

(3) As used in this section:

(a) "Medicaid" means title XIX of the social security act, 42 USC 1396 to 1396v.

(b) "Medicare" means title XVIII of the social security act, 42 USC 1395 to 1395hhh.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 284]

(HB 6032)

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending sections 2, 4, 5, 6, 7, 11, and 16 (MCL 207.772, 207.774, 207.775, 207.776, 207.777, 207.781, and 207.786), section 2 as amended by 2008 PA 228, section 4 as amended by 2008 PA 4, sections 6 and 7 as amended by 2005 PA 338, and section 11 as amended by 2005 PA 339; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

207.772 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(b) "Condominium unit" means that portion of a structure intended for separate ownership, intended for residential use, and established pursuant to the condominium act, 1978 PA 59, MCL 559.101 to 559.276. Condominium units within a qualified historic building may be held under common ownership.

(c) "Developer" means a person who is the owner of a new facility at the time of construction or of a rehabilitated facility at the time of rehabilitation for which a neighborhood enterprise zone certificate is applied for or issued.

(d) "Facility" means a homestead facility, a new facility, or a rehabilitated facility.

(e) "Homestead facility" means an existing structure, purchased by or transferred to an owner after December 31, 1996, that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is occupied by an owner as his or her principal residence and

that is located within a subdivision platted pursuant to state law before January 1, 1968 other than an existing structure for which a certificate will or has been issued after December 31, 2006 in a city with a population of 750,000 or more, is located within a subdivision platted pursuant to state law before January 1, 1968.

(f) "Local governmental unit" means a qualified local governmental unit as that term is defined under section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782, or a county seat.

(g) "New facility" means 1 or both of the following:

(*i*) A new structure or a portion of a new structure that has as its primary purpose residential housing consisting of 1 or 2 units, 1 of which is or will be occupied by an owner as his or her principal residence. New facility includes a model home or a model condominium unit. New facility includes a new individual condominium unit, in a structure with 1 or more condominium units, that has as its primary purpose residential housing and that is or will be occupied by an owner as his or her principal residence. Except as provided in subparagraph (*ii*), new facility does not include apartments.

(*ii*) A new structure or a portion of a new structure that meets all of the following:

(A) Is rented or leased or is available for rent or lease.

(B) Is a mixed use building or located in a mixed use building that contains retail business space on the street level floor.

(C) Is located in a qualified downtown revitalization district.

(h) "Neighborhood enterprise zone certificate" or "certificate" means a certificate issued pursuant to sections 4, 5, and 6.

(i) "Owner" means the record title holder of, or the vendee of the original land contract pertaining to, a new facility, a homestead facility, or a rehabilitated facility for which a neighborhood enterprise zone certificate is applied for or issued.

(j) "Qualified assessing authority" means 1 of the following:

(*i*) For a facility other than a homestead facility, the commission.

(*ii*) For a homestead facility, the assessor of the local governmental unit in which the homestead facility is located.

(k) "Qualified downtown revitalization district" means an area located within 1 or more of the following:

(*i*) The boundaries of a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651.

(*ii*) The boundaries of a principal shopping district or a business improvement district as defined in section 1 of 1961 PA 120, MCL 125.981.

(*iii*) The boundaries of the local governmental unit in an area that is zoned and primarily used for business as determined by the local governmental unit.

(*l*) "Qualified historic building" means a property within a neighborhood enterprise zone that has been designated a historic resource as defined under section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266.

(m) "Rehabilitated facility" means an existing structure or a portion of an existing structure with a current true cash value of $80,000.00 or less per unit that has or will have as its primary purpose residential housing, consisting of 1 to 8 units, the owner of which proposes improvements that if done by a licensed contractor would cost in excess of $5,000.00 per owner-occupied unit or 50% of the true cash value, whichever is less, or $7,500.00 per non-owner-occupied unit or 50% of the true cash value, whichever is less, or the owner proposes

improvements that would be done by the owner and not a licensed contractor and the cost of the materials would be in excess of $3,000.00 per owner-occupied unit or $4,500.00 per nonowner-occupied unit and will bring the structure into conformance with minimum local building code standards for occupancy or improve the livability of the units while meeting minimum local building code standards. Rehabilitated facility also includes an individual condominium unit, in a structure with 1 or more condominium units that has as its primary purpose residential housing, the owner of which proposes the above described improvements. Rehabilitated facility also includes existing or proposed condominium units in a qualified historic building with 1 or more existing or proposed condominium units. Rehabilitated facility does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss. A qualified historic building may contain multiple rehabilitated facilities.

207.774 Neighborhood enterprise zone certificate; application; filing; manner and form; contents; effective date of certificate; conditions.

Sec. 4. (1) The owner of a homestead facility or owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the local governmental unit. The application shall be filed in the manner and form prescribed by the commission. The clerk of the local governmental unit shall provide a copy of each homestead facility application to the assessor for the local governmental unit. Except as provided in subsection (2) or as otherwise provided by the local governmental unit by resolution if the application is filed not later than 6 months following the date the building permit is issued, the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(e) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in October 1994 and if the building permit was issued for that facility on or before April 25, 1997.

(f) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in September 2001 and if the building permit is issued for that new facility on March 3, 2003.

(g) For a rehabilitated facility if all or a portion of the rehabilitated facility is a qualified historic building.

(h) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1993 and the new facility was a model home.

(i) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in August 2004 and if building permits were issued for that facility beginning November 5, 2002 through December 23, 2003.

(j) For a homestead facility.

(k) For the construction of a facility if the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 2003, and if the building permit was issued for that facility in June 2004.

(*l*) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood zone by the governing body of the local governmental unit in February 2004 and if the building permit for that facility was issued in August 2003 or January 2005.

(m) For the construction of a facility if the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in June 2007 and if the building permit was issued for that facility after November 30, 2004 and before November 1, 2006.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the homestead facility, new facility, or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the homestead facility, new facility, or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) A statement by the owner of a homestead facility that the owner is committed to investing a minimum of $500.00 in the first 3 years that the certificate for a homestead facility is in effect and committed to documenting the minimum investment if required to do so by the assessor of the local governmental unit.

(f) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d) or the amendatory act that added subsection (2)(e), the effective date of the certificate shall be January 1, 2001.

(6) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(j) or the amendatory act

that added subsection (2)(k), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the qualified assessing authority.

(7) For a certificate issued as a result of the amendatory act that added subsection (2)(e), both of the following shall apply not withstanding any other provision of this act:

(a) The effective date of the certificate shall be January 1, 2001 and the taxable value for rehabilitated facilities shall be set as provided in section 10(3).

(b) For certificates issued or reissued after December 31, 2005, the amount of the neighborhood enterprise zone tax on a rehabilitated facility is determined each year by multiplying the taxable value of the rehabilitated facility, not including the land, as of December 31 of the year prior to the start of the improvement as described in subsection (3) by the total mills collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, for the current year by all taxing units within which the rehabilitated facility is located.

(8) For any certificate issued as result of the amendatory act that added subsection (2)(*l*), notwithstanding any other provision of this act the amount of the neighborhood enterprise zone tax on a rehabilitated facility is determined each year by multiplying the taxable value of the rehabilitated facility, not including the land, as of December 31 of the year prior to the start of the improvement as described in subsection (3) by the total mills collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, for the current year by all taxing units within which the rehabilitated facility is located.

(9) If a new facility is completed in a neighborhood enterprise zone approved in October 1996 and a building permit was issued in March 1998 but a neighborhood enterprise zone certificate was not applied for by the original owner occupying the facility as a principal residence, a subsequent owner occupying the new facility as a principal residence can request and, notwithstanding any other provision of this act, effective December 31 of the year preceding the application, be granted a neighborhood enterprise zone certificate for the remainder of the term, not to exceed 12 years, that a neighborhood enterprise zone certificate would have been in effect for the original owner of the new facility.

207.775 Neighborhood enterprise zone certificate; application; approval; forwarding to qualified assessing authority.

Sec. 5. Not more than 60 days after receipt by its clerk of an application under section 4, the governing body of the local governmental unit by resolution shall approve the application for a neighborhood enterprise zone certificate. The clerk shall forward the application to the qualified assessing authority.

207.776 Homestead facility or new or rehabilitated facility; determination of compliance with act; issuance and filing of certificate; maintenance of record; notice of refusal.

Sec. 6. Not later than 60 days after receipt of an approved application for a homestead facility or a rehabilitated facility, and not later than 30 days, or if an approved application is received after October 31, not later than 45 days after receipt of an approved application for a new facility, the qualified assessing authority shall determine whether the homestead facility, new facility, or rehabilitated facility complies with the requirements of this act. If the qualified assessing authority finds compliance, the qualified assessing authority shall issue a neighborhood enterprise zone certificate to the applicant and send a certified copy of the certificate to each affected taxing unit. The assessor shall keep the certificate filed on record in his or her office. The qualified assessing authority shall maintain a record of all certificates filed. Notice of the qualified assessing authority's refusal to issue a certificate shall be sent by certified mail to the same persons.

207.777 Neighborhood enterprise zone certificate; requirements for issuance.

Sec. 7. (1) The commission shall not issue a neighborhood enterprise zone certificate for a new facility unless the new facility meets the requirements of the definition in section 2(g).

(2) The commission shall not issue a neighborhood enterprise zone certificate for a rehabilitated facility unless the rehabilitated facility meets the requirements of the definition in section 2(k).

(3) The assessor of the local governmental unit shall not issue a neighborhood enterprise zone certificate for a homestead facility unless the homestead facility meets the requirements of the definition in section 2(e).

207.781 Revocation, expiration, or extension of certificate; rescission of revocation.

Sec. 11. (1) Upon receipt of a request by certified mail to the qualified assessing authority by the holder of a neighborhood enterprise zone certificate requesting revocation of the certificate, the qualified assessing authority by order shall revoke the certificate.

(2) The certificate shall expire if the owner fails to complete the filing requirements under section 10 within 2 years of the date the certificate was issued. The holder of the certificate may request in writing to the qualified assessing authority a 1-year automatic extension of the certificate if the owner has proceeded in good faith with the construction or rehabilitation of the facility in a manner consistent with the purposes of this act and the delay in completion or occupancy by an owner is due to circumstances beyond the control of the holder of the certificate. Upon request of the governing body of the local governmental unit, the qualified assessing authority shall extend the certificate if the new facility has not been occupied.

(3) The certificate for a homestead facility or new facility is automatically revoked if the homestead facility or new facility is no longer a homestead as that term is defined in section 7a of the general property tax act, 1893 PA 206, MCL 211.7a. However, if the owner or any subsequent owner submits a certificate before the revocation is effective, the qualified assessing authority, upon application of the owner, shall rescind the order of revocation. If the certificate is submitted after revocation of the certificate, the qualified assessing authority, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(4) If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, the qualified assessing authority by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the qualified assessing authority, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the qualified assessing authority, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

(5) If a homestead facility, a new facility, or a rehabilitated facility ceases to have as its primary purpose residential housing, the qualified assessing authority by order shall revoke the certificate for that facility. A new or rehabilitated facility does not cease to be used for its primary purpose if it is temporarily damaged or destroyed in whole or in part.

(6) If the governing body of a local governmental unit determines that a homestead facility, a new facility, or a rehabilitated facility is not in compliance with any local construction,

building, or safety codes and notifies the qualified assessing authority by certified mail of the noncompliance, the qualified assessing authority by order shall revoke the certificate.

(7) The revocation shall be effective beginning the December 31 following the date of the order or, if the certificate is automatically revoked under subsection (3), the December 31 following the automatic revocation. The qualified assessing authority shall send by certified mail copies of the order of revocation to the holder of the certificate and to the assessor of that local governmental unit, and to the legislative body of each taxing unit that levies taxes upon property in the local governmental unit in which the new facility or rehabilitated facility is located.

207.786 Rules; report.

Sec. 16. (1) The commission may promulgate rules it considers necessary for the administration of this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) Not later than June 15 each year, the assessor of each local governmental unit that issues a certificate under this act for a homestead facility shall file with the commission a report that contains all of the following information for the immediately preceding calendar year:

(a) The number of certificates issued.

(b) The date of issuance of each certificate.

(c) The name and address of the holder of each certificate.

(d) The legal description of the real property of the homestead facility for which each certificate was issued.

(e) The taxable value for each homestead facility for which a certificate was issued.

(f) For each certificate that was transferred, all of the following:

(*i*) The date of each transfer.

(*ii*) The name and address of the former holder of the certificate.

(*iii*) The name and address of the current holder of the certificate.

(g) For each certificate that was revoked pursuant to section 11, all of the following:

(*i*) The reason for the revocation.

(*ii*) The date of the revocation.

(*iii*) The name and address of the holder of each certificate that was revoked.

(h) The impact on neighborhood revitalization in the local governmental unit, including the estimated tax savings for all new and current certificate holders.

(3) A report required by this section shall be prepared by the local assessor on a form provided by the commission. The commission may require that the report be filed in an electronic format prescribed by the commission.

(4) Not later than October 15 each year, the commission shall review and evaluate the information contained in the report described in subsection (2) and submit a report based on that evaluation to each house of the legislature, the chairpersons of the senate and house of representatives standing committees on appropriations, the chairperson of the senate standing committee on finance, and the chairperson of the house of representatives standing committee on tax policy. The report required under this subsection shall also include specific recommendations for any changes considered necessary in this act.

Repeal of MCL 207.785.

Enacting section 1. Section 15 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.785, is repealed.

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 285]

(HB 5896)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 9f (MCL 211.9f), as amended by 2008 PA 230.

The People of the State of Michigan enact:

211.9f Personal property of business; resolution; tax exemption; hearing; duration of exemption; approval or disapproval of resolution by state tax commission; continuation of exemption; definitions.

Sec. 9f. (1) The governing body of an eligible local assessing district may adopt a resolution to exempt from the collection of taxes under this act all new personal property owned or leased by an eligible business located in 1 or more eligible districts or distressed parcels designated in the resolution. The clerk of the eligible local assessing district shall notify in writing the assessor of the local tax collecting unit in which the eligible district or distressed parcel is located and the legislative body of each taxing unit that levies ad valorem property taxes in the eligible local assessing district in which the eligible district or distressed parcel is located. Before acting on the resolution, the governing body of the eligible local assessing district shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

(2) The exemption under this section is effective on the December 31 immediately succeeding the adoption of the resolution by the governing body of the eligible local assessing district and shall continue in effect for a period specified in the resolution. A copy of the resolution shall be filed with the state tax commission. A resolution is not effective unless approved by the state tax commission as provided in subsection (3).

(3) Not more than 60 days after receipt of a copy of the resolution adopted under subsection (1), the state tax commission shall approve or disapprove the resolution. The state

treasurer, with the written concurrence of the president of the Michigan strategic fund, shall advise the state tax commission as to whether exempting new personal property of the eligible business is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state.

(4) Subject to subsection (5), if an existing eligible business sells or leases new personal property exempt under this section to an acquiring eligible business, the exemption granted to the existing eligible business shall continue in effect for the period specified in the resolution adopted under subsection (1) for the new personal property purchased or leased from the existing eligible business by the acquiring eligible business and for any new personal property purchased or leased by the acquiring eligible business.

(5) After December 31, 2007, an exemption for an existing eligible business shall continue in effect for an acquiring eligible business under subsection (4) only if the continuation of the exemption is approved in a resolution adopted by the governing body of an eligible local assessing district.

(6) Notwithstanding the amendatory act that added section 2(1)(c), all of the following shall apply to an exemption under this section that was approved by the state tax commission on or before April 30, 1999, regardless of the effective date of the exemption:

(a) The exemption shall be continued for the term authorized by the resolution adopted by the governing body of the eligible local assessing district and approved by the state tax commission with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(b) The exemption shall not be impaired or restricted with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(7) As used in this section:

(a) "Acquiring eligible business" means an eligible business that purchases or leases assets of an existing eligible business, including the purchase or lease of new personal property exempt under this section, and that will conduct business operations similar to those of the existing eligible business at the location of the existing eligible business within the eligible district.

(b) "Authorized business" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(c) "Distressed parcel" means a parcel of real property located in a city or village that meets all of the following conditions:

(*i*) Is located in a qualified downtown revitalization district. As used in this subparagraph, "qualified downtown revitalization district" means an area located within 1 or more of the following:

(A) The boundaries of a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651.

(B) The boundaries of a principal shopping district or a business improvement district as defined in section 1 of 1961 PA 120, MCL 125.981.

(C) The boundaries of the local governmental unit in an area that is zoned and primarily used for business as determined by the local governmental unit.

(*ii*) Meets 1 of the following conditions:

(A) Has a blighted or functionally obsolete building located on the parcel. As used in this sub-subparagraph, "blighted" and "functionally obsolete" mean those terms as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

(B) Is a vacant parcel that had been previously occupied.

(*iii*) Is zoned to allow for mixed use.

(d) "Eligible business" means, effective August 7, 1998, a business engaged primarily in manufacturing, mining, research and development, wholesale trade, office operations, or the operation of a facility for which the business that owns or operates the facility is an eligible taxpayer. Eligible business does not include a casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales. As used in this subdivision, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(e) "Eligible district" means 1 or more of the following:

(*i*) An industrial development district as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.

(*ii*) A renaissance zone as that term is defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(*iii*) An enterprise zone as that term is defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(*iv*) A brownfield redevelopment zone as that term is designated under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(*v*) An empowerment zone designated under subchapter U of chapter 1 of the internal revenue code of 1986, 26 USC 1391 to 1397F.

(*vi*) An authority district or a development area as those terms are defined in the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(*vii*) An authority district as that term is defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(*viii*) A downtown district or a development area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

(*ix*) An area that contains an eligible taxpayer.

(f) "Eligible distressed area" means 1 of the following:

(*i*) That term as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(*ii*) An area that contains an eligible taxpayer.

(g) "Eligible local assessing district" means a city, village, or township that contains an eligible distressed area.

(h) "Eligible taxpayer" means a taxpayer that meets both of the following conditions:

(*i*) Is an authorized business.

(*ii*) Is eligible for tax credits described in section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809.

(i) "Existing eligible business" means an eligible business identified in a resolution adopted under subsection (1) for which an exemption has been granted under this section.

(j) "New personal property" means personal property that was not previously subject to tax under this act or was not previously placed in service in this state and that is placed in an eligible district after a resolution under subsection (1) is approved by the eligible local assessing district. As used in this subdivision, for exemptions approved by the state tax commission

under subsection (3) after April 30, 1999, new personal property does not include buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

This act is ordered to take immediate effect.
Approved September 29, 2008.
Filed with Secretary of State September 29, 2008.

[No. 286]

(HB 5524)

AN ACT to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending sections 6a, 10, 10a, 10b, 10d, 10g, 10p, 10r, 10x, and 10y (MCL 460.6a, 460.10, 460.10a, 460.10b, 460.10d, 460.10g, 460.10p, 460.10r, 460.10x, and 460.10y), section 6a as amended by 1992 PA 37, sections 10, 10b, 10p, 10r, 10x, and 10y as added by 2000 PA 141, section 10a as amended by 2004 PA 88, section 10d as amended by 2002 PA 609, and section 10g as amended by 2001 PA 48, and by adding sections 4a, 6q, 6s, 10dd, and 11.

The People of the State of Michigan enact:

460.4a Effect of executive reorganization orders; funding; commission as autonomous entity; appointment of chairperson; transfers of authority.

Sec. 4a. (1) Except as otherwise provided under this act, the commission is subject to Executive Reorganization Order No. 2003-1, MCL 445.2011.

(2) Funding for the commission shall be as provided under 1972 PA 299, MCL 460.111 to 460.120, and as otherwise provided by law.

(3) The commission shall be an autonomous entity within the department of labor and economic growth. The statutory authority, powers, duties, and functions, including personnel, property, budgeting, records, procurement, and other management related functions, shall be retained by the commission. The department of labor and economic growth shall provide support and coordinated services as requested by the commission and shall be reimbursed for that service as provided under subsection (2).

(4) The chairperson of the commission shall be appointed as provided under section 2.

(5) Nothing in this section shall be construed to supersede the transfers of authority made under the following executive orders:

(a) Executive Reorganization Order No. 2001-1, MCL 18.41.

(b) Executive Reorganization Order No. 2002-13, MCL 18.321.

(c) Executive Reorganization Order No. 2005-1, MCL 445.2021.

(d) Executive Reorganization Order No. 2007-21, MCL 18.45.

(e) Executive Reorganization Order No. 2007-22, MCL 18.46.

(f) Executive Reorganization Order No. 2007-23, MCL 18.47.

460.6a Gas or electric utility; completed petition or application to increase rates and charges or to amend rate or rate schedules; notice and hearing; issuance of temporary order; refund; interest; automatic fuel or purchased gas adjustment clause; rules and procedures; adjustment clauses operating without notice and hearing abolished; separate hearing to determine cost of fuel, purchased gas, or purchased power; recovery of cost; definitions; final decision; filing time extension; approval of transportation rate schedules or transportation contracts; forms and instructions; recovery of amount by merchant plant; limitation; adjustment; "United States consumer price index" defined; orders to permit recovery under subsections (7) and (8).

Sec. 6a. (1) A gas or electric utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase the cost of services to its customers, without first receiving commission approval as provided in this section. The utility shall place in evidence facts relied upon to support the utility's petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules. The commission shall require notice to be given to all interested parties within the service area to be affected, and all interested parties shall have a reasonable opportunity for a full and complete hearing. A utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges. The commission shall notify the utility within 30 days of filing, whether the utility's petition or application is complete. A petition or application is considered complete if it complies with the rate application filing forms and instructions adopted under subsection (6). A petition or application pending before the commission prior to the adoption of filing forms and instructions pursuant to subsection (6) shall be evaluated based upon the filing requirements in effect at the time the petition or application was filed. If the application is not complete, the commission shall notify the utility of all information necessary to make that filing complete. If the commission has not notified the utility within 30 days of whether the utility's petition or application is complete, the application is considered complete. If the commission has not issued an order within 180 days of the filing of a complete application, the utility may implement up to the amount of the proposed annual rate request through equal percentage increases or decreases applied to all base rates. For a petition or application pending before the commission prior to the effective date of the amendatory act that added this sentence, the 180-day period commences on the effective date of the amendatory act that added this sentence. If the utility uses projected costs and revenues for a future period in developing its requested rates and charges, the utility may not implement the equal percentage increases or decreases prior to the calendar date corresponding to the start of the projected 12-month period. For good cause, the commission may issue a temporary order preventing or delaying a utility from implementing its proposed rates or charges. If a utility implements increased rates or charges under this subsection before the commission issues a final order, that utility shall refund to customers, with interest, any portion of the total revenues collected through application of

the equal percentage increase that exceed the total that would have been produced by the rates or charges subsequently ordered by the commission in its final order. The commission shall allocate any refund required by this section among primary customers based upon their pro rata share of the total revenue collected through the applicable increase, and among secondary and residential customers in a manner to be determined by the commission. The rate of interest for refunds shall equal 5% plus the London interbank offered rate (LIBOR) for the appropriate time period. For any portion of the refund which, exclusive of interest, exceeds 25% of the annual revenue increase awarded by the commission in its final order, the rate of interest shall be the authorized rate of return on the common stock of the utility during the appropriate period. Any refund or interest awarded under this subsection shall not be included, in whole or in part, in any application for a rate increase by a utility. Nothing in this section impairs the commission's ability to issue a show cause order as part of its rate-making authority. An alteration or amendment in rates or rate schedules applied for by a public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing. There shall be no increase in rates based upon changes in cost of fuel or purchased gas unless notice has been given within the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of fuel or purchased gas. The rates charged by any utility pursuant to an automatic fuel or purchased gas adjustment clause shall not be altered, changed, or amended unless notice has been given within the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of the fuel or purchased gas.

(2) The commission shall adopt rules and procedures for the filing, investigation, and hearing of petitions or applications to increase or decrease utility rates and charges as the commission finds necessary or appropriate to enable it to reach a final decision with respect to petitions or applications within a period of 12 months from the filing of the complete petitions or applications. The commission shall not authorize or approve adjustment clauses that operate without notice and an opportunity for a full and complete hearing, and all such clauses shall be abolished. The commission may hold a full and complete hearing to determine the cost of fuel, purchased gas, or purchased power separately from a full and complete hearing on a general rate case and may be held concurrently with the general rate case. The commission shall authorize a utility to recover the cost of fuel, purchased gas, or purchased power only to the extent that the purchases are reasonable and prudent. As used in this section:

(a) "Full and complete hearing" means a hearing that provides interested parties a reasonable opportunity to present and cross-examine evidence and present arguments relevant to the specific element or elements of the request that are the subject of the hearing.

(b) "General rate case" means a proceeding initiated by a utility in an application filed with the commission that alleges a revenue deficiency and requests an increase in the schedule of rates or charges based on the utility's total cost of providing service.

(3) Except as otherwise provided in this subsection, if the commission fails to reach a final decision with respect to a completed petition or application to increase or decrease utility rates within the 12-month period following the filing of the completed petition or application, the petition or application is considered approved. If a utility makes any significant amendment to its filing, the commission has an additional 12 months from the date of the amendment to reach a final decision on the petition or application. If the utility files for an extension of time, the commission shall extend the 12-month period by the amount of additional time requested by the utility.

(4) A utility shall not file a general rate case application for an increase in rates earlier than 12 months after the date of the filing of a complete prior general rate case application. A utility may not file a new general rate case application until the commission has issued a final order on a prior general rate case or until the rates are approved under subsection (3).

(5) The commission shall, if requested by a gas utility, establish load retention transportation rate schedules or approve gas transportation contracts as required for the purpose of retaining industrial or commercial customers whose individual annual transportation volumes exceed 500,000 decatherms on the gas utility's system. The commission shall approve these rate schedules or approve transportation contracts entered into by the utility in good faith if the industrial or commercial customer has the installed capability to use an alternative fuel or otherwise has a viable alternative to receiving natural gas transportation service from the utility, the customer can obtain the alternative fuel or gas transportation from an alternative source at a price which would cause them to cease using the gas utility's system, and the customer, as a result of their use of the system and receipt of transportation service, makes a significant contribution to the utility's fixed costs. The commission shall adopt accounting and rate-making policies to ensure that the discounts associated with the transportation rate schedules and contracts are recovered by the gas utility through charges applicable to other customers if the incremental costs related to the discounts are no greater than the costs that would be passed on to those customers as the result of a loss of the industrial or commercial customer's contribution to a utility's fixed costs.

(6) Within 90 days of the effective date of the amendatory act that added this subsection, the commission shall adopt standard rate application filing forms and instructions for use in all general rate cases filed by utilities whose rates are regulated by the commission. For cooperative electric utilities whose rates are regulated by the commission, in addition to rate applications filed under this section, the commission shall continue to allow for rate filings based on the cooperative's times interest earned ratio. The commission may, in its discretion, modify the standard rate application forms and instructions adopted under this subsection.

(7) If, on or before January 1, 2008, a merchant plant entered into a contract with an initial term of 20 years or more to sell electricity to an electric utility whose rates are regulated by the commission with 1,000,000 or more retail customers in this state and if, prior to January 1, 2008, the merchant plant generated electricity under that contract, in whole or in part, from wood or solid wood wastes, then the merchant plant shall, upon petition by the merchant plant, and subject to the limitation set forth in subsection (8), recover the amount, if any, by which the merchant plant's reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that the merchant plant is paid under the contract for those costs. This subsection does not apply to landfill gas plants, hydro plants, municipal solid waste plants, or to merchant plants engaged in litigation against an electric utility seeking higher payments for power delivered pursuant to contract.

(8) The total aggregate additional amounts recoverable by merchant plants pursuant to subsection (7) in excess of the amounts paid under the contracts shall not exceed $1,000,000.00 per month for each affected electric utility. The $1,000,000.00 per month limit specified in this subsection shall be reviewed by the commission upon petition of the merchant plant filed no more than once per year and may be adjusted if the commission finds that the eligible merchant plants reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that those merchant plants are paid under the contract by more than $1,000,000.00 per month. The annual amount of the adjustments shall not exceed a rate equal to the United States consumer price index. An adjustment shall not be made by the commission unless each affected merchant plant files a petition with the commission. As used in this subsection, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics. If the total aggregate amount by which the eligible merchant plants reasonably and prudently incurred actual fuel and

variable operation and maintenance costs determined by the commission exceed the amount that the merchant plants are paid under the contract by more than $1,000,000.00 per month, the commission shall allocate the additional $1,000,000.00 per month payment among the eligible merchant plants based upon the relationship of excess costs among the eligible merchant plants. The $1,000,000.00 limit specified in this subsection, as adjusted, shall not apply with respect to actual fuel and variable operation and maintenance costs that are incurred due to changes in federal or state environmental laws or regulations that are implemented after the effective date of the amendatory act that added this subsection. The $1,000,000.00 per month payment limit under this subsection shall not apply to merchant plants eligible under subsection (7) whose electricity is purchased by a utility that is using wood or wood waste or fuels derived from those materials for fuel in their power plants.

(9) The commission shall issue orders to permit the recovery authorized under subsections (7) and (8) upon petition of the merchant plant. The merchant plant shall not be required to alter or amend the existing contract with the electric utility in order to obtain the recovery under subsections (7) and (8). The commission shall permit or require the electric utility whose rates are regulated by the commission to recover from its ratepayers all fuel and variable operation and maintenance costs that the electric utility is required to pay to the merchant plant as reasonably and prudently incurred costs.

460.6q Acquisition, control, or merger with jurisdictional regulated utility; approval of commission; notice and hearing; issuance of order; rules; filing comments; access to data and information; evaluation factors; terms and conditions; confidential information; definitions.

Sec. 6q. (1) A person shall not acquire, control, or merge, directly or indirectly, in whole or in part, with a jurisdictional regulated utility nor shall a jurisdictional regulated utility sell, assign, transfer, or encumber its assets to another person without first applying to and receiving the approval of the commission.

(2) After notice and hearing, the commission shall issue an order stating what constitutes acquisition, transfer of control, merger activities, or encumbrance of assets that are subject to this section. This section does not apply to the encumbrance, assignment, acquisition, or transfer of assets that are encumbered, assigned, acquired, transferred, or sold in the normal course of business or to the issuance of securities or other financing transactions not directly or indirectly involved in an acquisition, merger, encumbrance, or transfer of control that is governed by this section.

(3) The commission shall promulgate rules creating procedures for the application process required under this section. The application shall include, but is not limited to, all of the following information:

(a) A concise summary of the terms and conditions of the proposed acquisition, transfer, merger, or encumbrance.

(b) Copies of the material acquisition, transfer, merger, or encumbrance documents if available.

(c) A summary of the projected impacts of the acquisition, transfer, merger, or encumbrance on rates and electric service in this state.

(d) Pro forma financial statements that are relevant to the acquisition, transfer, merger, or encumbrance.

(e) Copies of the parties' public filings with other state or federal regulatory agencies regarding the same acquisition, transfer, merger, or encumbrance, including any regulatory orders issued by the agencies regarding the acquisition, transfer, merger, or encumbrance.

(4) Within 60 days from the date an application is filed under this section, interested parties, including the attorney general, may file comments with the commission on the proposed acquisition, transfer, merger, or encumbrance.

(5) After notice and hearing and within 180 days from the date an application is filed under this section, the commission shall issue an order approving or rejecting the proposed acquisition, transfer of control, merger, or encumbrance.

(6) All parties to an acquisition, transfer, merger, or encumbrance subject to this section shall provide the commission and the attorney general access to all books, records, accounts, documents, and any other data and information the commission considers necessary to effectively assess the impact of the proposed acquisition, transfer, merger, or encumbrance.

(7) The commission shall consider among other factors all of the following in its evaluation of whether or not to approve a proposed acquisition, transfer, merger, or encumbrance:

(a) Whether the proposed action would have an adverse impact on the rates of the customers affected by the acquisition, transfer, merger, or encumbrance.

(b) Whether the proposed action would have an adverse impact on the provision of safe, reliable, and adequate energy service in this state.

(c) Whether the action will result in the subsidization of a nonregulated activity of the new entity through the rates paid by the customers of the jurisdictional regulated utility.

(d) Whether the action will significantly impair the jurisdictional regulated utility's ability to raise necessary capital or to maintain a reasonable capital structure.

(e) Whether the action is otherwise inconsistent with public policy and interest.

(8) In approving an acquisition, transfer, merger, or encumbrance under this section, the commission may impose reasonable terms and conditions on the acquisition, transfer, merger, or encumbrance to protect the jurisdictional regulated utility, including the division and allocation of the utility's assets. A jurisdictional regulated utility may reject the terms and conditions imposed by the commission and not proceed with the transaction.

(9) In approving an acquisition, transfer, merger, or encumbrance under this section, the commission may impose reasonable terms and conditions on the acquisition, transfer, merger, or encumbrance to protect the customers of the jurisdictional regulated utility. A jurisdictional regulated utility may reject the terms and conditions imposed by the commission and not proceed with the transaction.

(10) Nonpublic information and materials submitted by a jurisdictional regulated utility under this section clearly designated by that utility as confidential are exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The commission shall issue protective orders as necessary to protect information designated by that utility as confidential.

(11) Nothing in this section alters the authority of the attorney general to enforce federal and state antitrust laws.

(12) As used in this section:

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

(b) "Jurisdictional regulated utility" means a utility whose rates are regulated by the commission. Jurisdictional regulated utility does not include a telecommunication provider as defined in the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2604, or a motor carrier as defined in the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

(c) "Person" means an individual, corporation, association, partnership, utility, or any other legal private or public entity.

460.6s Electric generation facility; application; review criteria and approval standards; order granting or denying certificate of necessity; hearing; reports; inclusion of costs in utility's retail rates; filing forms and instructions; integrated resource plan; financing interest cost recovery in utility's base rates.

Sec. 6s. (1) An electric utility that proposes to construct an electric generation facility, make a significant investment in an existing electric generation facility, purchase an existing electric generation facility, or enter into a power purchase agreement for the purchase of electric capacity for a period of 6 years or longer may submit an application to the commission seeking a certificate of necessity for that construction, investment, or purchase if that construction, investment, or purchase costs $500,000,000.00 or more and a portion of the costs would be allocable to retail customers in this state. A significant investment in an electric generation facility includes a group of investments reasonably planned to be made over a multiple year period not to exceed 6 years for a singular purpose such as increasing the capacity of an existing electric generation plant. The commission shall not issue a certificate of necessity under this section for any environmental upgrades to existing electric generation facilities or for a renewable energy system.

(2) The commission may implement separate review criteria and approval standards for electric utilities with less than 1,000,000 retail customers who seek a certificate of necessity for projects costing less than $500,000,000.00.

(3) An electric utility submitting an application under this section may request 1 or more of the following:

(a) A certificate of necessity that the power to be supplied as a result of the proposed construction, investment, or purchase is needed.

(b) A certificate of necessity that the size, fuel type, and other design characteristics of the existing or proposed electric generation facility or the terms of the power purchase agreement represent the most reasonable and prudent means of meeting that power need.

(c) A certificate of necessity that the price specified in the power purchase agreement will be recovered in rates from the electric utility's customers.

(d) A certificate of necessity that the estimated purchase or capital costs of and the financing plan for the existing or proposed electric generation facility, including, but not limited to, the costs of siting and licensing a new facility and the estimated cost of power from the new or proposed electric generation facility, will be recoverable in rates from the electric utility's customers subject to subsection (4)(c).

(4) Within 270 days of the filing of an application under this section, the commission shall issue an order granting or denying the requested certificate of necessity. The commission shall hold a hearing on the application. The hearing shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission shall allow intervention by interested persons. Reasonable discovery shall be permitted before and during the hearing in order to assist parties and interested persons in obtaining evidence concerning the application, including, but not limited to, the reasonableness and prudence of the construction, investment, or purchase for which the certificate of necessity has been requested. The commission shall grant the request if it determines all of the following:

(a) That the electric utility has demonstrated a need for the power that would be supplied by the existing or proposed electric generation facility or pursuant to the proposed power purchase agreement through its approved integrated resource plan that complies with subsection (11).

(b) The information supplied indicates that the existing or proposed electric generation facility will comply with all applicable state and federal environmental standards, laws, and rules.

(c) The estimated cost of power from the existing or proposed electric generation facility or the price of power specified in the proposed power purchase agreement is reasonable. The commission shall find that the cost is reasonable if, in the construction or investment in a new or existing facility, to the extent it is commercially practicable, the estimated costs are the result of competitively bid engineering, procurement, and construction contracts, or in a power purchase agreement, the cost is the result of a competitive solicitation. Up to 150 days after an electric utility makes its initial filing, it may file to update its cost estimates if they have materially changed. No other aspect of the initial filing may be modified unless the application is withdrawn and refiled. A utility's filing updating its cost estimates does not extend the period for the commission to issue an order granting or denying a certificate of necessity. An affiliate of an electric utility that serves customers in this state and at least 1 other state may participate in the competitive bidding to provide engineering, procurement, and construction services to that electric utility for a project covered by this section.

(d) The existing or proposed electric generation facility or proposed power purchase agreement represents the most reasonable and prudent means of meeting the power need relative to other resource options for meeting power demand, including energy efficiency programs and electric transmission efficiencies.

(e) To the extent practicable, the construction or investment in a new or existing facility in this state is completed using a workforce composed of residents of this state as determined by the commission. This subdivision does not apply to a facility that is located in a county that lies on the border with another state.

(5) The commission may consider any other costs or information related to the costs associated with the power that would be supplied by the existing or proposed electric generation facility or pursuant to the proposed purchase agreement or alternatives to the proposal raised by intervening parties.

(6) In a certificate of necessity under this section, the commission shall specify the costs approved for the construction of or significant investment in the electric generation facility, the price approved for the purchase of the existing electric generation facility, or the price approved for the purchase of power pursuant to the terms of the power purchase agreement.

(7) The utility shall annually file, or more frequent if required by the commission, reports to the commission regarding the status of any project for which a certificate of necessity has been granted under subsection (4), including an update concerning the cost and schedule of that project.

(8) If the commission denies any of the relief requested by an electric utility, the electric utility may withdraw its application or proceed with the proposed construction, purchase, investment, or power purchase agreement without a certificate and the assurances granted under this section.

(9) Once the electric generation facility or power purchase agreement is considered used and useful or as otherwise provided in subsection (12), the commission shall include in an electric utility's retail rates all reasonable and prudent costs for an electric generation facility or power purchase agreement for which a certificate of necessity has been granted. The commission shall not disallow recovery of costs an electric utility incurs in constructing, investing in, or purchasing an electric generation facility or in purchasing power pursuant to a power purchase agreement for which a certificate of necessity has been granted, if the costs do not exceed the costs approved by the commission in the certificate. Once the electric generation facility or power purchase agreement is considered used and useful or as otherwise provided

in subsection (12), the commission shall include in the electric utility's retail rates costs actually incurred by the electric utility that exceed the costs approved by the commission only if the commission finds that the additional costs are reasonable and prudent. If the actual costs incurred by the electric utility exceed the costs approved by the commission, the electric utility has the burden of proving by a preponderance of the evidence that the costs are reasonable and prudent. The portion of the cost of a plant, facility, or power purchase agreement which exceeds 110% of the cost approved by the commission is presumed to have been incurred due to a lack of prudence. The commission may include any or all of the portion of the cost in excess of 110% of the cost approved by the commission if the commission finds by a preponderance of the evidence that the costs were prudently incurred.

(10) Within 90 days of the effective date of the amendatory act that added this section, the commission shall adopt standard application filing forms and instructions for use in all requests for a certificate of necessity under this section. The commission may, in its discretion, modify the standard application filing forms and instructions adopted under this section.

(11) The commission shall establish standards for an integrated resource plan that shall be filed by an electric utility requesting a certificate of necessity under this section. An integrated resource plan shall include all of the following:

(a) A long-term forecast of the electric utility's load growth under various reasonable scenarios.

(b) The type of generation technology proposed for the generation facility and the proposed capacity of the generation facility, including projected fuel and regulatory costs under various reasonable scenarios.

(c) Projected energy and capacity purchased or produced by the electric utility pursuant to any renewable portfolio standard.

(d) Projected energy efficiency program savings under any energy efficiency program requirements and the projected costs for that program.

(e) Projected load management and demand response savings for the electric utility and the projected costs for those programs.

(f) An analysis of the availability and costs of other electric resources that could defer, displace, or partially displace the proposed generation facility or purchased power agreement, including additional renewable energy, energy efficiency programs, load management, and demand response, beyond those amounts contained in subdivisions (c) to (e).

(g) Electric transmission options for the electric utility.

(12) The commission shall allow financing interest cost recovery in an electric utility's base rates on construction work in progress for capital improvements approved under this section prior to the assets being considered used and useful. Regardless of whether or not the commission authorizes base rate treatment for construction work in progress financing interest expense, an electric utility shall be allowed to recognize, accrue, and defer the allowance for funds used during construction related to equity capital.

(13) As used in this section, "renewable energy system" means that term as defined in the clean, renewable, and efficient energy act.

460.10 MCL 460.10 to 460.10bb; title of sections; purpose.

Sec. 10. (1) Sections 10 through 10bb shall be known and may be cited as the "customer choice and electricity reliability act".

(2) The purpose of sections 10a through 10bb is to do all of the following:

(a) To ensure that all retail customers in this state of electric power have a choice of electric suppliers.

(b) To allow and encourage the Michigan public service commission to foster competition in this state in the provision of electric supply and maintain regulation of electric supply for customers who continue to choose supply from incumbent electric utilities.

(c) To encourage the development and construction of merchant plants which will diversify the ownership of electric generation in this state.

(d) To ensure that all persons in this state are afforded safe, reliable electric power at a reasonable rate.

(e) To improve the opportunities for economic development in this state and to promote financially healthy and competitive utilities in this state.

(f) To maintain, foster, and encourage robust, reliable, and economic generation, distribution, and transmission systems to provide this state's electric suppliers and generators an opportunity to access regional sources of generation and wholesale power markets and to ensure a reliable supply of electricity in this state.

460.10a Alternative electric suppliers; orders establishing rates, terms, and conditions of service; licensing procedure; switching or billing for services without consent; code of conduct; appliance service program; self-service power; affiliate wheeling; rights of parties to existing contracts and agreements; receipt of standard tariff service; recovery of costs by electric utility offering retail open access service; definitions.

Sec. 10a. (1) The commission shall issue orders establishing the rates, terms, and conditions of service that allow all retail customers of an electric utility or provider to choose an alternative electric supplier. The orders shall do all of the following:

(a) Provide that no more than 10% of an electric utility's average weather-adjusted retail sales for the preceding calendar year may take service from an alternative electric supplier at any time.

(b) Set forth procedures necessary to administer and allocate the amount of load that will be allowed to be served by alternative electric suppliers, through the use of annual energy allotments awarded on a calendar year basis, and shall provide, among other things, that existing customers who are taking electric service from an alternative electric supplier at a facility on the effective date of the amendatory act that added this subdivision shall be given an allocated annual energy allotment for that service at that facility, that customers seeking to expand usage at a facility served through an alternative electric supplier will be given next priority, with the remaining available load, if any, allocated on a first-come first-served basis. The procedures shall also provide how customer facilities will be defined for the purpose of assigning the annual energy allotments to be allocated under this section. The commission shall not allocate additional annual energy allotments at any time when the total annual energy allotments for the utility's distribution service territory is greater than 10% of the utility's weather-adjusted retail sales in the calendar year preceding the date of allocation. If the sales of a utility are less in a subsequent year or if the energy usage of a customer receiving electric service from an alternative electric supplier exceeds its annual energy allotment for that facility, that customer shall not be forced to purchase electricity from a utility, but may purchase electricity from an alternative electric supplier for that facility during that calendar year.

(c) Notwithstanding any other provision of this section, customers seeking to expand usage at a facility that has been continuously served through an alternative electric supplier since April 1, 2008 shall be permitted to purchase electricity from an alternative electric supplier for both the existing and any expanded load at that facility as well as any new

facility constructed or acquired after the effective date of the amendatory act that added this subdivision that is similar in nature if the customer owns more than 50% of the new facility.

(d) Notwithstanding any other provision of this section, any customer operating an iron ore mining facility, iron ore processing facility, or both, located in the Upper Peninsula of this state, shall be permitted to purchase all or any portion of its electricity from an alternative electric supplier, regardless of whether the sales exceed 10% of the serving electric utility's average weather-adjusted retail sales.

(2) The commission shall issue orders establishing a licensing procedure for all alternative electric suppliers. To ensure adequate service to customers in this state, the commission shall require that an alternative electric supplier maintain an office within this state, shall assure that an alternative electric supplier has the necessary financial, managerial, and technical capabilities, shall require that an alternative electric supplier maintain records which the commission considers necessary, and shall ensure an alternative electric supplier's accessibility to the commission, to consumers, and to electric utilities in this state. The commission also shall require alternative electric suppliers to agree that they will collect and remit to local units of government all applicable users, sales, and use taxes. An alternative electric supplier is not required to obtain any certificate, license, or authorization from the commission other than as required by this act.

(3) The commission shall issue orders to ensure that customers in this state are not switched to another supplier or billed for any services without the customer's consent.

(4) No later than December 2, 2000, the commission shall establish a code of conduct that shall apply to all electric utilities. The code of conduct shall include, but is not limited to, measures to prevent cross-subsidization, information sharing, and preferential treatment, between a utility's regulated and unregulated services, whether those services are provided by the utility or the utility's affiliated entities. The code of conduct established under this subsection shall also be applicable to electric utilities and alternative electric suppliers consistent with section 10, this section, and sections 10b through 10cc.

(5) An electric utility may offer its customers an appliance service program. Except as otherwise provided by this section, the utility shall comply with the code of conduct established by the commission under subsection (4). As used in this section, "appliance service program" or "program" means a subscription program for the repair and servicing of heating and cooling systems or other appliances.

(6) A utility offering a program under subsection (5) shall do all of the following:

(a) Locate within a separate department of the utility or affiliate within the utility's corporate structure the personnel responsible for the day-to-day management of the program.

(b) Maintain separate books and records for the program, access to which shall be made available to the commission upon request.

(c) Not promote or market the program through the use of utility billing inserts, printed messages on the utility's billing materials, or other promotional materials included with customers' utility bills.

(7) All costs directly attributable to an appliance service program allowed under subsection (5) shall be allocated to the program as required by this subsection. The direct and indirect costs of employees, vehicles, equipment, office space, and other facilities used in the appliance service program shall be allocated to the program based upon the amount of use by the program as compared to the total use of the employees, vehicles, equipment, office space, and other facilities. The cost of the program shall include administrative and general expense loading to be determined in the same manner as the utility determines administrative and

general expense loading for all of the utility's regulated and unregulated activities. A subsidy by a utility does not exist if costs allocated as required by this subsection do not exceed the revenue of the program.

(8) A utility may include charges for its appliance service program on its monthly billings to its customers if the utility complies with all of the following requirements:

(a) All costs associated with the billing process, including the postage, envelopes, paper, and printing expenses, are allocated as required under subsection (7).

(b) A customer's regulated utility service is not terminated for nonpayment of the appliance service program portion of the bill.

(c) Unless the customer directs otherwise in writing, a partial payment by a customer is applied first to the bill for regulated service.

(9) In marketing its appliance service program to the public, a utility shall do all of the following:

(a) The list of customers receiving regulated service from the utility shall be available to a provider of appliance repair service upon request within 2 business days. The customer list shall be provided in the same electronic format as such information is provided to the appliance service program. A new customer shall be added to the customer list within 1 business day of the date the customer requested to turn on service.

(b) Appropriately allocate costs as required under subsection (7) when personnel employed at a utility's call center provide appliance service program marketing information to a prospective customer.

(c) Prior to enrolling a customer into the program, the utility shall inform the potential customer of all of the following:

(*i*) That appliance service programs may be available from another provider.

(*ii*) That the appliance service program is not regulated by the commission.

(*iii*) That a new customer shall have 10 days after enrollment to cancel his or her appliance service program contract without penalty.

(*iv*) That the customer's regulated rates and conditions of service provided by the utility are not affected by enrollment in the program or by the decision of the customer to use the services of another provider of appliance repair service.

(d) The utility name and logo may be used to market the appliance service program provided that the program is not marketed in conjunction with a regulated service. To the extent that a program utilizes the utility's name and logo in marketing the program, the program shall include language on all material indicating that the program is not regulated by the commission. Costs shall not be allocated to the program for the use of the utility's name or logo.

(10) This section does not prohibit the commission from requiring a utility to include revenues from an appliance service program in establishing base rates. If the commission includes the revenues of an appliance service program in determining a utility's base rates, the commission shall also include all of the costs of the program as determined under this section.

(11) Except as otherwise provided in this section, the code of conduct with respect to an appliance service program shall not require a utility to form a separate affiliate or division to operate an appliance service program, impose further restrictions on the sharing of employees, vehicles, equipment, office space, and other facilities, or require the utility to provide other providers of appliance repair service with access to utility employees, vehicles, equipment, office space, or other facilities.

(12) This act does not prohibit or limit the right of a person to obtain self-service power and does not impose a transition, implementation, exit fee, or any other similar charge on self-service power. A person using self-service power is not an electric supplier, electric utility, or a person conducting an electric utility business. As used in this subsection, "self-service power" means any of the following:

(a) Electricity generated and consumed at an industrial site or contiguous industrial site or single commercial establishment or single residence without the use of an electric utility's transmission and distribution system.

(b) Electricity generated primarily by the use of by-product fuels, including waste water solids, which electricity is consumed as part of a contiguous facility, with the use of an electric utility's transmission and distribution system, but only if the point or points of receipt of the power within the facility are not greater than 3 miles distant from the point of generation.

(c) A site or facility with load existing on June 5, 2000 that is divided by an inland body of water or by a public highway, road, or street but that otherwise meets this definition meets the contiguous requirement of this subdivision regardless of whether self-service power was being generated on June 5, 2000.

(d) A commercial or industrial facility or single residence that meets the requirements of subdivision (a) or (b) meets this definition whether or not the generation facility is owned by an entity different from the owner of the commercial or industrial site or single residence.

(13) This act does not prohibit or limit the right of a person to engage in affiliate wheeling and does not impose a transition, implementation, exit fee, or any other similar charge on a person engaged in affiliate wheeling. As used in this section:

(a) "Affiliate" means a person or entity that directly, or indirectly through 1 or more intermediates, controls, is controlled by, or is under common control with another specified entity. As used in this subdivision, "control" means, whether through an ownership, beneficial, contractual, or equitable interest, the possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity or the ownership of at least 7% of an entity either directly or indirectly.

(b) "Affiliate wheeling" means a person's use of direct access service where an electric utility delivers electricity generated at a person's industrial site to that person or that person's affiliate at a location, or general aggregated locations, within this state that was either 1 of the following:

(*i*) For at least 90 days during the period from January 1, 1996 to October 1, 1999, supplied by self-service power, but only to the extent of the capacity reserved or load served by self-service power during the period.

(*ii*) Capable of being supplied by a person's cogeneration capacity within this state that has had since January 1, 1996 a rated capacity of 15 megawatts or less, was placed in service before December 31, 1975, and has been in continuous service since that date. A person engaging in affiliate wheeling is not an electric supplier, an electric utility, or conducting an electric utility business when a person engages in affiliate wheeling.

(14) The rights of parties to existing contracts and agreements in effect as of January 1, 2000 between electric utilities and qualifying facilities, including the right to have the charges recovered from the customers of an electric utility, or its successor, shall not be abrogated, increased, or diminished by this act, nor shall the receipt of any proceeds of the securitization bonds by an electric utility be a basis for any regulatory disallowance. Further, any securitization or financing order issued by the commission that relates to a qualifying facility's power purchase contract shall fully consider that qualifying facility's legal and financial interests.

(15) A customer who elects to receive service from an alternative electric supplier may subsequently provide notice to the electric utility of the customer's desire to receive standard tariff service from the electric utility. The procedures in place for each electric utility as of January 1, 2008 that set forth the terms pursuant to which a customer receiving service from an alternative electric supplier may return to full service from the electric utility are ratified and shall remain in effect and may be amended by the commission as needed. If an electric utility did not have the procedures in place as of January 1, 2008, the commission shall adopt those procedures.

(16) The commission shall authorize rates that will ensure that an electric utility that offered retail open access service from 2002 through the effective date of the amendatory act that added this subsection fully recovers its restructuring costs and any associated accrued regulatory assets. This includes, but is not limited to, implementation costs, stranded costs, and costs authorized pursuant to section 10d(4) as it existed prior to the effective date of the amendatory act that added this subsection, that have been authorized for recovery by the commission in orders issued prior to the effective date of the amendatory act that added this subsection. The commission shall approve surcharges that will ensure full recovery of all such costs within 5 years of the effective date of the amendatory act that added this subsection.

(17) As used in subsections (1) and (15):

(a) "Customer" means the building or facilities served through a single existing electric billing meter and does not mean the person, corporation, partnership, association, governmental body, or other entity owning or having possession of the building or facilities.

(b) "Standard tariff service" means, for each regulated electric utility, the retail rates, terms, and conditions of service approved by the commission for service to customers who do not elect to receive generation service from alternative electric suppliers.

460.10b Rates, terms, and conditions of new technologies; application to unbundle existing rate schedules; providing reliable and lower cost competitive rates; standby generation service; identification of retail market prices.

Sec. 10b. (1) The commission shall establish rates, terms, and conditions of electric service that promote and enhance the development of new generation, transmission, and distribution technologies.

(2) No later than 1 year from June 5, 2000, each electric utility shall file an application with the commission to unbundle its existing commercial and industrial rate schedules and separately identify and charge for their discrete services. No earlier than 1 year from June 5, 2000, the commission may order the electric utility to file an application to unbundle existing residential rate schedules. The commission may allow the unbundled rates to be expressed on residential billings in terms of percentages in order to simplify residential billing. The commission shall allow recovery by electric utilities of all just and reasonable costs incurred by electric utilities to implement and administer the provisions of this subsection.

(3) The orders issued under this act shall include, but are not limited to, the providing of reliable and lower cost competitive rates for all customers in this state.

(4) An electric utility is obligated, with commission oversight, to provide standby generation service for open access load on a best efforts basis until December 31, 2001 or the date established under section 10d(2) as it existed prior to the effective date of the amendatory act that added this sentence, whichever is later. The pricing for the electric generation standby service is equal to the retail market price of comparable standby service allowed under subsection (5). An electric utility is not required to interrupt firm off-system sales or firm service customers to provide standby generation service. Until the date established under

section 10d(2) as it existed prior to the effective date of the amendatory act that added this sentence, standby generation service shall continue to be provided to nonopen access customers under regulated tariffs.

(5) The methodology for identifying the retail market price for electric generation service to be applied under this section shall be determined by the commission based upon market indices commonly relied upon in the electric generation industry, adjusted as appropriate to reflect retail market prices in the relevant market.

460.10d Electric utility serving less than 1,000,000 retail customers; utility issuing securitization bonds; compliance with federal rules, regulations, and standards; security recovery factor; protective orders; definitions.

Sec. 10d. (1) If an electric utility serving less than 1,000,000 retail customers in this state as of May 1, 2000 issues securitization bonds as allowed under this act, it shall have the same rights, duties, and obligations under this section as an electric utility serving 1,000,000 or more retail customers in this state as of May 1, 2000.

(2) The commission shall take the necessary steps to ensure that all electrical power generating facilities in this state comply with all rules, regulations, and standards of the federal environmental protection agency regarding mercury emissions.

(3) A covered utility may apply to the commission to recover enhanced security costs for an electric generating facility through a security recovery factor. If the commission action under subsection (5) is approval of a security recovery factor, the covered utility may recover those enhanced security costs.

(4) The commission shall require that notice of the application filed under subsection (3) be published by the covered utility within 30 days from the date the application was filed. The initial hearing by the commission shall be held within 20 days of the date the notice was published in newspapers of general circulation in the service territory of the covered utility.

(5) The commission may issue an order approving, rejecting, or modifying the security recovery factor. If the commission issues an order approving a security recovery factor, that order shall be issued within 120 days of the initial hearing required under subsection (4). In determining the security recovery factor, the commission shall only include costs that the commission determines are reasonable and prudent and that are jurisdictionally assigned to retail customers of the covered utility in this state. The costs included shall be net of any proceeds that have been or will be received from another source, including, but not limited to, any applicable insurance settlements received by the covered utility or any grants or other emergency relief from federal, state, or local governmental agencies for the purpose of defraying enhanced security costs. In its order, the commission shall designate a period for recovery of enhanced security costs, including a reasonable return on the unamortized balance, over a period not to exceed 5 years. The security recovery factor shall not be less than zero.

(6) No later than February 18, 2003, the commission shall by order prescribe the form for the filing of an application for a security recovery factor under subsection (3). If the commission or its designee determines that a filing is incomplete, it shall notify the covered utility within 10 days of the filing.

(7) Records or other information supplied by the covered utility in an application for recovery of security costs under subsection (3) that describe security measures, including, but not limited to, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and other plans for responding to acts of terrorism are

not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall be treated as confidential by the commission.

(8) The commission shall issue protective orders as are necessary to protect the information found by the commission to be confidential under this section.

(9) As used in this section:

(a) "Act of terrorism" means a willful and deliberate act that is all of the following:

(*i*) An act that would be a violent felony under the laws of this state, whether or not committed in this state.

(*ii*) An act that the person knows or has reason to know is dangerous to human life.

(*iii*) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(b) "Covered utility" means an electric utility with 1,000,000 or more retail customers in this state as of May 1, 2000 or an electric utility subject to the rate provisions of commission orders in case numbers U-11181-R and U-12204.

(c) "Enhanced security costs" means reasonable and prudent costs of new and enhanced security measures incurred before January 1, 2006 for an electric generating facility by a covered utility that are required by federal or state regulatory security requirements issued after September 11, 2001 or determined to be necessary by the commission to provide reasonable security from an act of terrorism. Enhanced security costs include increases in the cost of insurance that are attributable to an increased terror related risk and the costs of maintaining or restoring electric service as the result of an act of terrorism.

(d) "Security recovery factor" means an unbundled charge for all retail customers, except for customers of alternative electric suppliers, to recover enhanced security costs that have been approved by the commission.

460.10g Definitions; school properties.

Sec. 10g. (1) As used in sections 10 through 10bb:

(a) "Alternative electric supplier" means a person selling electric generation service to retail customers in this state. Alternative electric supplier does not include a person who physically delivers electricity directly to retail customers in this state. An alternative electric supplier is not a public utility.

(b) "Commission" means the Michigan public service commission created in section 1.

(c) "Electric utility" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Independent transmission owner" means an independent transmission company as that term is defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(e) "Merchant plant" means electric generating equipment and associated facilities with a capacity of more than 100 kilowatts located in this state that are not owned and operated by an electric utility.

(f) "Relevant market" means either the Upper Peninsula or the Lower Peninsula of this state.

(g) "Renewable energy source" means energy generated by solar, wind, geothermal, biomass, including waste-to-energy and landfill gas, or hydroelectric.

(2) A school district aggregating electricity for school properties or an exclusive aggregator for public or private school properties is not an electric utility or a public utility for the purpose of that aggregation.

460.10p Establishment of industry worker transition program; adoption of service quality and reliability standards; compliance reports; rules; benchmarks; method for gathering data; incentives and penalties; "jurisdictional utility" or "jurisdictional entity" defined.

Sec. 10p. (1) Each electric utility operating in this state shall establish an industry worker transition program that shall, in consultation with employees or applicable collective bargaining representatives, provide skills upgrades, apprenticeship and training programs, voluntary separation packages consistent with reasonable business practices, and job banks to coordinate and assist placement of employees into comparable employment at no less than the wage rates and substantially equivalent fringe benefits received before the transition.

(2) The costs resulting from subsection (1) shall include audited and verified employee-related restructuring costs that are incurred as a result of the amendatory act that added this section or as a result of prior commission restructuring orders, including employee severance costs, employee retraining programs, early retirement programs, outplacement programs, and similar costs and programs, that have been approved and found to be prudently incurred by the commission.

(3) In the event of a sale, purchase, or any other transfer of ownership of 1 or more Michigan divisions or business units, or generating stations or generating units, of an electric utility, to either a third party or a utility subsidiary, the electric utility's contract and agreements with the acquiring entity or persons shall require all of the following for a period of at least 30 months:

(a) That the acquiring entity or persons hire a sufficient number of nonsupervisory employees to safely and reliably operate and maintain the station, division, or unit by making offers of employment to the nonsupervisory workforce of the electric utility's division, business unit, generating station, or generating unit.

(b) That the acquiring entity or persons not employ nonsupervisory employees from outside the electric utility's workforce unless offers of employment have been made to all qualified nonsupervisory employees of the acquired business unit or facility.

(c) That the acquiring entity or persons have a dispute resolution mechanism culminating in a final and binding decision by a neutral third party for resolving employee complaints or disputes over wages, fringe benefits, and working conditions.

(d) That the acquiring entity or persons offer employment at no less than the wage rates and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of the division, business unit, generating station, or generating unit. The wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least 30 months from the time of the transfer of ownership unless the employees, or where applicable collective bargaining representative, and the new employer mutually agree to different terms and conditions of employment within that 30-month period.

(4) The electric utility shall offer a transition plan to those employees who are not offered jobs by the entity because the entity has a need for fewer workers. If there is litigation concerning the sale, or other transfer of ownership of the electric utility's divisions, business units, generating stations, or generating units, the 30-month period under subsection (3) begins on the date the acquiring entity or persons take control or management of the divisions, business units, generating stations, or generating units of the electric utility.

(5) The commission shall adopt generally applicable service quality and reliability standards for the transmission, generation, and distribution systems of electric utilities and other entities subject to its jurisdiction, including, but not limited to, standards for service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service,

operational reliability, and public and worker safety. In setting service quality and reliability standards, the commission shall consider safety, costs, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The commission shall also include provisions to upgrade the service quality of distribution circuits that historically have experienced significantly below-average performance in relationship to similar distribution circuits.

(6) Annually, each jurisdictional utility or entity shall file its report with the commission detailing actions to be taken to comply with the service quality and reliability standards during the next calendar year and its performance in relation to the service quality and reliability standards during the prior calendar year. The annual reports shall contain that data as required by the commission, including the estimated cost of achieving improvements in the jurisdictional utility's or entity's performance with respect to the service quality and reliability standards.

(7) The commission shall analyze the data to determine whether the jurisdictional entities are properly operating and maintaining their systems and take corrective action if needed.

(8) The commission shall submit a report to the governor and the legislature by September 1, 2009. In preparing the report, the commission should review and consider relevant existing customer surveys and examine what other states have done. This report shall include all of the following:

(a) An assessment of the major types of end-use customer power quality disturbances, including, but not limited to, voltage sags, overvoltages, oscillatory transients, voltage swells, distortion, power frequency variations, and interruptions, caused by both the distribution and transmission systems within this state.

(b) An assessment of utility power plant generating cost efficiency, including, but not limited to, operational efficiency, economic generating cost efficiency, and schedules for planned and unplanned outages.

(c) Current efforts employed by the commission to monitor or enforce standards pertaining to end-use customer power quality disturbances and utility power plant generating cost efficiency either through current practice, statute, policy, or rule.

(d) Recommendations for use of common characteristics, measures, and indices to monitor power quality disturbances and power plant generating cost efficiency, such as expert customer service assessments, frequency of disturbance occurrence, duration of disturbance, and voltage magnitude.

(e) Recommendations for statutory changes that would be necessary to enable the commission to properly monitor and enforce standards to optimize power plant generating cost efficiency and minimize power quality disturbances. These recommendations shall include recommendations to provide methods to ensure that this state can obtain optimal and cost-effective end-use customer power quality to attract economic development and investment into the state.

(9) By December 31, 2009, the commission shall, based on its findings in subsection (8), review its existing rules under this section and amend the rules, if needed, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement performance standards for generation facilities and for distribution facilities to protect end-use customers from power quality disturbances.

(10) Any standards or rules developed under this section shall be designed to do the following, as applicable:

(a) Establish different requirements for each customer class, whenever those different requirements are appropriate to carry out the provisions of this section, and to reflect different load and service characteristics of each customer class.

(b) Consider the availability and associated cost of necessary equipment and labor required to maintain or upgrade distribution and generating facilities.

(c) Ensure that the most cost-effective means of addressing power quality disturbances are promoted for each utility, including consideration of the installation of equipment or adoption of operating practices at the end-user's location.

(d) Take into account the extent to which the benefits associated with achieving a specified standard or improvement are offset by the incremental capital, fuel, and operation and maintenance expenses associated with meeting the specified standard or improvement.

(e) Carefully consider the time frame for achieving a specified standard, taking into account the time required to implement needed investments or modify operating practices.

(11) The commission shall also create benchmarks for individual jurisdictional entities within their rate-making process in order to accomplish the goals of this section to alleviate end-use customer power quality disturbances and promote power plant generating cost efficiency.

(12) The commission shall establish a method for gathering data from the industrial customer class to assist in monitoring power quality and reliability standards related to service characteristics of the industrial customer class.

(13) The commission is authorized to levy financial incentives and penalties upon any jurisdictional entity which exceeds or fails to meet the service quality and reliability standards.

(14) As used in this section, "jurisdictional utility" or "jurisdictional entity" means jurisdictional regulated utility as that term is defined in section 6q.

460.10r Dissemination of disclosures, explanations, or sales information; establishment of Michigan renewables energy program; study, report, and plan.

Sec. 10r. (1) The commission shall establish minimum standards for the form and content of all disclosures, explanations, or sales information disseminated by a person selling electric service to ensure that the person provides adequate, accurate, and understandable information about the service that enables a customer to make an informed decision relating to the source and type of electric service purchased. The standards shall be developed to do all of the following:

(a) Not be unduly burdensome.

(b) Not unnecessarily delay or inhibit the initiation and development of competition for electric generation service in any market.

(c) Establish different requirements for disclosures, explanations, or sales information relating to different services or similar services to different classes of customers, whenever the different requirements are appropriate to carry out the purposes of this section.

(2) The commission shall require that, starting January 1, 2002, all electric suppliers disclose in standardized, uniform format on the customer's bill with a bill insert, on customer contracts, or, for cooperatives, in periodicals issued by an association of rural electric cooperatives, information about the environmental characteristics of electricity products purchased by the customer, including all of the following:

(a) The average fuel mix, including categories for oil, gas, coal, solar, hydroelectric, wind, biofuel, nuclear, solid waste incineration, biomass, and other fuel sources. If a source fits into the other category, the specific source must be disclosed. A regional average, determined by the commission, may be used only for that portion of the electricity purchased by the customer for which the fuel mix cannot be discerned. For the purposes of this subdivision, "biomass" means dedicated crops grown for energy production and organic waste.

(b) The average emissions, in pounds per megawatt hour, sulfur dioxide, carbon dioxide, and oxides of nitrogen. An emissions default, determined by the commission, may be used if the regional average fuel mix is being disclosed.

(c) The average of the high-level nuclear waste generated in pounds per megawatt hour.

(d) The regional average fuel mix and emissions profile as referenced in subdivisions (a), (b), and (c).

(3) The information required by subsection (2) shall be provided no more than twice annually, and be based on a rolling annual average. Emissions factors will be based on annual publicly available data by generation source.

(4) All of the information required to be provided under subsection (1) shall also be provided to the commission to be included on the commission's internet site.

(5) The commission shall establish the Michigan renewables energy program. The program shall be designed to inform customers in this state of the availability and value of using renewable energy generation and the potential of reduced pollution. The program shall also be designed to promote the use of existing renewable energy sources and encourage the development of new facilities.

(6) Within 2 years of the effective date of the amendatory act that added this subsection, the commission shall conduct a study and report to the governor and the house and senate standing committees with oversight of public utilities issues on the advisability of separating electric distribution and generation within electric utilities, taking into account the costs, benefits, efficiencies to be gained or lost, effects on customers, effects on reliability or quality of service, and other factors which the commission determines are appropriate. The report shall include, but is not limited to, the advisability of locating within separate departments of the utility the personnel responsible for the day-to-day management of electric distribution and generation and maintaining separate books and records for electric distribution and generation.

(7) Two years after the effective date of the amendatory act that added this subsection, the commission shall conduct a study and report to the governor and the house and senate standing committees with oversight of public utilities issues on whether the state would benefit from the creation of a purchasing pool in which electric generation in this state is purchased and then resold. The report shall include, but is not limited to, whether the purchasing pool shall be a separate entity from electric utilities, the impact of such a pool on electric utilities' management of their electrical generating assets, and whether ratepayers would benefit from spreading the cost of new electric generation across all or a portion of this state.

(8) Within 270 days of the effective date of the amendatory act that added this subsection, each electric utility regulated by the commission shall file with the commission a plan for utilizing dispatchable customer-owned distributed generation within the context of its integrated resource planning process. Included in the utility's filing shall be proposals for enrolling and compensating customers for the utility's right to dispatch at-will the distributed generation assets owned by those customers and provisions requiring the customer to maintain these assets in a dispatchable condition. If an electric utility already has programs addressing the subject of the filing required under this subsection, the utility may refer to and take credit for those existing programs in its proposed plan.

460.10x Cooperative electric utility; requirements.

Sec. 10x. (1) Any retail customer of a cooperative with a peak load of 1 megawatt or greater shall be provided the opportunity to choose an alternative electric supplier subject to the provisions in section 10a.

(2) The commission shall not require a cooperative electric utility or an independent investor-owned utility with fewer than 60 employees to maintain separate facilities, operations, or personnel, used to deliver electricity to retail customers, provide retail electric service, or to be an alternative electric supplier.

(3) Any debt service recovery charge, or other charge approved by the commission for a cooperative electric utility serving primarily at wholesale may, upon application by its member cooperative or cooperatives, be assessed by and collected through its member cooperative or cooperatives.

(4) The commission shall not prohibit a cooperative electric utility from metering and billing its customers for electric services provided by the cooperative electric utility.

460.10y Municipally owned utility; requirements.

Sec. 10y. (1) The governing body of a municipally owned utility shall determine whether it will permit retail customers receiving delivery service from the municipally owned utility the opportunity of choosing an alternative electric supplier, subject to the implementation of rates, charges, terms, and conditions referred to in subsection (5).

(2) Except with the written consent of the municipally owned utility, a person shall not provide delivery service or customer account service to a retail customer that was receiving that service from a municipally owned utility as of June 5, 2000, or is receiving the service from a municipally owned utility. For purposes of this subsection, "customer" means the building or facilities served rather than the individual, association, partnership, corporation, governmental body, or any other entity taking service.

(3) With respect to any electric utility regarding delivery service to customers located outside of the municipal boundaries of the municipality that owns the utility, a governing body of a municipally owned utility may elect to operate in compliance with R 460.3411 of the Michigan administrative code, as in effect on June 5, 2000. However, compliance with R 460.3411(13) of the Michigan administrative code is not required for the municipally owned utility. Concurrent with the filing of an election under this subsection with the commission, the municipally owned utility shall serve a copy of the election on the electric utility. Beginning 30 days after service of the copy of the election, the electric utility shall, as to the electing municipally owned utility, be subject to the terms of R 460.3411 of the Michigan administrative code as in effect on June 5, 2000. The commission shall decide disputes arising under this subsection subject to judicial review and enforcement.

(4) A municipally owned utility and an electric utility that provides delivery service in the same municipality as the municipally owned utility may enter into a written agreement to define the territorial boundaries of each utility's delivery service area and any other terms and conditions as necessary to provide delivery service. The agreement is not effective unless approved by the governing body of the municipally owned utility and the commission. The governing body of the municipally owned utility and the commission shall annually review and supervise compliance with the terms of the agreement. At the request of a party to the agreement, disputes arising under the agreement shall be decided by the commission subject to judicial review and enforcement.

(5) If the governing body of a municipally owned utility establishes a program to permit any of its customers the opportunity to choose an alternative electric supplier, the governing body of the municipally owned utility shall have exclusive jurisdiction to do all of the following:

(a) Set delivery service rates applicable to services provided by the municipally owned utility that shall not be unduly discriminatory.

(b) Determine the amount and types of, and recovery mechanism for, stranded and transition costs that will be charged.

(c) Establish rules, terms of access, and conditions that it considers appropriate for the implementation of a program to allow customers the opportunity of choosing an alternative electric supplier.

(6) Complaints alleging unduly discriminatory rates or other noncompliance arising under subsection (5) shall be filed in the circuit court for the county in which the municipally owned utility is located.

(7) This section does not prevent or limit a municipally owned utility from selling electricity at wholesale. A municipally owned utility selling at wholesale is not considered to be an alternative electric supplier and is not subject to regulation by the commission.

(8) This section shall not be construed to impair the contractual rights of a municipally owned utility or customer under an existing contract.

(9) Contracts or other records pertaining to the sale of electricity by a municipally owned utility that are in the possession of a public body and that contain specific pricing or other confidential or proprietary information may be exempted from public disclosure requirements by the governing body of a municipally owned utility. Upon a showing of good cause, disclosure subject to appropriate confidentiality provisions may be ordered by a court or the commission.

(10) This section does not affect the validity of the order relating to the terms and conditions of service in the Traverse City area that was issued August 25, 1994, by the commission at the request of consumers power company and the light and power board of the city of Traverse City.

(11) As provided in section 6, the commission does not have jurisdiction over a municipally owned utility.

(12) As used in this section:

(a) "Delivery service" means the providing of electric transmission or distribution to a retail customer.

(b) "Municipality" means any city, village, or township.

(c) "Customer account services" means billing and collection, provision of a meter, meter maintenance and testing, meter reading, and other administrative activity associated with maintaining a customer account.

(13) In the event that an entity purchases 1 or more divisions or business units, or generating stations or generating units, of a municipal electric utility, the acquiring entity's contract and agreements with the selling municipality shall require all of the following for a period of at least 30 months:

(a) That the acquiring entity or persons hires a sufficient number of employees to safely and reliably operate and maintain the station, division, or unit by first making offers of employment to the workforce of the municipal electric utility's division, business unit, or generating unit.

(b) That the acquiring entity or persons not employ employees from outside the municipal electric utility's workforce unless offers of employment have been made to all qualified employees of the acquired business unit or facility.

(c) That the acquiring entity or persons have a dispute resolution mechanism culminating in a final and binding decision by a neutral third party for resolving employee complaints or disputes over wages, fringe benefits, and working conditions.

(d) That the acquiring entity or persons offer employment at no less than the wage rates and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of the division, business unit, generating station, or generating unit. The wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least 30 months from the time of the transfer of ownership unless the employees, or where applicable collective bargaining representative, and the new employer mutually agree to different terms and conditions of the employment within that 30-month period.

(e) An acquiring entity is exempt from the obligations in this subsection if the selling municipality transfers all displaced municipal electric utility employees to positions of employment within the municipality at no less than the wage rates and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer. The wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least 30 months from the time of the transfer unless the employees, or where applicable collective bargaining representative, and the municipality mutually agree to different terms and conditions of the employment within that 30-month period.

460.10dd Appropriation; hiring full-time positions to implement act.

Sec. 10dd. For the fiscal year ending September 30, 2009, there is appropriated to the commission from the assessments imposed under 1972 PA 299, MCL 460.111 to 460.120, the amount of $2,500,000.00 to hire 25.0 full-time equated positions to implement the provisions of the amendatory act that added this section.

460.11 Phase-in of electric rates; impact on residential and industrial metal melting rates; establishment of eligible low-income customer or senior citizen customer rates; public and private schools, universities, and community colleges; retention of independent consultant.

Sec. 11. (1) This subsection applies beginning January 1, 2009. Except as otherwise provided in this subsection, the commission shall phase in electric rates equal to the cost of providing service to each customer class over a period of 5 years from the effective date of the amendatory act that added this section. If the commission determines that the rate impact on industrial metal melting customers will exceed the 2.5% limit in subsection (2), the commission may phase in cost-based rates for that class over a longer period. The cost of providing service to each customer class shall be based on the allocation of production-related and transmission costs based on using the 50-25-25 method of cost allocation. The commission may modify this method to better ensure rates are equal to the cost of service if this method does not result in a greater amount of production-related and transmission costs allocated to primary customers.

(2) The commission shall ensure that the impact on residential and industrial metal melting rates due to the cost of service requirement in subsection (1) is no more than 2.5% per year.

(3) Notwithstanding any other provision of this act, the commission may establish eligible low-income customer or eligible senior citizen customer rates. Upon filing of a rate increase request, a utility shall include proposed eligible low-income customer and eligible senior citizen customer rates and a method to allocate the revenue shortfall attributed to the implementation of those rates upon all customer classes. As used in this subsection, "eligible low-income customer" and "eligible senior citizen customer" mean those terms as defined in section 10t.

(4) Notwithstanding any other provision of this section, the commission shall establish rate schedules which ensure that public and private schools, universities, and community colleges are charged retail electric rates that reflect the actual cost of providing service to those customers. Not later than 90 days after the effective date of the amendatory act that added this section, electric utilities regulated under this section shall file with the commission tariffs to ensure that public and private schools, universities, and community colleges are charged electric rates as provided in this subsection.

(5) Subsections (1) to (4) apply only to electric utilities with 1,000,000 or more retail customers in this state.

(6) This subsection applies beginning January 1, 2009. The commission shall approve rates equal to the cost of providing service to customers of electric utilities serving less than 1,000,000 retail customers in this state. The rates shall be approved by the commission in each utility's first general rate case filed after passage of the amendatory act that added this section. If, in the judgment of the commission, the impact of imposing cost of service rates on customers of a utility would have a material impact, the commission may approve an order that implements those rates over a suitable number of years. The commission shall ensure that any impact on rates due to the cost of service requirement in this subsection is not more than 2.5% per year.

(7) The commission shall annually retain an independent consultant to verify that the requirements of this section are being satisfied for each electric utility. The costs of this service shall be recoverable in the utility's electric rates. This subsection does not apply after December 31, 2015.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 213 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 6, 2008.
Filed with Secretary of State October 6, 2008.

Compiler's note: Senate Bill No. 213, referred to in enacting section 1, was filed with the Secretary of State October 6, 2008, and became 2008 PA 295, Imd. Eff. Oct. 6, 2008.

[No. 287]

(SB 1048)

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," (MCL 206.1 to 206.532) by adding section 253.

The People of the State of Michigan enact:

206.253 Tax years beginning after December 31, 2008 and before January 1, 2012; tax credit; purchase and installation of qualified home improvement; definitions.

Sec. 253. (1) Except as otherwise provided under this subsection, for tax years that begin after December 31, 2008 and before January 1, 2012, a taxpayer with adjusted gross income equal to or less than $37,500.00 or for a husband and wife filing a joint return as provided in section 311 with adjusted gross income equal to or less than $75,000.00 who purchases and installs a qualified home improvement for his or her principal residence during the tax year may claim a credit against the tax imposed by this act equal to 10% of the amount paid by the taxpayer in the tax year for the purchase and installation of each qualified home improvement or $75.00, or for a husband and wife filing a joint return, $150.00, whichever is less, for each qualified home improvement purchased and installed during the tax year. However, a taxpayer shall not claim more than 1 credit under each subparagraph of subsection (3)(c) during the same tax year. To claim the credit allowed under this subsection, the taxpayer shall, in the manner required by the department, provide verification of the amount paid for the purchase and installation of the qualified home improvement along with documentation of its compliance with the energy star energy efficiency guidelines. If the credit allowed under this subsection exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(2) For tax years that begin after December 31, 2008 and before December 31, 2012, a taxpayer with adjusted gross income equal to or less than $65,000.00 or for a husband and wife filing a joint return as provided in section 311 equal to or less than $130,000.00 may claim a credit against the tax imposed by this act equal to the percentages provided by this subsection of the amount authorized for the customer's electric utility under section 45(2)(a) of the clean, renewable, and efficient energy act and paid during the tax year. If the credit allowed under this subsection exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded. The percentages of the amounts authorized shall be as follows:

(a) For tax years that begin after December 31, 2008 and before January 1, 2010, 25%.

(b) For tax years that begin after December 31, 2009 and before January 1, 2012, 20%.

(3) As used in this section:

(a) "Electric utility" means that term as defined under section 10g of 1939 PA 3, MCL 460.10g and includes an alternative electric supplier as that term is defined under section 10g of 1939 PA 3, MCL 460.10g.

(b) "Principal residence" means that term as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, and exempt from taxation under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(c) "Qualified home improvement" means the following items intended for residential or noncommercial use that meet or exceed the applicable energy star energy efficiency guidelines developed by the United States environmental protection agency and the United States department of energy:

(*i*) Insulation.

(*ii*) Furnaces.

(*iii*) Water heaters.

(*iv*) Windows.

(*v*) Refrigerators, clothes washers, and dishwashers.

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. 213.

(b) House Bill No. 5524.

This act is ordered to take immediate effect.
Approved October 6, 2008.
Filed with Secretary of State October 6, 2008.

Compiler's note: Senate Bill No. 213, referred to in enacting section 1, was filed with the Secretary of State October 6, 2008, and became 2008 PA 295, Imd. Eff. Oct. 6, 2008.

House Bill No. 5524, also referred to in enacting section 1, was filed with the Secretary of State October 6, 2008, and became 2008 PA 286, Imd. Eff. Oct. 6, 2008.

[No. 288]

(HB 4001)

AN ACT to regulate and to require certain reports to be filed that document contributions for purposes of defending an elected official in a criminal, civil, or administrative action; to regulate contributions made for purposes of defending an elected official in a criminal, civil, or administrative action; to prescribe certain powers and duties of the secretary of state as to legal defense funds; and to prescribe criminal penalties and civil sanctions.

The People of the State of Michigan enact:

15.521 Short title.

Sec. 1. This act shall be known and may be cited as the "legal defense fund act".

15.523 Definitions.

Sec. 3. As used in this act:

(a) "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for or allocated to the purpose of defending an elected official in a criminal, civil, or administrative action that arises directly out of the conduct of the elected official's governmental duties. Contribution includes an officer holder's own money or property, other than the officer holder's homestead, used on behalf of the officer holder's defense, the granting of discounts or rebates not available to the general public, and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable. Contribution does not include an offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded within 30 business days after receipt.

(b) "Elected official" means an individual who holds an elective office in state or local government in this state.

(c) "Elective office" means a public office filled by an election. A person who is appointed to fill a vacancy in a public office that is ordinarily elective holds an elective office. Elective office does not include the office of precinct delegate. Elective office does not include a school board member in a school district that has a pupil membership of 2,400 or less enrolled on the most recent pupil membership count day. Elective office does not include a federal office.