(g) Enter into necessary contracts with community action agencies for the purpose of coordinating community social and economic programs and other programs and services designated by the bureau and for which funding is appropriated by the legislature.

(h) Contract with public agencies, nonprofit private agencies, or nonprofit organizations for demonstration programs and other services necessary to implement this act.

(i) Conduct performance assessments of the activities and programs of community action agencies.

(j) Establish, in cooperation with community action agencies, an educational and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(k) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(*l*) Submit reports to the governor, the legislature, the state congressional delegation, and other appropriate federal officials regarding the needs, problems, opportunities, and contributions of low income persons; the effectiveness of existing state or federal policies and programs; and recommended actions to improve economic and social opportunities for low income persons.

(m) Administer the weatherization assistance program created pursuant to 10 C.F.R. part 440. The bureau shall administer the weatherization assistance program in a manner that provides that public agencies, nonprofit private agencies, and nonprofit organizations are eligible and shall have the opportunity for funding for each portion of a program that a community action agency may undertake.

(n) Serve as an advocate within the executive branch to remove administrative barriers to self-sufficiency services and to seek additional resources for antipoverty strategies.

400.1106 Commission on community action and economic opportunity; creation; appointment, qualifications, and terms of members; chairperson; executive secretary; vacancies; per diem compensation; reimbursement of expenses; quorum; commission action; meetings.

Sec. 6. (1) A commission on community action and economic opportunity is created within the department. The commission shall provide an opportunity for low income persons to actively participate in the development of policies and programs to reduce poverty.

(2) The commission shall consist of 6 to 15 members appointed by the governor by and with the advice and consent of the senate. The commission shall be comprised of equal numbers of elected public officials, private sector members, and low income individuals or as nearly equal in number as possible. At least 1/3 of the commission members shall be community action agency representatives as either staff or board members. The governor shall designate the chairperson of the commission. The chairperson shall serve at the will of the governor. The executive director or designee of the commission shall serve as executive secretary to the commission.

(3) The term of office of each member shall be 3 years. Vacancies on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(4) A member of the commission may receive per diem compensation and reimbursement of actual and necessary expenses while acting as an official representative of the commission. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(5) A majority of the commission constitutes a quorum. Except as otherwise provided by rule, action may be taken by the commission by vote of a majority of the members present at a meeting. The commission shall meet not less than 4 times a year. A meeting of the commission may be held anywhere within this state.

400.1107 Duties of commission.

Sec. 7. The commission shall serve as a statewide forum concerning state policies and programs to reduce poverty and to address the needs and concerns of low income people in this state. The commission shall do all of the following:

(a) Convene a state forum every 2 years that includes representatives from the public, private, nonprofit, and low income sectors to analyze poverty trends and make recommendations to reduce poverty.

(b) Convene public meetings to provide low income and other persons the opportunity to comment upon public policies and programs to reduce poverty.

(c) Advise the executive director concerning the designation or recision of a designation of a community action agency.

(d) Review and comment upon the annual program budget request before its submittal to the governor and the legislature pursuant to section 10.

(e) Advise the governor, the legislature, the state congressional delegation, and other appropriate federal officials of the nature and extent of poverty in the state and make recommendations concerning needed changes in state and federal policies and programs.

(f) Advise the director and the governor at least annually concerning the performance of the bureau in fulfilling its requirements as prescribed by this act.

(g) Participate with the bureau to implement a public education program designated to increase public awareness regarding the nature and extent of poverty in this state.

(h) Receive reports from the bureau on strategies to reduce poverty and make recommendations based on those reports to the governor.

(i) In coordination with community action agencies and the commission, establish an education and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(j) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(k) Submit reports to the governor, the legislature, the congressional delegation, and other appropriate federal officials regarding the needs, problems, opportunities, and contributions of low income persons and the effectiveness of existing state and federal policies and programs, and recommend actions to improve economic and social opportunities for low income persons.

400.1108 Designating or rescinding designation of community action agency; procedures; continuation of community action agency designated by community services administration; rescission of designation.

Sec. 8. (1) Except as required to meet the requirements of section 15, the executive director shall designate community action agencies to fulfill the requirements of this act

in the service areas governed by 1 or more units of local government. A community action agency designated by the executive director may be 1 of the following:

(a) A public office or agency of a unit of local government that is designated as a community action agency by the chief elected official of that unit of government.

(b) A public office or agency that is designated as a community action agency by the chief elected officials of a combination of 2 or more units of local government.

(c) A nonprofit private agency serving 1 or more units of local government approved by the chief elected official of the unit of local government that includes the service area, or if more than 1 unit of local government is included in the service area, by the chief elected officials of the county or counties in which the local governments are located and of at least 2/3 of the cities, villages, and townships in the service area that have a population of not less than 100,000.

(d) A public or private nonprofit agency designated by 1 or more native American tribal governments that have been established pursuant to state or federal law.

(2) Before designating or rescinding the designation of a community action agency, the executive director shall do all of the following:

(a) Consult with the director.

(b) Consult with the chief elected official of each county and of each city, village, or township with a population of not less than 100,000 within the existing or proposed service area.

(c) Hold at least 1 public meeting in the service area to provide low income and other citizens living within the service area the opportunity to review and comment upon the strengths and weaknesses of the existing or proposed community action agency.

(d) Consult with and obtain the advice of the commission on the proposed action.

(3) Notwithstanding subsections (1) and (2), each community action agency that has been designated by the community services administration pursuant to the economic opportunity act of 1964, Public Law 88-452, 78 Stat. 508, and that is in operation on the effective date of the 2003 amendatory act that amended this section shall continue as a community action agency.

(4) The executive director may rescind the designation of a community action agency for cause. In implementing this subsection, the executive director shall follow the procedures set forth in subsection (2) and the procedures set forth in the community services block grant act, subtitle B of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9901 to 9924.

400.1109 Community action agency; duties; permissible activities.

Sec. 9. A community action agency shall serve as a primary advocate for the reduction of the causes, conditions, and effects of poverty and shall provide social and economic opportunities that foster self-sufficiency for low income persons. A community action agency may engage in activities necessary to fulfill the intent of this act, including, but not limited to, the following:

(a) Informing this state, units of local government, private agencies and organizations, and citizens of the nature and extent of poverty within the service area.

(b) Developing, administering, and operating community social and economic programs to reduce poverty within the service area.

(c) Providing a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or in the service areas of the community.

(d) Providing activities designed to assist low income participants, including the elderly poor, to secure and retain meaningful employment; to attain an adequate education; to make better use of available income; to obtain and maintain adequate housing and a suitable living environment; to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance; to remove obstacles and solve problems which block the achievement of self-sufficiency; to achieve greater participation in the affairs of the community; and to make more effective use of other programs related to the purposes of this section.

(e) Providing on an emergency basis for the provision of supplies and services, nutritious food items, and related services necessary to counteract conditions of starvation and malnutrition among the poor.

(f) Providing and establishing linkages between governmental and other social services programs to assure the effective delivery of services to low income individuals.

(g) To encourage the use of entities in the private sector of the community in efforts to reduce poverty.

(h) Conducting pilot and demonstration projects with innovative approaches to reduce poverty, improve services, and utilize resources.

(i) Providing and advocating for training and technical assistance to public and private agencies, community groups, and units of local government to better define human problems, to improve services, and to facilitate citizen participation, including that of low income persons.

(j) Increasing interagency coordination and cooperation in serving low income persons. If possible, community action agencies shall enter into partnership and collaboration with other organizations to meet economic self-sufficiency goals.

(k) Entering into contracts with federal, state, and local public and private agencies and organizations as necessary to carry out the purposes of this act.

(*l*) Mobilizing federal, state, and local public and private financial resources and material and volunteer resources to reduce poverty and increase social and economic opportunities.

(m) Mobilizing community involvement from private and nonprofit sectors, including, but not limited to, businesses, economic and job development organizations, nonprofit faith-based communities, technical colleges and institutions of higher education, and the public sector, including, but not limited to, townships, cities, counties, and this state to address issues of poverty. Community action agencies shall coordinate with welfare-to-work strategies and implement strategies that increase household income and assets that lead to long-term economic self-sufficiency.

(n) Serving populations with barriers to self-sufficiency such as individuals and families with low incomes, senior citizens, young children, homeless persons, physically and developmentally disabled persons, low wage workers, and adults without literacy skills or basic education or adequate skills needed for the workplace.

(o) Engaging in any other activity necessary to fulfill the intent of this act.

400.1110 Distribution of funds.

Sec. 10. Distribution of funds to community action agencies shall meet federal requirements.

400.1111 Community action agency; establishment of governing board of directors; qualifications and selection of members.

Sec. 11. A community action agency shall establish a governing board of directors that consists of the following:

(a) One-third are elected public officials. An elected public official may act through his or her representative.

(b) One-third of the members are low income, elderly, or consumers with disabilities.

(c) One-third of the members represent the private sector, including representatives of business and industry, agriculture, labor, and religious and civic organizations.

Repeal of MCL 400.1112 and 400.1120.

Enacting section 1. Sections 12 and 20 of the Michigan economic and social opportunity act of 1981, 1981 PA 230, MCL 400.1112 and 400.1120, are repealed.

This act is ordered to take immediate effect.
Approved July 29, 2003.
Filed with Secretary of State July 29, 2003.

[No. 124]

(HB 4517)

AN ACT to amend 1846 RS 171, entitled "Of county jails and the regulation thereof," (MCL 801.1 to 801.27) by adding section 4b.

The People of the State of Michigan enact:

801.4b Payment of fee by inmate; collection; forwarding fees to local corrections officers training fund; disposition; failure to pay fee as civil infraction; civil fine; enforcement; refund.

Sec. 4b. (1) Beginning August 1, 2003, each person who is incarcerated in the county jail shall pay a fee of $12.00 to the county sheriff when the person is admitted into the jail.

(2) The county sheriff may collect a fee owed under this section by withdrawing that amount from any inmate account maintained by the sheriff for that inmate.

(3) Except as provided in subsections (4) and (5), the sheriff, once each calendar quarter, shall forward all fees collected under this section to the local corrections officers training fund created in the local corrections officers training act.

(4) The revenue derived from fees collected under this section shall be directed in the manner provided in subsection (5) in a county for which the sheriffs coordinating and training council has certified that the county's standards and requirements for the training of local corrections officers equals or exceeds the standards and requirements approved by the sheriffs coordinating and training council under the local corrections officers training act.

(5) In a county that meets the criteria in subsection (4), both of the following apply:

(a) Once each calendar quarter, the sheriff shall forward $2.00 of each fee collected to the state treasurer for deposit in the local corrections officers training fund created in the local corrections officers training act.

(b) The remaining $10.00 of each fee shall be retained in that county, to be used only for costs relating to the continuing education, certification, recertification, and training of local corrections officers and inmate programs including substance abuse and mental health programs in that county. However, revenue from the fees shall not be used to supplant current spending by the county for continuing education, certification, recertification, and training of local corrections officers.

(6) An inmate who fails to pay a fee owed under this section before being discharged from the jail is responsible for a state civil infraction and may be ordered to pay a civil fine of $100.00. An appearance ticket may be issued to a person who fails to pay a fee owed under this section. The appearance ticket may be issued by the sheriff or a deputy sheriff. The county prosecutor for the county in which the jail is located is responsible for enforcing the state civil infraction. A civil fine collected under this section shall be paid as provided under section 8831 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8831.

(7) A person who is incarcerated in a jail pending trial or arraignment is entitled to a full refund of the fee paid under this section if the prosecution against him or her is terminated for any reason or if he or she is found not guilty of the charges. Each person required to pay a fee under this section shall be given a written form explaining the circumstances under which he or she may request a refund under this subsection. The form shall be as prescribed in section 15 of the local corrections officers training act.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 4515.

(b) House Bill No. 4516.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: House Bill No. 4515, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 125, Eff. Oct. 1, 2003.

House Bill No. 4516, also referred to in enacting section 2, was filed with the Secretary of State July 29, 2003, and became P.A. 2003, No. 121, Eff. Oct. 1, 2003.

[No. 125]

(HB 4515)

AN ACT to improve the training and education of local corrections officers; to provide for the certification of local corrections officers and the development of standards and requirements for local corrections officers; to provide for the creation of a sheriffs coordinating and training office and a local corrections advisory board; and to prescribe the powers and duties of certain local and state officers and agencies.

The People of the State of Michigan enact:

791.531 Short title.

Sec. 1. This act shall be known and may be cited as the "local corrections officers training act".

791.532 Definitions.

Sec. 2. As used in this act:

(a) "Board" means the local corrections officers advisory board created in section 9.

(b) "Council" means the sheriffs coordinating and training council described in section 4.

(c) "Executive secretary" means the executive secretary of the council.

(d) "Local correctional facility" means county jail, work camp, or any other facility maintained by a county that houses adult prisoners.

(e) "Local corrections officer" means any person employed by a county sheriff in a local correctional facility as a corrections officer or that person's supervisor or administrator.

(f) "Office" means the sheriffs coordinating and training office created in section 3.

791.533 Sheriffs coordinating and training office; creation; head of office; chief executive officer; executive secretary.

Sec. 3. (1) The sheriffs coordinating and training office is created as an autonomous entity in the department of corrections. The department is not fiscally or programmatically responsible or liable for any of the responsibilities or duties of the office, council, or board contained in this act.

(2) The head of the office is the sheriffs coordinating and training council.

(3) The chief executive officer of the office is the executive secretary, who shall be appointed by the council and who shall hold office at the pleasure of the council. The executive secretary shall perform the functions and duties as may be assigned by the council. The council may employ other persons as it considers necessary to implement the intent and purpose of this act.

791.534 Qualifications and appointment of members; vacancy; reappointment; terms.

Sec. 4. (1) The council consists of 7 members selected as follows:

(a) The president of the Michigan sheriffs' association.

(b) One member appointed to the council for a 1-year term, to be elected by the Michigan sheriffs' association, who shall be a sheriff from a county having a population of over 400,000.

(c) One member appointed to the council for a 1-year term, to be elected by the Michigan sheriffs' association, who shall be a sheriff from a county having a population of between 100,000 and 400,000.

(d) One member appointed to the council for a 1-year term, to be elected by the Michigan sheriffs' association, who shall be a sheriff from a county having a population under 100,000.

(e) Two members appointed to the council for terms of 1 year each, who shall be elected by the deputy sheriff's association of Michigan.

(f) One member appointed to the council for a 1-year term, who shall be elected by the jail administrators committee of the Michigan sheriffs' association.

(2) A member shall vacate his or her appointment upon termination of his or her official position as a sheriff or a deputy sheriff. A vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member whom he or she is to succeed in the same manner as the original appointment. Any member may be reappointed for additional terms.

(3) The terms of the members first appointed shall begin January 1, 2004.

791.535 Chairperson; vice-chairperson; designation; terms; reelection; meetings; conduct; compensation.

Sec. 5. (1) The council shall designate from among its members a chairperson and vice-chairperson, who shall serve for 1-year terms and who may be reelected.

(2) The council shall meet at least 4 times in each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice-chairperson or when called by the chairperson upon the written request of 3 members of the council. The council shall establish its own procedures and requirements with respect to quorum, place, and conduct of its meetings and other matters.

(3) The business that the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public notice of the time, date, and place of the meeting shall be given in the manner required by that act.

(4) The members of the council shall serve without compensation but shall be entitled to their actual expenses in attending meetings and in the performance of their duties.

791.536 Holding public office or employment; disqualification prohibited.

Sec. 6. A member of the council shall not be disqualified from holding any public office or employment by reason of his or her appointment or membership on the council and shall not forfeit that public office or employment by reason of his or her appointment to the council, notwithstanding the provisions of any general, special, or local law, ordinance, or city charter.

791.537 Administrative support services.

Sec. 7. Administrative support services for the council and executive secretary shall be provided by the council as provided by separate appropriation for the council.

791.538 Standards and requirements.

Sec. 8. Not later than October 1, 2004 and as often as necessary after that, the council shall approve minimum standards and requirements for local corrections officers with respect to the following:

(a) Recruitment, selection, and certification of new local corrections officers based upon at least, but not limited to, work experience, educational achievement, and physical and mental fitness.

(b) New employee and continuing training programs.

(c) Recertification process.

(d) Course content of the vocational certificate program, the central training academy, and continuing training programs. The course content shall include education and training on how to identify and manage prisoners with a mental illness.

(e) Decertification process.

791.539 Local corrections officers advisory board; creation; qualifications and appointment of members; terms; vacancy; reappointment; compensation; development and recommendation of standards and requirements; training facilities.

Sec. 9. (1) The local corrections officers advisory board is created within the council. The board shall consist of 9 members appointed by the council, as follows:

(a) Three members of the board shall be members of the deputy sheriff's association of Michigan.

(b) Three members of the board shall be members of the Michigan sheriffs' association.

(c) One member of the board shall be a member of the police officers association of Michigan.

(d) One member of the board shall be a member of the fraternal order of police.

(e) One member of the board shall be a member of the Michigan association of counties.

(2) All members of the board shall hold office for terms of 3 years each, except that of the members first appointed 3 shall serve for terms of 1 year each, 3 shall serve for terms of 2 years each, and 3 shall serve for terms of 3 years each. Successors shall be appointed in the same manner as the original appointment.

(3) A person appointed as a member to fill a vacancy created other than by expiration of a term shall be appointed in the same manner as the original appointment for the remainder of the unexpired term of the member whom the person is to succeed.

(4) Any member may be reappointed for additional terms.

(5) The members of the board shall serve without compensation but shall be entitled to their actual expenses in attending meetings and in the performance of their duties.

(6) Not later than April 1, 2004 and as often as necessary after that, the board shall develop and recommend minimum standards and requirements for local corrections officers and shall submit those standards and requirements to the council for the council's approval under section 8.

(7) The board shall recommend to the council all facilities that the board approves for providing training to local corrections officers under this act.

791.540 Annual report.

Sec. 10. The board shall make an annual report to the council that includes pertinent data regarding the standards and requirements established and an evaluation on the effectiveness of local corrections officer training programs.

791.541 Local corrections officer; certification.

Sec. 11. Beginning April 1, 2004, a person shall not be a local corrections officer unless he or she is certified or recertified by the council as provided in section 12 or 13. The

council shall certify those persons and recertify on an annual basis those persons who satisfy the criteria set forth in section 12 or 13.

791.542 Local corrections officer; evidence of employment; certification.

Sec. 12. Effective January 1, 2005, a person who is employed as a local corrections officer before January 1, 2005, upon furnishing the council satisfactory evidence of his or her employment as a local corrections officer, shall be certified and recertified by the council as a local corrections officer if he or she applies to the council for certification not later than April 1, 2004.

791.543 Local corrections officer; certification; conditions.

Sec. 13. A person who was not employed as a local corrections officer before January 1, 2005 but who becomes employed as a local corrections officer on or after January 1, 2005 shall not be certified or recertified by the council unless he or she meets all of the following conditions:

(a) He or she is a citizen of the United States and is 18 years of age or older.

(b) He or she has obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level.

(c) Not later than 12 months after becoming employed as a local corrections officer, he or she has fulfilled other standards and requirements developed by the board and approved by the council for certification.

(d) He or she has fulfilled standards and requirements developed by the council upon the recommendation of the board for recertification.

791.543a Collective bargaining agreement; temporary transfer or assignment.

Sec. 13a. Nothing in this act supersedes a right granted under a collective bargaining agreement. A person who exercises a right pursuant to a collective bargaining agreement that results in that person being required to obtain certification under this act shall be allowed not less than 2 years to obtain that certification at the expense of the employer. Nothing in this act prohibits the county sheriff from temporarily transferring or assigning an uncertified employee to a position normally requiring certification or from using an uncertified employee to function as a corrections officer during any period of emergency.

791.544 Duties of council.

Sec. 14. The council may do all of the following:

(a) Enter into agreements with other public or private agencies or organizations to implement the intent of this act.

(b) Cooperate with and assist other public or private agencies or organizations to implement the intent of this act.

(c) Make recommendations to the legislature on matters pertaining to its responsibilities under this act.

791.545 Local corrections officers training fund; creation in state treasury; administration; source of funds; use; eligibility of counties to receive grants; reimbursement of fee; unexpended funds.

Sec. 15. (1) The local corrections officers training fund is created in the state treasury. The fund shall be administered by the council, which shall expend the fund only as provided in this section.

(2) There shall be credited to the local corrections officer training fund all revenue received from fees and civil fines collected under section 4b of 1846 RS 171, MCL 801.4b, and funds from any other source provided by law.

(3) The council shall use the fund only to defray the costs of continuing education, certification, recertification, decertification, and training of local corrections officers; the personnel and administrative costs of the office, board, and council; and other expenditures related to the requirements of this act. Only counties that forward to the fund 100% of fees collected under section 4b of 1846 RS 171, MCL 801.4b, are eligible to receive grants from the fund. A county that receives funds from the council under this section shall use those funds only for costs relating to the continuing education, certification, recertification, and training of local corrections officers in that county and shall not use those funds to supplant current spending by the county for those purposes, including state grants and training funds.

(4) The council, upon written request, shall reimburse the full amount of any fee paid by a person under section 4b of 1846 RS 171, MCL 801.4b, if the person was incarcerated pending trial and was found not guilty or the prosecution against the person was terminated for any reason. The council shall create and make available to all local correctional facilities in this state a written form explaining the provisions of this subsection. The form shall include the address to which the reimbursement request should be sent.

(5) Unexpended funds remaining in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

791.546 Acceptance of funds, grants, and gifts.

Sec. 16. The council may accept funds, grants, and gifts from any public or private source which shall be used to defray the expenses incident to implementing its responsibilities under this act.

Effective date.

Enacting section 1. This act takes effect October 1, 2003.

Conditional effective date.

Enacting section 2. This act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 4516.

(b) House Bill No. 4517.

This act is ordered to take immediate effect.

Approved July 31, 2003.

Filed with Secretary of State August 1, 2003.

Compiler's note: House Bill No. 4516, referred to in enacting section 2, was filed with the Secretary of State July 29, 2003, and became P.A. 2003, No. 121, Eff. Oct. 1, 2003.

House Bill No. 4517, also referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 124, Eff. Oct. 1, 2003.

[No. 126]

(SB 129)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 1211 and 1211e (MCL 380.1211 and 380.1211e), section 1211 as amended and section 1211e as added by 1994 PA 258; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

380.1211 Mills levied for school operating purposes; limitation; reduction of mills from which homestead and qualified agricultural property are exempt; effect of insufficient mills allowed to be levied under subsection (1); additional mills; number of mills school district may levy after 1994; approval by school electors; excess tax revenue; shortfall; allocation under property tax limitation act; definitions.

Sec. 1211. (1) Except as otherwise provided in this section and section 1211c, the board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is less. A principal residence and qualified agricultural property are exempt from the mills levied under this subsection except for the number of mills by which that exemption is reduced under this subsection. The board of a school district with a foundation allowance calculated under section 20 of the state school aid act of 1979, MCL 388.1620, for the 1994-95 state fiscal year of more than $6,500.00, may reduce the number of mills from which a principal residence and qualified agricultural property are exempted under this subsection by up to the number of mills, as certified under section 1211a, required to be levied on a principal residence and qualified agricultural property for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995, and the board also may levy in 1994 or a succeeding year that number of mills for school operating purposes on a principal residence and qualified agricultural property.

(2) Subject to subsection (3), if the department of treasury determines that the maximum number of mills allowed to be levied under subsection (1) on all classes of property is not sufficient for a school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for that school fiscal year, the board of the school district may levy in 1994 or a succeeding year additional mills uniformly on all property up to the number of mills required for the school district's combined state and local revenue per

membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995.

(3) After 1994, the number of mills a school district may levy under this section on any class of property shall not exceed the lesser of the number of mills the school district is certified by the department of treasury under section 1211a to levy on that class of property under this section in 1994 or the number of mills required to be levied on that class of property under this section to ensure that the increase from the immediately preceding state fiscal year in the school district's combined state and local revenue per membership pupil, calculated as if the school district had levied the maximum number of mills the school district was allowed to levy under this section regardless of the number of mills the school district actually levied, does not exceed the lesser of the dollar amount of the increase in the basic foundation allowance under section 20 of the state school aid act of 1979, MCL 388.1620, from the immediately preceding state fiscal year or the percentage increase in the general price level in the immediately preceding calendar year. If the number of mills a school district is allowed to levy under this section in a year after 1994 is less than the number of mills the school district was allowed to levy under this section in the immediately preceding year, any reduction required by this subsection in the school district's millage rate shall be calculated by first reducing the number of mills the school district is allowed to levy under subsection (2) and then increasing the number of mills from which a principal residence and qualified agricultural property are exempted under subsection (1).

(4) Millage levied under this section must be approved by the school electors. For the purposes of this section, millage approved by the school electors before January 1, 1994 for which the authorization has not expired is considered to be approved by the school electors.

(5) If a school district levies millage for school operating purposes that is in excess of the limits of this section, the amount of the resulting excess tax revenue shall be deducted from the school district's next regular tax levy.

(6) If a school district levies millage for school operating purposes that is less than the limits of this section, the board of the school district may levy at the school district's next regular tax levy an additional number of mills not to exceed the additional millage needed to make up the shortfall.

(7) A school district shall not levy mills allocated under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, other than mills allocated to a school district of the first class for payment to a public library commission under section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211, after 1993.

(8) As used in this section:

(a) "Combined state and local revenue per membership pupil" means that term as defined in section 20 of the state school aid act of 1979, MCL 388.1620.

(b) "Foundation allowance" means a school district's foundation allowance as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(c) "General price level" means that term as defined in section 33 of article IX of the state constitution of 1963.

(d) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(e) "Owner", "person", "principal residence", and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(f) "School operating purposes" includes expenditures for furniture and equipment, for alterations necessary to maintain school facilities in a safe and sanitary condition, for funding the cost of energy conservation improvements in school facilities, for deficiencies in operating expenses for the preceding year, and for paying the operating allowance due from the school district to a joint high school district in which the school district is a participating school district under former part 3a. Taxes levied for school operating purposes do not include any of the following:

(*i*) Taxes levied by a school district for operating a community college under part 25.

(*ii*) Taxes levied under section 1212.

(*iii*) Taxes levied under section 1356 for eliminating an operating deficit.

(*iv*) Taxes levied for operation of a library under section 1451 or for operation of a library established pursuant to 1913 PA 261, MCL 397.261 to 397.262, that were not included in the operating millage reported by the district to the department as of April 1, 1993. However, a district may report to the department not later than April 1, 1994 the number of mills it levied in 1993 for a purpose described in this subparagraph that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

(*v*) Taxes paid by a school district of the first class to a public library commission pursuant to section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211.

(*vi*) Taxes levied under former section 1512 for operation of a community swimming pool. In addition, if a school district included the millage it levied in 1993 for operation of a community swimming pool as part of its operating millage reported to the department for 1993, the school district may report to the department not later than June 17, 1994 the number of mills it levied in 1993 for operation of a community swimming pool that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

380.1211e Affidavit claiming exemption on qualified agricultural property; filing.

Sec. 1211e. (1) Subject to subsection (2), to claim an exemption under section 1211(1) for qualified agricultural property for the 1994 tax year, if an affidavit claiming an exemption on a principal residence was not filed for the property by May 1, 1994, an affidavit claiming the exemption on qualified agricultural property shall be filed with the local assessing unit by June 1, 1994. If property is qualified agricultural property and is classified as agricultural property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, that property is exempt and an affidavit claiming the exemption does not need to be filed.

(2) If there are provisions in the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, that are inconsistent with subsection (1), the provisions of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, prevail.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Repeal of MCL 380.1211d.

Enacting section 2. Section 1211d of the revised school code, 1976 PA 451, MCL 380.1211d, is repealed effective January 1, 2004.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 3, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 127]

(SB 130)

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 section 9 (MCL 207.779), as amended by 2001 PA 217.

The People of the State of Michigan enact:

207.779 Neighborhood enterprise zone tax; exemption from ad valorem real property taxes; determination of amount; payment; disbursement; distribution to intermediate school districts; payment to state treasury; tax as lien; continuance of certificate; condition; collection as delinquent tax; facility located in renaissance zone.

Sec. 9. (1) Except as provided in subsection (10), there is levied on the owner of a new facility or a rehabilitated facility to which a neighborhood enterprise zone certificate is issued a specific tax known as the neighborhood enterprise zone tax.

(2) A new facility or a rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, but not the land on which the facility is located, is exempt from ad valorem real property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) The amount of the neighborhood enterprise zone tax on a new facility is determined each year by multiplying the taxable value of the facility, not including the land, by 1 of the following:

(a) For property that would otherwise meet the definition of a principal residence under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, if that property was not exempt from ad valorem property taxes under this act, 1/2 of the average rate of taxation levied in this state in the immediately preceding calendar year on a principal residence and qualified agricultural property as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd. However, in 1994 only, the average

rate of taxation shall be the average rate of taxation levied in 1993 upon all property in this state upon which ad valorem taxes are assessed.

(b) For property that is not a principal residence under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd, 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13. However, in 1994 only, the average rate of taxation shall be the average rate of taxation levied in 1993 upon all property in this state upon which ad valorem taxes are assessed.

(4) 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, for the tax year immediately preceding the effective date of the neighborhood enterprise zone certificate by the total mills collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, for the current year by all taxing units within which the rehabilitated facility is located.

(5) The neighborhood enterprise zone tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the neighborhood enterprise zone tax received by the officer or officers each year to the state, cities, townships, villages, school districts, counties, and authorities at the same times and in the same proportions as required for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (7) for taxes collected after June 30, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(6) An intermediate school district receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount that would otherwise be disbursed to or retained by the intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963. If and for the period that the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, is amended or its successor act is enacted or amended to include a provision that provides for adjustments in state school aid to account for the receipt of revenues provided under this act in place of exempted ad valorem property tax, revenues required to be remitted or returned to the state treasury to the credit of the state school aid fund shall be distributed instead to the intermediate school districts. If the sum of any industrial facility tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial facilities tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, and the neighborhood enterprise zone tax paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the intermediate school district exceeds the amount received by the intermediate school district under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, the department of treasury shall allocate to each eligible intermediate school district an amount equal to the difference between the sum of the industrial facility tax, the commercial facilities tax, and the neighborhood enterprise zone tax paid to the state treasury to the credit of the state

school aid fund and the amount the intermediate school district received under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681.

(7) For neighborhood enterprise zone taxes levied after 1993 for school operating purposes, the amount that would otherwise be disbursed to a local school district shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(8) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission. The neighborhood enterprise zone tax is a lien on the real property upon which the new facility or rehabilitated facility subject to the certificate is located until paid. The continuance of a certificate is conditional upon the annual payment of the neighborhood enterprise zone tax and the ad valorem tax on the land collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(9) If payment of the tax under this act is not made by the March 1 following the levy of the tax, the tax shall be turned over to the county treasurer and collected in the same manner as a delinquent tax under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(10) A new facility or a rehabilitated facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the neighborhood enterprise zone tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the neighborhood enterprise zone tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The neighborhood enterprise zone tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 128]

(SB 131)

AN ACT to amend 1993 PA 330, entitled "An act to impose a state tax on the transfer of an interest in real property; to provide for the administration of this act; to prescribe

the powers and duties of certain state and local officers; to provide for the collection and distribution of the tax; and to prescribe penalties and provide remedies," by amending section 6 (MCL 207.526), as amended by 2000 PA 203.

The People of the State of Michigan enact:

207.526 Written instruments and transfers of property exempt from tax.

Sec. 6. The following written instruments and transfers of property are exempt from the tax imposed by this act:

(a) A written instrument in which the value of the consideration for the property is less than $100.00.

(b) A written instrument evidencing a contract or transfer that is not to be performed wholly within this state only to the extent the written instrument includes land lying outside of this state.

(c) A written instrument that this state is prohibited from taxing under the United States constitution or federal statutes.

(d) A written instrument given as security or an assignment or discharge of the security interest.

(e) A written instrument evidencing a lease, including an oil and gas lease, or a transfer of a leasehold interest.

(f) A written instrument evidencing an interest that is assessable as personal property.

(g) A written instrument evidencing the transfer of a right and interest for underground gas storage purposes.

(h) Any of the following written instruments:

(*i*) A written instrument in which the grantor is the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.

(*ii*) A written instrument given in foreclosure or in lieu of foreclosure of a loan made, guaranteed, or insured by the United States, this state, a political subdivision or municipality of this state, or an officer of the United States or of this state, or a political subdivision or municipality of this state, acting in his or her official capacity.

(*iii*) A written instrument given to the United States, this state, or 1 of their officers acting in an official capacity as grantee, pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee.

(i) A conveyance from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.

(j) A conveyance from an individual to that individual's child, stepchild, or adopted child.

(k) A conveyance from an individual to that individual's grandchild, step-grandchild, or adopted grandchild.

(*l*) A judgment or order of a court of record making or ordering a transfer, unless a specific monetary consideration is specified or ordered by the court for the transfer.

(m) A written instrument used to straighten boundary lines if no monetary consideration is given.

(n) A written instrument to confirm title already vested in a grantee, including a quitclaim deed to correct a flaw in title.

(o) A land contract in which the legal title does not pass to the grantee until the total consideration specified in the contract has been paid.

(p) A written instrument evidencing the transfer of mineral rights and interests.

(q) A written instrument creating a joint tenancy between 2 or more persons if at least 1 of the persons already owns the property.

(r) A transfer made pursuant to a bona fide sales agreement made before the date the tax is imposed under sections 3 and 4, if the sales agreement cannot be withdrawn or altered, or contains a fixed price not subject to change or modification. However, a sales agreement for residential construction may be adjusted up to 15% to reflect changes in construction specifications.

(s) A written instrument evidencing a contract or transfer of property to a person sufficiently related to the transferor to be considered a single employer with the transferor under section 414(b) or (c) of the internal revenue code of 1986, 26 U.S.C. 414.

(t) A written instrument conveying an interest in property for which an exemption is claimed under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, if the state equalized valuation of that property is equal to or lesser than the state equalized valuation on the date of purchase or on the date of acquisition by the seller or transferor for that same interest in property. If after an exemption is claimed under this subsection, the sale or transfer of property is found by the treasurer to be at a value other than the true cash value, then a penalty equal to 20% of the tax shall be assessed in addition to the tax due under this act to the seller or transferor.

(u) A written instrument transferring an interest in property pursuant to a foreclosure of a mortgage including a written instrument given in lieu of foreclosure of a mortgage. This exemption does not apply to a subsequent transfer of the foreclosed property by the entity that foreclosed on the mortgage.

(v) A written instrument conveying an interest from a religious society in property exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s, to a religious society if that property continues to be exempt from the collection of taxes under section 7s of the general property tax act, 1893 PA 206, MCL 211.7s.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 129]

(SB 132)

AN ACT to amend 2002 PA 27, entitled "An act to establish procedures for municipalities to designate individual lots or structures as blighting; to purchase or condemn blighting property; to transfer blighting property for development; and to repeal acts and parts of acts," by amending section 2 (MCL 125.2802).

The People of the State of Michigan enact:

125.2802 Definitions.

Sec. 2. As used in this act:

(a) "Attractive nuisance" means a condition on property that children are reasonably likely to come in contact with or be exposed to and that involves an unreasonable risk of death or serious bodily harm to children.

(b) "Blighting property", subject to subdivision (c), means property that is likely to have a negative financial impact on the value of surrounding property or on the increase in value of surrounding property and that meets any of the following criteria:

(*i*) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) The property is an attractive nuisance because of physical condition, use, or occupancy. A structure or lot is not blighting property under this subparagraph because of an activity that is inherent to the functioning of a lawful business.

(*iii*) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) The property has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) A portion of a building or structure located on the property has been damaged by any event so that the structural strength or stability of the building or structure is appreciably less than it was before the event and does not meet the minimum requirements of the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, or a building code of the city, village, or township in which the building or structure is located for a new building or structure.

(*vi*) A building or structure or part of a building or structure located on the property is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(*vii*) A building or structure located on the property used or intended to be used as a dwelling, including the adjoining grounds, because of dilapidation, decay, damage, or faulty construction; accumulation of trash or debris; an infestation of rodents or other vermin; or any other reason, is unsanitary or unfit for human habitation, is in a condition that a local health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(c) "Blighting property" does not include any of the following:

(*i*) Structures or lots, whether improved or unimproved, that are inherent to the functioning of a farm or farm operation as those terms are defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(*ii*) Structures or lots, whether improved or unimproved, that are industrial properties in an area zoned industrial and that are current on tax obligations.

(*iii*) Track belonging to a railroad company, right-of-way belonging to a railroad company, rolling stock belonging to a railroad company, or any other property necessarily used in operating a railroad in this state belonging to a railroad company.

(*iv*) A single family dwelling for which the owner claims an exemption under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(d) "Dwelling" means any house, building, structure, tent, shelter, trailer, or vehicle, or portion thereof, which is occupied in whole or in part as the home, residence, or living or sleeping place of 1 or more human beings, either permanently or transiently. Dwelling does not include railroad rolling stock on tracks or rights-of-way.

(e) "Fire hazard" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(f) "Municipality" means a city, village, or township in this state or a county described in section 3(1)(b).

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

(h) "Public nuisance" means an unreasonable interference with a common right enjoyed by the general public involving conduct that significantly interferes, or that is known or should have been known to significantly interfere, with the public's health, safety, peace, comfort, or convenience, including conduct prescribed by law.

(i) "Taxing jurisdiction" means a jurisdiction, including, but not limited to, this state, an agency of this state, a state authority, an intergovernmental authority of this state, a school district, or a municipality, that levies taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 130]

(SB 135)

AN ACT to amend 1993 PA 92, entitled "An act to require certain disclosures in connection with transfers of residential property," by amending section 7 (MCL 565.957), as amended by 2000 PA 13.

The People of the State of Michigan enact:

565.957 Disclosure; form.

Sec. 7. (1) The disclosures required by this act shall be made on the following form:

SELLER'S DISCLOSURE STATEMENT

Property Address: _____
Street

_____Michigan
City, Village, or Township

Purpose of Statement: This statement is a disclosure of the condition of the property in compliance with the seller disclosure act. This statement is a disclosure of the condition and information concerning the property, known by the seller. Unless otherwise advised, the seller does not possess any expertise in construction, architecture, engineering, or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the seller or by any agent representing the seller in this transaction, and is not a substitute for any inspections or warranties the buyer may wish to obtain.

Seller's Disclosure: The seller discloses the following information with the knowledge that even though this is not a warranty, the seller specifically makes the following representations based on the seller's knowledge at the signing of this document. Upon receiving this statement from the seller, the seller's agent is required to provide a copy to the buyer or the agent of the buyer. The seller authorizes its agent(s) to provide a copy of this statement to any prospective buyer in connection with any actual or anticipated sale of property. The following are representations made solely by the seller and are not the representations of the seller's agent(s), if any. **This information is a disclosure only and is not intended to be a part of any contract between buyer and seller.**

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Attach additional pages with your signature if additional space is required. (4) Complete this form yourself. (5) If some items do not apply to your property, check NOT AVAILABLE. If you do not know the facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT.

Appliances/Systems/Services: The items below are in working order (the items below are included in the sale of the property only if the purchase agreement so provides):

	Yes	No	Unknown	Not Available
Range/Oven	_____	_____	_____	_____
Dishwasher	_____	_____	_____	_____
Refrigerator	_____	_____	_____	_____
Hood/fan	_____	_____	_____	_____
Disposal	_____	_____	_____	_____
TV antenna, TV rotor & controls	_____	_____	_____	_____
Electrical system	_____	_____	_____	_____

Garage door opener & remote control	_____	_____	_____	_____
Alarm system	_____	_____	_____	_____
Intercom	_____	_____	_____	_____
Central vacuum	_____	_____	_____	_____
Attic fan	_____	_____	_____	_____
Pool heater, wall liner & equipment	_____	_____	_____	_____
Microwave	_____	_____	_____	_____
Trash compactor	_____	_____	_____	_____
Ceiling fan	_____	_____	_____	_____
Sauna/hot tub	_____	_____	_____	_____
Washer	_____	_____	_____	_____
Dryer	_____	_____	_____	_____
Lawn sprinkler system	_____	_____	_____	_____
Water heater	_____	_____	_____	_____
Plumbing system	_____	_____	_____	_____
Water softener/conditioner	_____	_____	_____	_____
Well & pump	_____	_____	_____	_____
Septic tank & drain field	_____	_____	_____	_____
Sump pump	_____	_____	_____	_____
City Water System	_____	_____	_____	_____
City Sewer System	_____	_____	_____	_____
Central air conditioning	_____	_____	_____	_____
Central heating system	_____	_____	_____	_____
Wall furnace	_____	_____	_____	_____
Humidifier	_____	_____	_____	_____
Electronic air filter	_____	_____	_____	_____
Solar heating system	_____	_____	_____	_____
Fireplace & chimney	_____	_____	_____	_____
Wood burning system	_____	_____	_____	_____

Explanations (attach additional sheets if necessary): _____

_____

_____

_____

_____

UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

Property conditions, improvements & additional information:

1. **Basement/Crawlspace:** Has there been evidence of water? yes ___ no ___
   If yes, please explain: _____
2. **Insulation:** Describe, if known _____
   Urea Formaldehyde Foam Insulation (UFFI) is installed?
   unknown ___ yes ___ no ___

3. **Roof:** Leaks? yes ___ no ___
   Approximate age if known _____
4. **Well:** Type of well (depth/diameter, age, and repair history, if known):_____
   Has the water been tested? yes ___ no ___
   If yes, date of last report/results: _____
5. **Septic tanks/drain fields:** Condition, if known: _____
   _____
6. **Heating System:** Type/approximate age: _____
7. **Plumbing system:** Type: copper ____ galvanized ____ other ____
   Any known problems? _____
8. **Electrical system:** Any known problems? _____
   _____
9. **History of infestation, if any:** (termites, carpenter ants, etc.) _____
10. **Environmental Problems:** Are you aware of any substances, materials, or products that may be an environmental hazard such as, but not limited to, asbestos, radon gas, formaldehyde, lead-based paint, fuel or chemical storage tanks and contaminated soil on the property. unknown ___ yes ___ no ___
    If yes, please explain: _____
    _____
11. **Flood insurance:** Do you have flood insurance on the property?
    unknown ___ yes ___ no ___
12. **Mineral rights:** Do you own the mineral rights?
    unknown ___ yes ___ no ___

Other Items: Are you aware of any of the following:

1. Features of the property shared in common with the adjoining landowners, such as walls, fences, roads and driveways, or other features whose use or responsibility for maintenance may have an effect on the property?
   unknown ___ yes ___ no ___
2. Any encroachments, easements, zoning violations, or nonconforming uses?
   unknown ___ yes ___ no ___
3. Any "common areas" (facilities like pools, tennis courts, walkways, or other areas co-owned with others), or a homeowners' association that has any authority over the property? unknown ___ yes ___ no ___
4. Structural modifications, alterations, or repairs made without necessary permits or licensed contractors? unknown ___ yes ___ no ___
5. Settling, flooding, drainage, structural, or grading problems?
   unknown ___ yes ___ no ___
6. Major damage to the property from fire, wind, floods, or landslides?
   unknown ___ yes ___ no ___
7. Any underground storage tanks? unknown ___ yes ___ no ___
8. Farm or farm operation in the vicinity; or proximity to a landfill, airport, shooting range, etc.? unknown ___ yes ___ no ___
9. Any outstanding utility assessments or fees, including any natural gas main extension surcharge? unknown ___ yes ___ no ___

10. Any outstanding municipal assessments or fees?
unknown ___ yes ___ no ___

11. Any pending litigation that could affect the property or the seller's right to convey the property? unknown ___ yes ___ no ___

If the answer to any of these questions is yes, please explain. Attach additional sheets, if necessary: _____

_____

_____

_____

_____

The seller has lived in the residence on the property from _____ (date) to _____ (date). The seller has owned the property since _____ (date). The seller has indicated above the condition of all the items based on information known to the seller. If any changes occur in the structural/mechanical/appliance systems of this property from the date of this form to the date of closing, seller will immediately disclose the changes to buyer. In no event shall the parties hold the broker liable for any representations not directly made by the broker or broker's agent.

Seller certifies that the information in this statement is true and correct to the best of seller's knowledge as of the date of seller's signature.

BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY.

BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING THAT INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY OR SHERIFF'S DEPARTMENT DIRECTLY.

BUYER IS ADVISED THAT THE STATE EQUALIZED VALUE OF THE PROPERTY, PRINCIPAL RESIDENCE EXEMPTION INFORMATION, AND OTHER REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE APPROPRIATE LOCAL ASSESSOR'S OFFICE. BUYER SHOULD NOT ASSUME THAT BUYER'S FUTURE TAX BILLS ON THE PROPERTY WILL BE THE SAME AS THE SELLER'S PRESENT TAX BILLS. UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.

Seller _____ Date _____

Seller _____ Date _____

Buyer has read and acknowledges receipt of this statement.

Buyer _____ Date _____ Time: _____

Buyer _____ Date _____ Time: _____

(2) A form described in subsection (1) printed before March 8, 2000 that was in compliance with this section at that time may be utilized and shall be considered in compliance with this section until June 6, 2000.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 131]

(HB 4192)

AN ACT to amend 1973 PA 186, entitled "An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards," by amending sections 35, 37, 43, and 62a (MCL 205.735, 205.737, 205.743, and 205.762a), section 35 as amended by 2000 PA 165, section 37 as amended by 1996 PA 505, and section 43 as amended and section 62a as added by 1994 PA 254.

The People of the State of Michigan enact:

205.735 De novo proceedings; jurisdiction in assessment disputes; petition to invoke jurisdiction; service; appeal of contested tax bill; amendment of petition or answer; representation.

Sec. 35. (1) A proceeding before the tribunal is original and independent and is considered de novo. For an assessment dispute as to the valuation of property or if an exemption is claimed, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (2), except as otherwise provided in this section for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property or for an appeal of a denial of a principal residence exemption by the department of treasury, and in section 37(5) and (7). For a dispute regarding a determination of a claim for exemption of qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property, the claim for exemption must be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special

assessment dispute, the special assessment must be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(2) The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved. Except in the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is sent by certified mail on or before June 30 of that tax year. In the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is postmarked by first-class mail or delivered in person on or before June 30 of the tax year involved. All petitions required to be filed or served by a day during which the offices of the tribunal are not open for business shall be filed by the next business day. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 30 days after the final decision, ruling, determination, or order that the petitioner seeks to review, or within 35 days if the appeal is pursuant to section 22(1) of 1941 PA 122, MCL 205.22. Except in the residential property and small claims division, a written petition is considered filed if it is sent by certified mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. In the residential and small claims division, a written petition is considered filed if it is postmarked by first-class mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that governmental unit if the respondent is the local governmental unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

(3) The petition or answer may be amended at any time by leave of the tribunal and in compliance with its rules. If a tax was paid while the determination of the right to the tax is pending before the tribunal, the taxpayer may amend his or her petition to seek a refund of that tax.

(4) A person or legal entity may appear before the tribunal in his or her own behalf, or may be represented by an attorney or by any other person.

205.737 Determination of property's taxable value; equalization; burden of proof; joinder of claims; fee; interest; motion to amend petition to add subsequent years; jurisdiction of residential property and small claims division over certain petitions; notice of hearing; appeal without prior protest.

Sec. 37. (1) The tribunal shall determine a property's taxable value pursuant to section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(2) The tribunal shall determine a property's state equalized valuation by multiplying its finding of true cash value by a percentage equal to the ratio of the average level of assessment in relation to true cash values in the assessment district, and equalizing that product by application of the equalization factor that is uniformly applicable in the

assessment district for the year in question. The property's state equalized valuation shall not exceed 50% of the true cash value of the property on the assessment date.

(3) The petitioner has the burden of proof in establishing the true cash value of the property. The assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.

(4) If the taxpayer paid additional taxes as a result of the unlawful assessments on the same property after filing the petition, or if in subsequent years an unlawful assessment is made against the same property, the taxpayer, not later than the filing deadline prescribed in section 35(2), except as otherwise provided in subsections (5) and (7), may amend the petition to join all of the claims for a determination of the property's taxable value, state equalized valuation, or exempt status and for a refund of payments based on the unlawful assessments. The motion to amend the petition to add a subsequent year shall be accompanied by a motion fee equal to 50% of the filing fee to file a petition to commence an appeal for that property in that year. A sum determined by the tribunal to have been unlawfully paid or underpaid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to date of its payment. However, a sum determined by the tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the tribunal's decision. Interest required by this subsection shall accrue for periods before April 1, 1982 at a rate of 6% per year, shall accrue for periods after March 31, 1982 but before April 1, 1985 at a rate of 12% per year, and shall accrue for periods after March 31, 1985 but before April 1, 1994 at a rate of 9% per year. After March 31, 1994 but before January 1, 1996, interest shall accrue at an interest rate set monthly at a per annum rate based on the auction rate of the 91-day discount treasury bill rate for the first Monday in each month, plus 1%. After December 31, 1995, interest shall accrue at an interest rate set each year based on the average auction rate of 91-day discount treasury bills in the immediately preceding state fiscal year as certified by the department of treasury, plus 1%. The department of treasury shall certify the interest rate within 60 days after the end of the immediately preceding fiscal year. The tribunal shall order the refund of all or part of a property tax administration fee paid in connection with taxes that the tribunal determines were unlawfully paid.

(5) A motion to amend a petition to add subsequent years is not necessary in the following circumstances:

(a) For petitions filed after December 31, 1987, if the tribunal has jurisdiction over a petition alleging that the property is exempt from taxation, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.

(b) If the residential property and small claims division of the tribunal has jurisdiction over a petition, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. The residential property and small claims division shall automatically add to an appeal of a final determination of a claim for exemption of a principal residence or of qualified agricultural property each subsequent year in which a claim for exemption of that principal residence or that qualified agricultural property is denied. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.

(6) The notice of the hearing on a petition shall include a statement advising the petitioner of the right to amend his or her petition to include or exclude subsequent years as provided by subsections (4) and (5).

(7) If the final equalization multiplier for the tax year is greater than the tentative multiplier used in preparing the assessment notice and as a result of action of the state board of equalization or county board of commissioners a taxpayer's assessment as equalized is in excess of 50% of true cash value, that person may appeal directly to the tax tribunal without a prior protest before the local board of review. The appeal shall be filed under this subsection on or before the third Monday in August and shall be heard in the same manner as other appeals of the tribunal. An appeal pursuant to this subsection shall not result in an equalized value less than the assessed value multiplied by the tentative equalization multiplier used in preparing the assessment notice.

205.743 Payment of taxes as condition to final decision; taxes to which section applicable; appeal to which section applicable.

Sec. 43. (1) If the date set by law for the payment of taxes has passed, the tribunal shall not make a final decision on the entire proceeding until the taxes are paid. This requirement may be waived at the tribunal's discretion.

(2) This section only applies to taxes paid under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or 1953 PA 189, MCL 211.181 to 211.182.

(3) This section does not apply to an appeal to the residential property and small claims division of the tribunal under section 62a of a denial of a claim for exemption of a principal residence or of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

205.762a Appeal of final determination of claim for exemption of principal residence or qualified agricultural property; jurisdiction; filing.

Sec. 62a. (1) The residential property and small claims division created under section 61 has exclusive jurisdiction over an appeal of a final determination of a claim for exemption of a principal residence by the department of treasury or of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(2) An appeal of a final determination of a claim for exemption of a principal residence under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall be filed not later than 35 days after the department of treasury determines a claim for exemption. An appeal is considered filed if it is postmarked by first-class mail or delivered in person within 35 days after the department of treasury denies a claim for exemption.

(3) An appeal of a final determination of a claim for exemption of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall be filed not later than 30 days after the July or December board of review determines a claim for exemption. An appeal is considered filed if it is postmarked by first-class mail or delivered in person within 30 days after the July or December board of review denies a claim for exemption.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2004.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: Senate Bill No. 133, referred to in enacting section 2, was filed with the Secretary of State August 1, 2003, and became P.A. 2003, No. 140, Eff. Jan. 1, 2004.

[No. 132]

(HB 4218)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1303 (MCL 380.1303), as amended by 1995 PA 289.

The People of the State of Michigan enact:

380.1303 Pocket pager, electronic communication device, or other personal communication device; applicability of subsection (1).

Sec. 1303. (1) Until the end of the 2003-2004 school year, unless the board or board of directors adopts its own local policy to the contrary, the board of a school district or board of directors of a public school academy shall not permit any pupil to carry a pocket pager, electronic communication device, or other personal communication device in school except for health or other unusual reasons approved by the board or board of directors. A board or board of directors may develop penalties that it considers appropriate for a pupil who violates this prohibition or its own policy.

(2) Beginning with the 2004-2005 school year, subsection (1) does not apply and the board of a school district or board of directors of a public school academy may adopt and implement its own local policy concerning whether or not a pupil may carry a pocket pager, electronic communication device, or other personal communication device in school.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

[No. 133]

(HB 4704)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending section 85 (MCL 259.85), as amended by 2002 PA 258; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

259.85 Flight school.

Sec. 85. (1) A person shall not operate a flight school in this state unless the person holds an annual license issued by the commission.

(2) Upon receipt of an application and a $25.00 license fee from a flight school, the commission shall review the qualifications of the applicant.

(3) Unless surrendered, suspended, or revoked before this date, a flight school license expires 1 year from date of issuance or upon the sale or transfer by the owner of property, equipment, or franchise of the flight school.

(4) The annual flight school license renewal fee is $10.00 and is payable from the original date of issuance. An applicant shall file an initial application and pay the initial application fee if a license is not renewed before its expiration.

(5) A change in the name of the flight school, without change in ownership, does not void a current license if the owner of the flight school notifies the commission in writing within 15 days of the change. Upon receipt of notification under this subsection, the commission shall issue a license under the new name with the same expiration date as the license previously issued.

(6) A flight school operating facilities at more than 1 aeronautical facility shall obtain a license for each location.

(7) The flight school license shall be posted in the principal office of the flight school where it may be readily observed by the general public.

(8) A flight school shall at all times conduct itself in accordance with all applicable federal, state, and local laws and statutes.

(9) A flight school shall be operated from an airport properly licensed by the commission.

(10) A flight school operator shall obtain from the airport manager a written agreement to operate commercially from the airport at which the flight school is based.

(11) Each flight school student shall be advised in writing at the time of enrollment of the type and amount of insurance coverage provided for each aircraft used by the flight school.

(12) A flight school shall provide a suitable space of permanent nature that is properly heated, lighted, and ventilated to accommodate flight school students and to house adequate equipment necessary to properly conduct business matters and to prepare and preserve business records. The facilities described in this subsection shall be located at the licensed airport site.

(13) Each aircraft to be used for purposes of flight instruction at a flight school shall comply with all of the following:

(a) Possess a valid airworthiness certificate issued by the federal aviation administration.

(b) Be properly registered with the commission.

(c) Have the equipment and performance characteristics appropriate to the curriculum and to the airport to be used.

(14) All aircraft used in any flight school operation shall be operated in accordance with federal aviation administration maintenance regulations and standards. Adequate records shall be kept by the school to demonstrate performance of all required items of maintenance. The maintenance status of each aircraft, including discrepancies, shall be displayed by the school in a manner adequate to determine compliance.

(15) A flight school shall have a flight instructor available to dispatch and supervise each student pilot solo flight.

(16) A flight school shall have a written curriculum, including lesson plans, adequate to properly qualify the student to complete the particular course for the certificate or rating sought. A flight school shall also include lessons pertaining to Michigan laws relating to aviation and this act.

(17) A flight school shall make available to students current texts and reference material pertaining to the certificate or rating sought.

(18) A flight school shall provide adequate instruction to properly qualify a student completing its courses for the appropriate federal aviation administration examination covering the grade of certificate or rating sought.

(19) A flight school shall maintain training records adequate to show each student's progress and level of completion relative to the course of instruction in which the student is enrolled. These records shall be made available for inspection by any authorized representative of the commission.

(20) A copy of the airport and flight school regulations shall be made available to the students enrolled in the school for information and guidance.

(21) A flight school shall designate a practice area.

(22) A flight school or its representatives and instructors shall not make false claims of any kind pertaining to either flight training or employment following flight training. Only a licensed flight school may advertise flight instruction.

(23) A flight school accepting prepayment equal to or in excess of $1,000.00 shall file with the commission a corporate surety bond payable to the state of Michigan in the sum of $5,000.00 conditioned on the faithful performance of all contracts and agreements with students made by the flight school or its agent. The aggregate liability for the surety for all breaches of conditions of the bond shall not exceed the principal sum of $5,000.00. The surety of any bond may cancel the bond upon giving 60 days' notice in writing to the commission and the flight school. If a bond is canceled in compliance with this subsection, the surety is relieved of liability for any breach of conditions occurring after the effective date of cancellation.

(24) A flight school shall implement a security program, acceptable to the commission, designed to limit aircraft accessibility and ensure the security of those aircraft on the ground that are used by the flight school.

(25) The security program described in subsection (24) shall include 1 or more of the following:

(a) Procedures for positive identification of a student pilot or renter pilot as a precondition to allowing access to aircraft.

(b) Procedures for control of aircraft ignition keys that prevent operation of an aircraft by a student pilot that is not in the presence of or under the authorization of a flight instructor or other authorized individual.

(c) Instructional procedures that ensure close student pilot supervision.

(26) The security program described in subsection (24) shall include all of the following:

(a) A requirement that the student present a federal aviation administration student medical certificate and student pilot certificate as a predicate to enrollment in the flight school. For purposes of this subdivision, enrollment is considered a flight instructor endorsement to operate an aircraft at a time during which the student is the sole occupant of the aircraft.

(b) Instructional materials that identify and offer examples of types of suspicious activity at or in proximity to an airport and that advise students and renter pilots of the means to report such activity to local law enforcement officials and appropriate federal authorities.

(c) The prominent display of signs requesting pilots to report suspicious activity at or in proximity to an airport. The signs must provide telephone numbers of local law enforcement officials and appropriate federal authorities.

(27) The requirements for a flight school set out in this section are conditions of the license. Failure to comply with any of these requirements is grounds for revocation of a flight school's license.

(28) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $100.00 or more than $500.00, or both, together with costs of the prosecution.

Repeal of MCL 259.85a.

Enacting section 1. Section 85a of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.85a, is repealed.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

[No. 134]

(HB 4248)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 12f, 14h, 22, 33, and 48 of chapter XVII (MCL 777.12f, 777.14h, 777.22, 777.33, and 777.48), section 12f as added by 2002 PA 34, section 14h as added by 2002 PA 29, section 22 as amended by 2002 PA 143, and sections 33 and 48 as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.12f Chapter 257; felonies.

Sec. 12f. This chapter applies to the following felonies enumerated in sections 625 to 625o of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.625(4)(a)	Person	C	Operating a vehicle while intoxicated or impaired causing death	15
257.625(4)(b)	Person	B	Operating a vehicle while intoxicated or impaired causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle while intoxicated or impaired causing serious impairment	5

257.625(7)(a)(*ii*)	Person	E	Operating a vehicle while intoxicated or impaired with a minor in the vehicle — subsequent offense	5
257.625(9)(c)	Pub saf	E	Operating a vehicle while intoxicated or with the presence of a controlled substance — third or subsequent offense	5
257.625(10)(b)	Person	E	Allowing a vehicle to be operated while intoxicated or impaired causing death	5
257.625(10)(c)	Person	G	Allowing a vehicle to be operated while intoxicated or impaired causing serious impairment	2
257.625(11)(c)	Pub saf	E	Operating a vehicle while impaired — third or subsequent offense	5
257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving — third or subsequent offense	5

777.14h Applicability of chapter to certain felonies; MCL 445.487(2) to 445.2507(2).

Sec. 14h. This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter — subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations — subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer violations	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Franchise investment law — fraudulent filing/offers	7
445.1508	Pub trst	G	Franchise investment law — sale without proper disclosure	7
445.1513	Pub trst	G	Franchise investment law — illegal offers/sales	7

445.1520	Pub trst	G	Franchise investment law — keeping records	7
445.1521	Pub trst	G	Franchise investment law — false representation	7
445.1523	Pub trst	G	Franchise investment law — false statements of material fact	7
445.1525	Pub trst	G	Franchise investment law — false advertising	7
445.1528	Pub trst	D	Pyramid/chain promotions — offer or sell	7
445.1671	Pub trst	E	Mortgage brokers, lenders — knowingly giving a false statement	15
445.1679	Pub trst	H	Mortgage brokers act — general violations	3
445.2507(2)	Pub ord	F	Violation of unsolicited commercial e-mail protection act in furtherance of crime	4

777.22 Offense variables; scoring.

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

777.33 Physical injury to victim.

Sec. 33. (1) Offense variable 3 is physical injury to a victim. Score offense variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was killed ..... 100 points

(b) A victim was killed ..... 50 points

(c) Life threatening or permanent incapacitating injury occurred to a victim.. 25 points

(d) Bodily injury requiring medical treatment occurred to a victim ..... 10 points

(e) Bodily injury not requiring medical treatment occurred to a victim..... 5 points

(f) No physical injury occurred to a victim..... 0 points

(2) All of the following apply to scoring offense variable 3:

(a) In multiple offender cases, if 1 offender is assessed points for death or physical injury, all offenders shall be assessed the same number of points.

(b) Score 100 points if death results from the commission of a crime and homicide is not the sentencing offense.

(c) Score 50 points if death results from the commission of a crime and the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and any of the following apply:

(*i*) The offender was under the influence of or visibly impaired by the use of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(*ii*) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(*iii*) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(d) Do not score 5 points if bodily injury is an element of the sentencing offense.

(3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

777.48 Operator ability affected by alcohol or drugs; "any bodily alcoholic content" defined.

Sec. 48. (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine ..... 20 points

(b) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.15 grams or more but less than 0.20 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine ..... 15 points

(c) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while the offender was under the influence of alcoholic or intoxicating liquor, a controlled substance, or a combination of alcoholic or intoxicating liquor and a controlled substance; or while the offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214; or while the offender had an alcohol content of 0.08 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the offender had an alcohol content of 0.10 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 10 points

(d) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while he or she was visibly impaired by the use of alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance, or was less than 21 years of age and had any bodily alcohol content..... 5 points

(e) The offender's ability to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive was not affected by an alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance..... 0 points

(2) As used in this section, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within an individual's body resulting from the consumption of alcoholic or intoxicating liquor other than the consumption of alcoholic or intoxicating liquor as part of a generally recognized religious service or ceremony.

Effective date.

Enacting section 1. This amendatory act takes effect September 30, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 4247.

(b) House Bill No. 4519.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

Compiler's note: House Bill No. 4247, referred to in enacting section 2, was filed with the Secretary of State July 15, 2003, and became P.A. 2003, No. 61, Eff. Sept. 30, 2003.

House Bill No. 4519, also referred to in enacting section 2, was filed with the Secretary of State July 14, 2003, and became P.A. 2003, No. 42, Eff. Sept. 1, 2003.

[No. 135]

(HB 4146)

AN ACT to amend 2000 PA 321, entitled "An act to provide for the establishment of recreational authorities; to provide powers and duties of an authority; to authorize the assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials," by amending sections 3, 5, 11, 21, and 23 (MCL 123.1133, 123.1135, 123.1141, 123.1151, and 123.1153), section 21 as amended by 2002 PA 233.

The People of the State of Michigan enact:

123.1133 Definitions.

Sec. 3. As used in this act:

(a) "Articles" means the articles of incorporation of an authority.

(b) "Authority" means a recreational authority established under section 5.

(c) "Board" means the board of directors of the authority.

(d) "District" means a portion of a municipality having boundaries coterminous with those of a precinct used for general elections.

(e) "Electors of the authority" means the qualified and registered electors of the participating municipalities who reside within the territory of the authority.

(f) "Largest county" means, of those counties in which a participating municipality is located, the county having the greatest population.

(g) "Municipality" means a city, county, village, or township.

(h) "Park" means an area of land or water, or both, dedicated to 1 or more of the following uses:

(*i*) Recreational purposes, including, but not limited to, landscaped tracts; picnic grounds; playgrounds; athletic fields; camps; campgrounds; zoological and botanical gardens; living historical farms; boating, hunting, fishing, and birding areas; swimming areas; and foot, bicycle, and bridle paths.

(*ii*) Open or scenic space.

(*iii*) Environmental, conservation, nature, or wildlife areas.

(i) "Participating municipality" means a municipality or district that is named in articles of incorporation or proposed articles of incorporation as joining in the original establishment of an authority, or a municipality or district that joins an existing authority and is added to the articles of incorporation, and that has not withdrawn from the authority.

(j) "Public historic farm" means a parcel of public land and its buildings that are accessible to the public, and provides, but is not limited to, agricultural and historical programs, farming activities and animal husbandry, community recreation activities and events, programs held in common areas, meeting rooms, and community gardens, and access to surrounding parkland.

(k) "Swimming pool" includes equipment, structures, areas, and enclosures intended for the use of individuals using or operating a swimming pool, such as equipment, dressing, locker, shower, and toilet rooms.

(*l*) "Territory of the authority" means the combined territory of the participating municipalities that is served by an authority.

123.1135 Recreational authority; establishment; articles of incorporation; adoption; applicability of subsection (3); publication; filing copy with secretary of state; effect.

Sec. 5. (1) Two or more municipalities or districts may establish a recreational authority. A recreational authority is an authority under section 6 of article IX of the state constitution of 1963.

(2) To initiate the establishment of an authority, articles of incorporation shall be prepared. The articles of incorporation shall include all of the following:

(a) The name of the authority.

(b) The names of the participating municipalities.

(c) A description of the territory of the authority.

(d) The size of the board of the authority, which shall be comprised of an odd number of members; the qualifications, method of selection, and terms of office of board members; and the filling of vacancies in the office of board member. If board members are elected in at-large elections by the qualified and registered electors of the participating municipalities, voting collectively, the election of board members shall be conducted pursuant to the same procedures that govern an election for a tax under sections 13 to 17.

(e) The purposes for which the authority is established, which shall be the acquisition, construction, operation, maintenance, or improvement of 1 or more of the following:

(*i*) A public swimming pool.

(*ii*) A public recreation center.

(*iii*) A public auditorium.

(*iv*) A public conference center.

(*v*) A public park.

(*vi*) A public museum.

(*vii*) A public historic farm.

(f) The procedure and requirements for a municipality or district to become a participating municipality in, and for a participating municipality to withdraw from, an existing authority or to join in the original formation of an authority. For a municipality or district to become a participating municipality in an existing authority or to join in the original formation of an authority, a majority of the electors of the municipality or district proposed to be included in the territory of the authority and voting on the question shall approve a tax that the authority has been authorized to levy by a vote of the electors of the authority under section 11. A municipality or district shall not withdraw from an authority during the period for which the authority has been authorized to levy a tax by the electors of the authority.

(g) Any other matters considered advisable.

(3) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of each participating municipality. If a participating municipality is a district, the articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of the entire municipality. Unless the articles provide otherwise, the requirements of this subsection do not apply to an amendment to the articles to allow a municipality or district to become a participating municipality in, or to allow a participating municipality to withdraw from, an existing authority.

(4) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated within the participating municipalities. The adoption of articles or amendments

to the articles by a municipality or district shall be evidenced by an endorsement on the articles or amendments by the clerk of the municipality.

(5) Upon adoption of the articles or amendments to the articles by each of the participating municipalities, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the last participating municipality to adopt the articles or amendments.

(6) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

123.1141 Tax levy; ballot proposal; vote; authorization; number of elections.

Sec. 11. (1) An authority may levy a tax of not more than 1 mill for a period of not more than 20 years on all of the taxable property within the territory of the authority for the purposes of acquiring, constructing, operating, maintaining, and improving a public swimming pool, public recreation center, public auditorium or conference center, or public park. The authority may levy the tax only upon the approval of a majority of the electors in each of the participating municipalities of the authority voting on the tax on November 6, 2001 or, thereafter, at a statewide general or primary election. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall state the amount and duration of the millage and the purposes for which the millage may be used. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of each county in which all or part of the territory of the authority is located for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in each of the participating municipalities of the authority voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

123.1151 Borrowing money or issuing bonds or notes.

Sec. 21. (1) An authority may borrow money and issue bonds or notes to finance the acquisition, construction, and improvement of a public swimming pool, a public recreation center, a public auditorium, a public conference center, or a public park, including the acquisition of sites and the acquisition and installation of furnishings and equipment for these purposes.

(2) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 2 mills of the taxable value of the taxable property within the district as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(3) Bonds or notes issued by an authority are a debt of the authority and not of the participating municipalities.

(4) A tax levied to pay a bond or note obligation by a recreational authority under this act shall not exceed 5 years without the approval of a majority of the electors in each of the participating municipalities of the authority.

(5) All bonds or notes issued by a recreational authority under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

123.1153 Issuance of general obligation unlimited tax bonds; submission of proposal for vote; ballot language; conduct of election; authorization and levy of tax.

Sec. 23. (1) An authority may issue general obligation unlimited tax bonds upon approval of a majority of the electors in each of the participating municipalities of the authority voting on the question of issuing the bonds. The proposal to issue general obligation unlimited tax bonds shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) The language of the ballot proposal shall be in substantially the following form:

"Shall [name of authority], formed by [names of participating municipalities], borrow the sum of not to exceed _____ dollars ($_____) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of _____?

This is expected to result in an increase of _____ in the tax levied on property valued at _____ for a period of _____ years.

Yes [ ] No [ ]".

(3) The election shall be conducted in the manner provided in sections 11 to 17 for an election for a tax. Not more than 2 elections on the question of issuing general obligation unlimited tax bonds may be held in a calendar year.

(4) If an authority issues general obligation unlimited tax bonds under this section, the board, by resolution, shall authorize and levy the taxes necessary to pay the principal of and interest on the bonds.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

[No. 136]

(HB 4806)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending section 1 (MCL 125.1651), as amended by 1997 PA 202.

The People of the State of Michigan enact:

125.1651 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a downtown development authority created pursuant to this act.

(d) "Board" means the governing body of an authority.

(e) "Business district" means an area in the downtown of a municipality zoned and used principally for business.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the project area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (x), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development set forth in section 17.

(j) "Development program" means the implementation of the development plan.

(k) "Downtown district" means an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(n) "Fiscal year" means the fiscal year of the authority.

(o) "Governing body of a municipality" means the elected body of a municipality having legislative powers.

(p) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (x). In the case of a municipality having a population of less than 35,000 which established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or

amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(q) "Municipality" means a city, village, or township.

(r) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(s) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by the municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(t) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(u) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*), (*iii*), or (*iv*), an obligation that is not a qualified refunding obligation

that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area, or both, if all of the following requirements are met:

(A) The authority purchased the real property in 1993.

(B) Before June 30, 1995, the authority enters a contract for the development of the real property located within the development area.

(C) In 1993, the authority or municipality on behalf of the authority received approval for a grant from both of the following:

(I) The department of natural resources for site reclamation of the real property.

(II) The department of consumer and industry services for development of the real property.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) A loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

(*vii*) Funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Michigan department of transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

(*viii*) For taxes captured in 1994, an obligation described in this subparagraph issued or incurred to finance a project. An obligation is considered issued or incurred to finance a project described in this subparagraph only if all of the following are met:

(A) The obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved.

(B) The obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991.

(C) The obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994.

(D) The authority or municipality captured school taxes during 1994.

(v) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park,

parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(w) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (z)(*ii*) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (z)(*ii*) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(x) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(y) "State fiscal year" means the annual period commencing October 1 of each year.

(z) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage which the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

[No. 137]

(HB 4708)

AN ACT to amend 1909 PA 283, entitled "An act to revise, consolidate, and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance, and use of the public highways and private roads; the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies," by amending section 10 (MCL 224.10), as amended by 1989 PA 251.

The People of the State of Michigan enact:

224.10 Board of county road commissioners subject to MCL 15.321 to 15.330; employment and duties of county highway engineer; professional and consultant services; laborers; purchase of machines, tools, appliances, and materials; advertising for sealed proposals for purchase of vehicles; equal opportunity for minority business enterprises; plan; purchase of property for public purposes.

Sec. 10. (1) The clerk and the members of a board of county road commissioners are subject to 1968 PA 317, MCL 15.321 to 15.330.

(2) The board of county road commissioners shall employ a competent county highway engineer who shall make surveys ordered by the board, prepare plans and specifications for roads, bridges, and culverts, and exercise general supervision over construction to insure that the plans and specifications are strictly followed. Two or more adjoining counties may employ the same engineer, if the work in 1 or more of the counties is not enough to employ the whole time of the engineer. The engineer employed by the board shall be known as the county highway engineer.

(3) The board may also engage other professional and consultant services as it considers necessary to implement this act and promote efficiency and economy in the operation of the county road system. The board may also employ other necessary laborers and may purchase machines, tools, appliances, and materials which it considers necessary or convenient for the performance of work by the laborers. In cases involving the expenditure of an amount greater than $10,000.00 for the purchase of machines, tools, appliances, and materials, the board of county road commissioners shall advertise for sealed proposals for the machines, tools, appliances, and materials proposed to be purchased, except under emergency conditions, in which case the limit shall not exceed $20,000.00. All purchases made under this section shall be compiled separately for purposes of board approval. The board shall advertise for sealed proposals for the purchase of passenger vehicles and trucks weighing less than 5,000 pounds. The board may purchase surplus properties from the state and federal governments without advertising for sealed proposals.

(4) Each county road commission shall take all reasonable steps to ensure minority business enterprises have the equal opportunity to compete and perform contracts or purchases of services, or both, for the county road commission. The county road commission shall issue a plan for implementing this subsection.

(5) A county road commission may enter into a contract or agreement for the purchase of real or personal property for public purposes, to be paid for in installments over a period not to exceed 15 years or the useful life of the property acquired, whichever is less. Real or personal property purchased under this act may serve as collateral in support of the purchase, contract, or agreement. The outstanding balance of all purchases authorized under this act shall not exceed 1-1/4% of the value of the road commission's capital assets and infrastructure as determined by a capitalized asset inventory.

This act is ordered to take immediate effect.
Approved July 31, 2003.
Filed with Secretary of State August 1, 2003.

[No. 138]

(HB 4748)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 321, 880, 880a, 880b, 1027, 2529, 2538, 5756, 8371, and 8420 (MCL 600.321, 600.880, 600.880a, 600.880b, 600.1027, 600.2529, 600.2538, 600.5756, 600.8371, and 600.8420), section 321 as amended by 1997 PA 182, sections 880 and 880b as amended by 2000 PA 56, section 880a as added and sections 5756 and 8420 as amended by 1993 PA 189, section 1027 as added by 1996 PA 388, sections 2529 and 8371 as amended by 2002 PA 605, and section 2538 as amended by 1999 PA 151, and by adding sections 171 and 244.

The People of the State of Michigan enact:

600.171 Civil filing fee fund; creation; use; deposits; investment; distribution of proceeds.

Sec. 171. (1) The civil filing fee fund is created in the state treasury. The money in the fund shall be used as provided in this section.

(2) The state treasurer shall credit to the civil filing fee fund deposits of proceeds from the collection of revenue from court filing fees designated by law for deposit in the fund and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by this section. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) In the state fiscal year beginning October 1, 2003 and in subsequent state fiscal years, the state treasurer shall distribute the proceeds of the fund monthly as follows:

(a) To the state court fund created in section 151a, 48.5% of the fund balance.

(b) To the court equity fund created in section 151b, 8.2% of the fund balance.

(c) To the judicial technology improvement fund created in section 175, 11.1% of the fund balance.

(d) To the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564, 5.2% of the fund balance.

(e) To the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, 24% of the fund balance.

(f) To the secretary of the legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080, 1.5% of the fund balance.

(g) To the state general fund, 1.5% of the fund balance.

600.244 Filing fees to supreme court; waiver; costs.

Sec. 244. (1) The following fees shall be paid to the supreme court clerk and may be taxed as costs when costs are allowed by the supreme court:

(a) The sum of $375.00 for an application for leave to appeal.

(b) The sum of $375.00 for an original proceeding.

(c) The sum of $150.00 for a motion for immediate consideration or a motion to expedite appeal, except that a prosecuting attorney is exempt from paying a fee under this subdivision in an appeal arising out of a criminal proceeding, if the defendant is represented by a court-appointed lawyer.

(d) The sum of $75.00 for all other motions.

(e) Fifty cents per page for a certified copy of a paper, from a public record.

(f) The sum of $5.00 for certified docket entries.

(g) The sum of $1.00 for certification of a copy presented to the clerk.

(h) Fifty cents per page for a copy of an opinion; however, 1 copy must be given without charge to the attorney for each party in the case.

(2) A person who is unable to pay a filing fee may ask the supreme court to waive the fee by filing a motion and an affidavit disclosing the reason for that inability.

600.321 Fees to court of appeals; payment; waiver; deposit; costs.

Sec. 321. (1) The following fees shall be paid to the clerk of the court of appeals and may be taxed as costs where costs are allowed by order of the court:

(a) The sum of $375.00 for an appeal as of right, for an application for leave to appeal, or for an original proceeding. This fee shall be paid only once for appeals that are taken by multiple parties from the same lower court order or judgment and can be consolidated.

(b) Upon the entry of any motion except a motion described in subdivision (c) upon the motion docket, the sum of $100.00. Beginning October 1, 2005, the fee required under this subdivision is $75.00.

(c) Upon the entry of a motion for immediate consideration or a motion to expedite appeal upon the motion docket, the sum of $200.00. This fee shall be paid only once regardless of the number of lower court files involved in the appeal. A prosecuting attorney is exempt from paying a fee under this subdivision when filing a motion for immediate consideration or a motion to expedite appeal with regard to an appeal arising out of a criminal proceeding. Beginning October 1, 2005, the fee required under this subdivision is $150.00.

(2) The clerk of the court of appeals shall be allowed the sum of 50 cents per page for certified copies of any entries or papers in any action or proceedings when required for any other purpose than one connected with the progress or disposition of such action or proceeding.

(3) The clerk shall charge the sum of 50 cents per page for all uncertified copies of opinions, excepting those sent to 1 counsel representing each party in the case, for which no charge shall be made.

(4) If a person is unable to pay the fees required by this section, the person, by motion, accompanied by the person's affidavit stating facts showing such inability, may ask the court to waive the fees and the court or a judge of the court may waive payment of the fees.