syndrome. The report shall include, but not be limited to, statistics on the total number of index cases reported, the total number of index cases reported with information identifying the test subject or a partner of the test subject, and the total number of partners actually contacted under this section, and an assessment of the effectiveness of the program, and recommendations to improve the effectiveness of the program, if any. The statistics included in the report shall be broken down by local health department jurisdiction.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2005.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 515]

(SB 1267)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending sections 317 and 602 (MCL 484.1317 and 484.1602), section 602 as amended by 2003 PA 244, and by adding section 317a.

The People of the State of Michigan enact:

484.1317 Use of name, address, and telephone number information; limitation; violation as misdemeanor.

Sec. 317. Name, address, and telephone number information provided to a 9-1-1 system by a service supplier shall be used only for the purpose of identifying the telephone location or identity, or both, of a person calling the 9-1-1 emergency telephone number and shall not be used or disclosed by the 9-1-1 system agencies, their agents, or their employees for any other purpose, unless the information is used or disclosed as otherwise required under this act, to a member of a public safety agency if necessary to respond to events or situations that are dangerous or threaten individual or public safety, or pursuant to a court order. A person who violates this section is guilty of a misdemeanor.

484.1317a Emergency notification system.

Sec. 317a. (1) A 9-1-1 service district may implement an emergency notification system that will allow emergency service responders to contact service users within a specific geographic area regarding an imminent danger or emergency that may affect the user's health, safety, or welfare.

(2) A person that provides an emergency notification system allowed under this section is a service supplier under section 604.

(3) A service supplier shall upon request provide to each 9-1-1 service district within the provider's service area the telephone number and address data, including all listed, unlisted, and unpublished numbers and addresses, for each service user within the district.

(4) A service supplier may charge a reasonable rate to provide the data required under subsection (3).

(5) A 9-1-1 service district shall not request the data required under subsection (3) more than once per month.

(6) The data provided under subsection (3) shall be used only for the purposes provided under this section.

(7) This section does not apply to a wireless carrier. As used in this subsection, "wireless carrier" means a provider of 2-way cellular, broadband PCS, geographic area 800 MHz and 900 MHz commercial mobile radio service, wireless communications service, or other commercial mobile radio service as defined in 47 CFR 20.3, that offers radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, 2-way voice or data service that is interconnected with the public switched network, including a reseller of the service.

(8) A person who violates this section is guilty of a misdemeanor.

484.1602 Hearing dispute as contested case.

Sec. 602. Except for a dispute between a commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 516]

(SB 1383)

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 2003 PA 137.

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 $15,000.00 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 $50,000.00. 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.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 517]

(SB 1432)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 312.

The People of the State of Michigan enact:

PART 312 WATERSHED ALLIANCES

324.31201 Definitions.

Sec. 31201. As used in this part:

(a) "County agency" means an agency created or controlled by a county board of commissioners or a county executive, a board of county road commissioners, or an office of the county drain commissioner.

(b) "Member" means a municipality, county, county agency, public school district, public college or university, or other local or regional public agency that is a member of a watershed alliance as provided for in this part.

(c) "Watershed" means a geographic area in the state within which surface water drains into a common river, stream, or body of water.

(d) "Watershed alliance" means an organization established under section 31202.

(e) "Watershed management plan" means a written document prepared and approved by a watershed alliance that identifies water management issues and problems, proposes goals and objectives, and outlines actions to achieve the goals and objectives identified by members of a watershed alliance.

324.31202 Watershed alliance; establishment by municipalities; purpose; resolution; bylaws; voluntary membership.

Sec. 31202. (1) Two or more municipalities, by resolution of their respective governing bodies, may establish a watershed alliance for the purpose of studying problems and planning and implementing activities designed to address surface water quality or water flow issues of mutual concern within the portion of a watershed located within their boundaries, including 1 or more of the following:

(a) Preparation of watershed management plans and other required documents as part of state or federal requirements to obtain water discharge permits or grant funding.

(b) Monitoring, sampling, and analyses of data necessary to manage the watershed, including, but not limited to, surface water quality, water quantity and flows, ecosystem health, recreational use, and the publication of results.

(c) Conducting public surveys, preparing and distributing informational and educational materials, and organizing activities involving the public.

(d) Designing and implementing projects and conducting activities to protect or enhance water quality and related beneficial uses, or manage flows to protect or reduce damage to riparian property and aquatic habitat.

(e) Designing and implementing other actions consistent with watershed management plans adopted by a watershed alliance, or required to protect public health, and maintain and restore beneficial public uses of the surface water resources of the watershed.

(2) A resolution under subsection (1) establishing a watershed alliance shall include bylaws that identify, at a minimum, all of the following:

(a) The structure of the organization and decision-making process.

(b) The geographic boundaries of the watershed.

(c) The municipalities, counties, county agencies, public school districts, and other local or regional public agencies eligible for membership in the watershed alliance as provided under subsection (3).

(d) The basis for assessing costs to members.

(e) A mechanism to be used for adoption of an annual budget to support projects and activities.

(3) A watershed alliance shall provide an equitable basis for all municipalities, counties, and county agencies within the geographic boundaries of the watershed to voluntarily join as members. In addition, at its discretion, the watershed alliance may authorize the voluntary membership of any local public school district, public college or university, or any other local or regional public agency that has water management responsibilities. Following establishment of a watershed alliance under subsection (1), by resolution of its governing body, a municipality, county, county agency, public school district, public college or university, or other local or regional public agency established under state law with surface water management responsibility may voluntarily join a watershed alliance as provided for in this subsection.

324.31203 Watershed alliance as body corporate; powers and authority.

Sec. 31203. A watershed alliance is a body corporate with power to sue and be sued in any court of this state and with the authority to carry out its responsibilities under this part and as otherwise provided by law.

324.31204 Watershed alliance; powers and authority; report; assessment or collection of fees or taxes.

Sec. 31204. (1) A watershed alliance, consistent with the purposes identified in section 31202 and its bylaws, may do 1 or more of the following:

(a) Employ personnel to coordinate and implement actions.

(b) Enter into agreements or contracts with public or private entities to coordinate or implement actions.

(c) Assess and collect fees from members with approval of the governing bodies of the members.

(d) Solicit grants, gifts, and contributions from federal, state, regional, or local public agencies and from private sources.

(e) Expend funds provided by members, or through grants, gifts, and contributions.

(f) Represent members of the watershed alliance before other bodies considering issues affecting water quality or flow management issues within the designated watershed,

including obtaining local, state, or federal permits or authorizations that may be required to carry out activities as may be authorized by its members.

(2) A watershed alliance shall prepare and deliver to its members on or before April 1 of each year a report detailing the revenue received and expenditures by the watershed alliance during the immediately prior January 1 through December 31 period.

(3) A watershed alliance shall have no independent authority to assess or collect any fees or taxes directly from individuals or property owners. A watershed alliance member may allocate the use of public funds from fees, taxes, or assessments generated under the provisions of other state laws for use by a watershed alliance.

324.31205 Audit.

Sec. 31205. (1) A watershed alliance shall obtain an audit of its financial records, accounts, and procedures at least every other year.

(2) A watershed alliance shall submit the results of an audit under subsection (1) to the governing bodies of its members and to the state treasurer.

(3) An audit under subsection (1) shall satisfy all audit requirements set under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

324.31206 Additional authority prohibited.

Sec. 31206. This part does not provide a watershed alliance or any of its members with any additional authority not otherwise provided by law.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 518]

(SB 1193)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 11 and 51a (MCL 388.1611 and 388.1651a), as amended by 2004 PA 351.

The People of the State of Michigan enact:

388.1611 Appropriations.

Sec. 11. (1) In addition to all other appropriations under this act for that fiscal year, for the fiscal year ending September 30, 2004, there is appropriated to the state school aid fund from the unreserved balance in the general fund an amount equal to any deficit balance that would otherwise exist in the state school aid fund at bookclosing for the fiscal

year ending September 30, 2004. For the fiscal year ending September 30, 2005, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $10,909,200,000.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $264,700,000.00 from the general fund. In addition, available federal funds are appropriated for each of those fiscal years.

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

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 11j, 22a, 26a, 31d, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or $5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). Subject to subsection (5), if proration is necessary after 2002-2003, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, or if the department of treasury determines that further proration is required under this subsection after an initial proration has already been made for a fiscal year, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) Subject to subsection (5), if proration is necessary, the department shall calculate the proration in district and intermediate district payments that is required under subsection (3) as follows:

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

(*i*) Districts.

(*ii*) Intermediate districts.

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

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

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

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

(5) Beginning in 2004-2005, if a district has an emergency financial manager in place under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, payments to that district are not subject to proration under this section.

(6) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the state school aid fund. If it is determined at the May 2005 revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, that there is additional school aid fund revenue beyond that determined at the May 2004 revenue estimating conference, then it is the intent of the legislature to enact legislation to fund, to the extent that revenues are available, the same programs in the same amount that were funded under section 81 in 2003 PA 236 and the same pupil membership formula as in effect under 2003 PA 236.

388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2004-2005 an amount not to exceed $905,683,000.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, 20 USC 1411 to 1419, estimated at $329,850,000.00 plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not

reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2002-2003 may be distributed in accordance with the flexible funding provisions of the individuals with disabilities education act, title VI of Public Law 91-230, including, but not limited to, 34 CFR 300.234 and 300.235. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $168,900,000.00 for 2003-2004, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, and that district's per pupil allocation under section 20j(2).

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $2,400,000.00, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations shall be made in a manner determined by the department and shall include adjustments for program shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed $3,500,000.00 may be allocated by the department for 2004-2005 to districts or intermediate districts on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed $2,200,000.00 for 2004-2005 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program. Total approved costs of special education do not include the costs of a joint shared-employment arrangement between an intermediate district and 1 or more of its constituent districts that took effect in the 2004-2005 or a subsequent school year. The costs associated with the joint shared-employment arrangement shall instead be allocated entirely to the constituent district or districts. In addition, if an intermediate district entered into such a joint shared-employment arrangement that took effect in the 2004-2005 or a subsequent school year and

subsequently becomes the sole employer of an employee who had been subject to the joint shared-employment arrangement, total approved costs of special education do not include the costs of employing that employee unless the department determines that employing the employee has resulted in a significant cost savings or an increase in efficiency that is sufficient to justify the arrangement.

(b) Reimbursement for ancillary and other related services, as defined by R 340.1701c of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated for 2004-2005 an amount not to exceed $15,313,900.00 to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $6,100,000.00, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, and that district's per pupil allocation under section 20j(2). This subsection applies to all of the following pupils:

(a) Pupils described in section 53a.

(b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.

(c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

(a) 100% of the reimbursement required under section 53a.

(b) 100% of the reimbursement required under subsection (6).

(c) 100% of the payment required under section 54.

(d) 100% of the payment required under subsection (3).

(e) 100% of the payment required under subsection (8).

(f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 519]

(SB 1175)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16s of chapter XVII (MCL 777.16s), as amended by 2003 PA 183.

The People of the State of Michigan enact:

CHAPTER XVII

777.16s MCL 750.377a to 750.406; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.377a(1)(a)	Property	D	Malicious destruction of personal property involving $20,000 or more or with prior convictions	10
750.377a(1)(b)	Property	E	Malicious destruction of personal property involving $1,000 to $20,000 or with prior convictions	5
750.377b	Property	F	Malicious destruction of fire/police property	4
750.377c	Property	E	School bus — intentional damage	5
750.378	Property	F	Malicious destruction of property — dams/canals/mills	4
750.379	Property	F	Malicious destruction of property — bridges/railroads/locks	4
750.380(2)	Property	D	Malicious destruction of building involving $20,000 or more or with prior convictions	10
750.380(3)	Property	E	Malicious destruction of a building involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(c)	Property	E	Malicious destruction of plants or turf involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(d)	Property	D	Malicious destruction of plants or turf involving $20,000 or more or with prior convictions	10
750.383a	Property	F	Malicious destruction of utility equipment	4
750.385(2)(c)	Property	E	Damaging or destroying research property with a value between $1,000 and $20,000 or with prior convictions	5
750.385(2)(d)	Property	E	Damaging or destroying research property with a value of $20,000 or more or 2 or more prior convictions	5
750.385(2)(e)	Person	E	Damaging or destroying research property resulting in physical injury	5
750.385(2)(f)	Person	D	Damaging or destroying research property resulting in serious impairment of body function	10

750.385(2)(g)	Person	C	Damaging or destroying research property resulting in death	15
750.386	Property	E	Malicious destruction of mine property	20
750.387(5)	Property	E	Malicious destruction of a tomb or memorial involving $1,000 to $20,000 or with prior convictions	5
750.387(6)	Property	D	Malicious destruction of a tomb or memorial involving $20,000 or more or with prior convictions	10
750.392	Property	E	Malicious destruction of property — vessels	10
750.394(2)(c)	Person	F	Throwing or dropping dangerous object at vehicle causing injury	4
750.394(2)(d)	Person	D	Throwing or dropping dangerous object at vehicle causing serious impairment	10
750.394(2)(e)	Person	C	Throwing or dropping dangerous object at vehicle causing death	15
750.397	Person	D	Mayhem	10
750.397a	Person	D	Placing harmful objects in food	10
750.405	Pub saf	E	Inciting soldiers to desert	5
750.406	Pub saf	E	Military stores — larceny, embezzlement or destruction	5

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1176 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1176, referred to in enacting section 2, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 520, Eff. Apr. 1, 2005.

[No. 520]

(SB 1176)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 395.

The People of the State of Michigan enact:

750.395 Damage or destruction of research property; violation as crime; violation of other law; total value; enhanced sentence; prior convictions; restitution; definitions.

Sec. 395. (1) A person shall not do either of the following:

(a) Damage or destroy the research property of another person with the intent to do either of the following:

(*i*) To frighten, intimidate, or harass any person because of the person's participation or involvement in, or cooperation with, research.

(*ii*) To prevent any person from engaging in any lawful profession, occupation, or activity because of the person's participation or involvement in, or cooperation with, research.

(*iii*) To prevent, delay, hinder, or otherwise harm the research or use of the research.

(b) Place any object in any research property to prevent the lawful growing, harvesting, transportation, keeping, selling, or processing of that research property.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the value of the research property is less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the research property is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit a violation of this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(*i*) The value of the research property is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $15,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine:

(*i*) The property has a value of $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit a violation of this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(e) If the violation results in physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for

not more than 5 years or a fine of not more than $20,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine.

(f) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $25,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater, or both imprisonment and a fine. As used in this subdivision, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

(*i*) The loss of a limb or use of a limb.

(*ii*) The loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

(*iii*) The loss of an eye or ear or use of an eye or ear.

(*iv*) The loss or substantial impairment of a bodily function.

(*v*) A serious visible disfigurement.

(*vi*) A comatose state that lasts for more than 3 days.

(*vii*) Any measurable brain damage or mental impairment.

(*viii*) A skull fracture or other serious bone fracture.

(*ix*) A subdural hemorrhage or subdural hematoma.

(g) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for not more than 15 years and may be fined not more than $40,000.00 or 3 times the value of the research property damaged or destroyed, whichever is greater.

(3) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law arising out of the same criminal transaction as the violation of this section, in lieu of being charged with, convicted of, or punished for the violation of this section.

(4) The value of research property damaged or destroyed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of research property damaged or destroyed.

(5) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(6) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(7) The court shall order a person convicted of violating this section to pay restitution to the victim. The court may also order the person to pay 1 or more of the following:

(a) All research and development costs for the research property damaged or destroyed that arise out of the violation.

(b) The tuition costs and lost wages of a student conducting research regarding the research property damaged or destroyed or who is unable to conduct or continue research because of a loss that arises out of the violation.

(8) As used in this section:

(a) "Intellectual property" means that term as defined in section 2 of the confidential research information act, 1994 PA 55, MCL 390.1552.

(b) "Person" means an individual, partnership, corporation, limited liability company, association, educational institution, or other legal or business entity.

(c) "Research" means any lawful activity involving the use of animals, animal products, or other animal substances, intended for or used for scientific purposes, including, but not limited to, research, testing, and experimentation.

(d) "Research property" means all real, personal, and intellectual property related to research belonging to or conducted by a person.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2005.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 521]

(SB 1201)

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 3 (MCL 125.1653), as amended by 1993 PA 323.

The People of the State of Michigan enact:

125.1653 Resolution of intent to create and provide for operation of authority; public hearing on proposed ordinance creating authority and designating boundaries of downtown district; notice; exemption of taxes from capture; adoption, filing, and publication of ordinance; altering or amending boundaries; agreement with adjoining municipality.

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase

property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, or to permit the development of a new commercial property with a total cash value after development of not less than $100,000,000.00, which includes more than 2 detached buildings containing together not less than 500,000 square feet, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed district and for a public hearing to be held after February 15, 1994 to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

(6) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 522]

(SB 1266)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 30903 and 30927 (MCL 324.30903 and 324.30927), as added by 1995 PA 59, and by adding section 30929.

The People of the State of Michigan enact:

324.30903 Lake board; composition; election of chairperson, treasurer, and secretary; quorum; concurrence of majority required; technical data; recommendations.

Sec. 30903. (1) The lake board shall consist of all of the following:

(a) A member of the county board of commissioners appointed by the chairperson of the county board of commissioners of each county affected by the lake improvement project; 1 representative of each local unit of government, other than a county, affected by the project, or, if there is only 1 such local unit of government, 2 representatives of that local unit of government, appointed by the legislative body of the local unit of government; and the county drain commissioner or his or her designee, or a member of the county road commission in counties not having a drain commissioner.

(b) A member elected by the members of the lake board serving pursuant to subdivision (a) at the first meeting of the board or at any time a vacancy exists under this subdivision. Only a person who has an interest in a land contract or a record interest in the title to a piece or parcel of land that abuts the lake to be improved is eligible to be elected and to serve under this subdivision. An organization composed of and representing the majority of lakefront property owners on the affected lake may submit up to 3 names to the board, from which the board shall make its selection. The terms served by this member shall be 4 years in length.

(2) The lake board shall elect a chairperson, treasurer, and secretary. The secretary shall attend meetings of the lake board and shall keep a record of the proceedings and perform other duties delegated by the lake board. A majority of the members of the lake board constitutes a quorum. The concurrence of a majority in any matter within the duties of the board is required for the determination of a matter.

(3) The department, upon request of the lake board, shall provide whatever technical data it has available and make recommendations in the interests of conservation.

324.30927 Costs of projects; computation; expenditures; representation by attorney.

Sec. 30927. (1) Within 10 days after the letting of contracts or, in case of an appeal, immediately after the appeal has been decided, the lake board shall make a computation

of the entire cost of a project under this part that includes all preliminary costs and engineering and inspection costs incurred and all of the following:

(a) The fees and expenses of special commissioners.

(b) The contracts for dredging or other work to be done on the project.

(c) The estimated cost of an appeal if the apportionment made by the lake board is not sustained.

(d) The estimated cost of inspection.

(e) The cost of publishing all notices required.

(f) All costs of the circuit court.

(g) Any legal expenses incurred in connection with the project, including litigation expenses, the costs of any judgments or orders entered against the lake board or special assessment district, and attorney fees.

(h) Fees for any permits required in connection with the project.

(i) Interest on bonds for the first year, if bonds are to be issued.

(j) Any other costs necessary for the administration of lake board proceedings, including, but not limited to, compensation of the members of the lake board, record compilation and retention, and state, county, or local government professional staff services.

(2) In addition to the amounts computed under subsection (1), the lake board may add not less than 10% or more than 15% of the gross sum to cover contingent expenses, including additional necessary hydrological studies by the department. The sum of the amounts computed under subsection (1) plus the amount added under this subsection is considered to be the cost of the lake improvement project.

(3) A lake board shall not expend money for improvements, services, or other purposes unless the lake board has adopted an annual budget.

(4) A lake board may retain an attorney to advise the lake board in the proper performance of its duties. The attorney shall represent the lake board in actions brought by or against the lake board.

324.30929 Lake board for public inland lake; dissolution.

Sec. 30929. A lake board for a public inland lake is dissolved if all of the following requirements are met:

(a) The governing body of each local unit of government in which all or part of the lake is located holds a public hearing on the proposed dissolution, determines that the lake board is no longer necessary for the improvement of the lake because the reasons for the establishment of the lake board no longer exist, and approves the dissolution of the lake board. The governing body of each local unit of government in which all or part of the lake is located may hold the public hearing on the dissolution of the lake board on its own initiative. The governing body of each local unit of government in which all or part of the lake is located shall hold a public hearing on the dissolution of the lake board upon petition of 2/3 of the freeholders owning land abutting the lake. Notice of the public hearing shall be published twice in a newspaper of general circulation in each local unit of government in which all or part of the lake is located. The first notice shall be published not less than 10 days before the date of the hearing.

(b) All outstanding indebtedness and expenses of the lake board are paid in full.

(c) Any excess funds of the lake board are refunded based on the last approved special assessment roll. However, if the amount of excess funds is de minimis, the excess funds

shall be distributed to the local units of government in which all or part of the lake is located, apportioned based on the amounts assessed against each local unit of government and lands in that local unit on the last approved special assessment roll.

(d) The lake board determines that it is no longer necessary for the improvement of the lake, because the reasons for its establishment no longer exist, and adopts an order approving its dissolution.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 523]

(SB 1287)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 211a (MCL 750.211a), as amended by 2003 PA 257.

The People of the State of Michigan enact:

750.211a Device designed to explode upon impact, upon application of heat, or device highly incendiary; possession with intent to use unlawfully; violation; penalties; "Molotov cocktail" defined.

Sec. 211a. (1) A person shall not do either of the following:

(a) Except as provided in subdivision (b), manufacture, buy, sell, furnish, or possess a Molotov cocktail or any similar device.

(b) Manufacture, buy, sell, furnish, or possess any device that is designed to explode or that will explode upon impact or with the application of heat or a flame or that is highly incendiary, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a violation of subsection (1)(a), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) For a violation of subsection (1)(b) and except as provided in subdivisions (c) to (f), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(c) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(d) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(e) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both.

(f) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(3) As used in this section, "Molotov cocktail" means an improvised incendiary device that is constructed from a bottle or other container filled with a flammable or combustible material or substance and that has a wick, fuse, or other device designed or intended to ignite the contents of the device when it is thrown or placed near a target.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2005.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 524]

(SB 1288)

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

contravening any of the provisions of this act," by amending section 16k of chapter XVII (MCL 777.16k), as amended by 2001 PA 136.

The People of the State of Michigan enact:

CHAPTER XVII

777.16k MCL 750.200 to 750.212a; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.200	Pub saf	E	Transporting an explosive by common carrier	5
750.200i(2)(a)	Pub saf	C	Manufacturing or using a harmful device	15
750.200i(2)(b)	Property	B	Harmful device causing property damage	20
750.200i(2)(c)	Person	A	Harmful device causing personal injury	25
750.200i(2)(d)	Person	A	Harmful device causing serious impairment	Life
750.200j(2)(a)	Person	E	Irritant or irritant device	5
750.200j(2)(b)	Property	E	Irritant or irritant device causing property damage	7
750.200j(2)(c)	Person	D	Irritant or irritant device causing personal injury	10
750.200j(2)(d)	Person	A	Irritant or irritant device causing serious impairment	25
750.200j(2)(e)	Person	A	Irritant or irritant device causing death	Life
750.200*l*	Person	E	Falsely exposing person to harmful substance or device	5
750.201	Pub saf	E	Transporting certain types of explosives	5
750.202	Pub saf	F	Shipping an explosive with false markings or invoice	4
750.204(2)(a)	Pub saf	C	Sending an explosive with malicious intent	15
750.204(2)(b)	Property	B	Sending an explosive causing property damage	20
750.204(2)(c)	Person	A	Sending an explosive causing physical injury	25
750.204(2)(d)	Person	A	Sending an explosive causing serious impairment	Life
750.204a	Pub saf	E	Sending or transporting an imitation explosive device with malicious intent	5
750.207(2)(a)	Pub saf	C	Placing an explosive with malicious intent	15

750.207(2)(b)	Property	B	Placing an explosive causing property damage	20
750.207(2)(c)	Person	A	Placing an explosive causing physical injury	25
750.207(2)(d)	Person	A	Placing an explosive causing serious impairment	Life
750.209(1)(a)	Pub saf	C	Placing an offensive or injurious substance with intent to injure	15
750.209(1)(b)	Property	B	Placing an offensive or injurious substance causing property damage	20
750.209(1)(c)	Person	A	Placing an offensive or injurious substance causing physical injury	25
750.209(1)(d)	Person	A	Placing an offensive or injurious substance causing serious impairment	Life
750.209(2)	Pub saf	E	Placing an offensive or injurious substance with intent to alarm or annoy	5
750.209a	Pub saf	D	Possessing an explosive device in public place	10
750.210(2)(a)	Pub saf	C	Possessing or carrying an explosive or combustible substance with malicious intent	15
750.210(2)(b)	Property	B	Possessing or carrying an explosive or combustible substance causing property damage	20
750.210(2)(c)	Person	A	Possessing or carrying an explosive or combustible substance causing physical injury	25
750.210(2)(d)	Person	A	Possessing or carrying an explosive or combustible substance causing serious impairment	Life
750.210a	Pub saf	H	Sale of valerium	5
750.211a(2)(a)	Pub saf	F	Manufacturing or possessing a Molotov cocktail or similar device designed to explode upon impact or by heat or flame or that is highly incendiary	4
750.211a(2)(b)	Pub saf	C	Manufacturing or possessing an explosive or incendiary device with malicious intent	15
750.211a(2)(c)	Property	B	Manufacturing or possessing an explosive or incendiary device causing property damage	20
750.211a(2)(d)	Person	A	Manufacturing or possessing an explosive or incendiary device causing physical injury	25

750.211a(2)(e)	Person	A	Manufacturing or possessing an explosive or incendiary device causing serious impairment	Life
750.212a	Person	B	Explosives violation involving a vulnerable target causing death or injury	20

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1287 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1287, referred to in enacting section 2, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 523, Eff. Apr. 1, 2005.

[No. 525]

(SB 1416)

AN ACT to amend 1967 PA 288, entitled "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts," by amending sections 111, 112, 113, 114, 115, 116, 117, 118, 120, 131, 142, 147, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171 (MCL 560.111, 560.112, 560.113, 560.114, 560.115, 560.116, 560.117, 560.118, 560.120, 560.131, 560.142, 560.147, 560.161, 560.162, 560.163, 560.164, 560.165, 560.166, 560.167, 560.168, 560.169, and 560.171), sections 117 and 169 as amended by 1998 PA 549, and by adding sections 112a and 167a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

560.111 Preliminary plat; specifications; requirements; preapplication review meeting.

Sec. 111. (1) Before making or submitting a final plat for approval, the proprietor shall make a preliminary plat and submit copies to authorities as provided in this section and

sections 112 to 119. A preliminary plat shall show the name, location, and position of the subdivision and the subdivision plan and layout in sufficient detail on a topographic map to enable a determination of whether the subdivision meets requirements for lots, streets, roads, and highways including drainage and floodplains.

(2) The preliminary plat shall be drawn to a scale of not more than 200 feet to 1 inch and may be an original drawing or reproduction, on unbacked paper. It shall contain proper identification of the parcel of land to be divided, the name of the plat and proposed division of the land, the name and address of the proprietor and the name, address and seal of the surveyor who prepared it, all legibly printed or typewritten. Additional preliminary land development plans may be made by other qualified persons to assist approving authorities to visualize the type and scope of the development planned.

(3) The proprietor may request that a preapplication review meeting take place by submitting a written request to the chairperson of the county plat board and submitting copies of a concept plan for the preliminary plat to the municipality and to each officer or agency entitled to review the preliminary plat under sections 113 to 118. A preapplication review meeting shall take place not later than 30 days after the written request and concept plan are received. The meeting shall be attended by the proprietor, representatives of each officer or agency entitled to review the preliminary plat under sections 113, 114, and 118, and a representative of the municipality. Representatives of each agency entitled to review the preliminary plat under sections 115 to 117 shall be informed of the meeting and may attend. The purpose of the meeting is to conduct an informal review of the proprietor's concept plan for the preliminary plat.

560.112 Preliminary plat; tentative approval; time period; extension.

Sec. 112. (1) The proprietor shall submit 4 but not more than 10 copies of the preliminary plat and other data to the clerk of the municipality.

(2) The governing body shall tentatively approve and note its approval on the copy of the preliminary plat, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the preliminary plat, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval, within the following time period, as applicable:

(a) Within 60 days after it was submitted to the clerk, if a preapplication review meeting was conducted under section 111(3).

(b) Within 90 days after it was submitted to the clerk, if a preapplication review meeting was not conducted under section 111(3).

(3) The governing body may require the submission of other related data as it deems necessary, if the requirement for such data has previously been adopted and published.

(4) Tentative approval under this section confers upon the proprietor for a period of 1 year from date, approval of lot sizes, lot orientation, and street layout, and application of the then-current subdivision regulations. The tentative approval may be extended if applied for by the proprietor and granted by the governing body in writing.

560.112a Preliminary plat; submission of copies to officer or agency; review and action; time period.

Sec. 112a. After the tentative approval by the governing body under section 112, the proprietor shall submit copies of a preliminary plat to each officer or agency entitled to receive those copies under sections 113 to 118 for their simultaneous review and action within the 30-day time period prescribed in sections 113 to 118.

560.113 Preliminary plat; county road commissioner's approval or rejection.

Sec. 113. (1) The proprietor shall submit 3 copies of the preliminary plat to the engineer or chairman of the county road commission if the proposed subdivision includes or abuts roads under the commission's jurisdiction.

(2) The county road commission may also require to be submitted with the preliminary plat a topographic map showing direction of drainage and proposed widths of roads under its jurisdiction or to come under its jurisdiction and private roads in unincorporated areas.

(3) The county road commission, within 30 days after receipt of the preliminary plat, shall approve it, approve it subject to conditions, or reject it. If the preliminary plat is approved, the county road commission shall note its approval on the copy to be returned to the proprietor. If the preliminary plat is approved subject to conditions or rejected, the reasons for rejection and requirements for approval shall be given in writing to the proprietor and each of the other officers and agencies to which the proprietor was required to submit the preliminary plat under sections 114 to 115 and 117 to 119.

560.114 Preliminary plat; county drain commissioner's approval or rejection.

Sec. 114. (1) The proprietor shall submit 3 copies of the preliminary plat to the county drain commissioner, if there is a county drain commissioner.

(2) The county drain commissioner or, if there is no drain commissioner, the governing body may require a topographic map showing direction of storm water drainage both within the lands proposed to be subdivided and from the land as subdivided.

(3) The county drain commissioner or governing body, within 30 days after receipt of the preliminary plat, shall approve it, approve it subject to conditions, or reject it. If the preliminary plat is approved, the drain commissioner or governing body shall note its approval on the copy to be returned to the proprietor. If the preliminary plat is approved subject to conditions or rejected, the reasons for rejection and requirements for approval shall be given in writing to the proprietor and each of the other officers and agencies to which the proprietor was required to submit the preliminary plat under sections 113 to 115 and 117 to 119.

560.115 Preliminary plat; state transportation department's approval or rejection.

Sec. 115. (1) The proprietor shall submit 3 copies of the preliminary plat to the state transportation department, if any of the proposed subdivision includes or abuts a state trunk line highway or includes streets or roads that connect with or lie within the right-of-way of state trunk line highways.

(2) The state transportation department, within 30 days after receipt of the preliminary plat, shall approve it, approve it subject to conditions, or reject it. If the preliminary plat is approved, the department shall note its approval on the copy to be returned to the proprietor. If the preliminary plat is approved subject to conditions or rejected, the reasons for rejection and requirements for approval shall be given in writing to the proprietor and each of the other officers and agencies to which the proprietor was required to submit the preliminary plat under sections 113 to 115 and 117 to 119.

560.116 Preliminary plat; department of environmental quality's approval or rejection.

Sec. 116. (1) The proprietor shall submit 2 copies of the preliminary plat to the department of environmental quality for information purposes, if the land proposed to be

subdivided abuts a lake or stream or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.

(2) The department, within 30 days after receipt of the preliminary plat, shall place the proprietor, the governing body of the municipality, and the county plat board on notice in writing if it has any objections or may furnish such information to each as may be helpful or necessary in its opinion to adequately plan the development and secure approval of the final plat.

(3) Copies of the letters required under subsection (2) shall be sent to the department of labor and economic growth.

560.117 Preliminary plat; approval or rejection; fees; disposition of fees.

Sec. 117. (1) The proprietor shall submit 2 copies of the preliminary plat to the department of environmental quality, if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek, or lake. The department of environmental quality, within 30 days after receipt of the preliminary plat, shall approve it, approve it subject to conditions, or reject it. If the preliminary plat is approved, the department of environmental quality shall note its approval on the copy to be returned to the proprietor. If the department of environmental quality approves the preliminary plat subject to conditions or rejects the preliminary plat, the department shall give the reasons for rejection and requirements for approval in writing to the proprietor and to each of the other officers and agencies to which the proprietor was required to submit the preliminary plat under sections 113 to 115 and 117 to 119. The determination of a floodplain area shall be based on rules specified in section 105(f).

(2) The preliminary plat submittal to the department of environmental quality under subsection (1) shall be accompanied by a fee of $500.00 to cover the administrative cost of the department's preliminary plat review. If the department of environmental quality determines that engineering computations are required to establish the limits of the floodplain on a preliminary plat, the department shall assess an additional fee of $1,500.00 to cover the department's cost of establishing those limits.

(3) The department of environmental quality shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 30113 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30113.

560.118 Preliminary plat; health department's approval or rejection.

Sec. 118. (1) The proprietor shall submit 3 copies of the preliminary plat to the health department having jurisdiction, if public water and public sewers are not available and accessible to the land proposed to be subdivided.

(2) The health department, within 30 days after receipt of the preliminary plat, shall approve it, approve it subject to conditions, or reject all or any portion of the proposed subdivision that is not suitable. If the preliminary plat is approved, the health department shall note its approval on the copy to be returned to the proprietor. If all or any portion of the preliminary plat is approved subject to conditions or is rejected, the health department shall give its reasons for rejection and requirements for approval in writing to the proprietor, the governing body, and each of the other officers and agencies to which the proprietor was required to submit the preliminary plat under sections 113 to 115 and 117 to 119.

560.120 Final approval; proprietor's rights and duties; procedure; time period; extension.

Sec. 120. (1) After the preliminary plat is approved or is approved subject to conditions pursuant to sections 113 to 119, the proprietor shall do all of the following:

(a) Submit to the clerk of the governing body of the municipality a list of all authorities required by sections 113 to 119 to review the preliminary plat, certifying that the list shows all authorities as required by sections 113 to 119.

(b) Submit all written approvals to the clerk of the governing body.

(2) The governing body of the municipality, after receipt of the necessary approved copies of the preliminary plat, shall do all of the following:

(a) Consider and review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down by the municipality for approval of the preliminary plat.

(b) Instruct the clerk to promptly notify the proprietor of approval or rejection in writing and, if rejected, to give the reasons.

(c) Instruct the clerk to note all proceedings in the minutes of the meeting which minutes shall be open for inspection.

(3) Final approval of the preliminary plat under this section confers upon the proprietor for a period of 2 years from date of approval the conditional right that the general terms and conditions under which preliminary plat approval was granted will not be changed. The 2-year period may be extended if applied for by the proprietor and granted by the governing body in writing. Written notice of the extension shall be sent by the governing body to the other approving authorities.

560.131 General survey requirements; date of expiration of approval.

Sec. 131. (1) Following final approval of the preliminary plat under section 120, the proprietor shall cause a survey and a true plat thereof to be made by a surveyor.

(2) All approvals made on the preliminary plat shall expire as provided in section 120.

(3) A final plat shall not be accepted after the date of expiration of the preliminary plat approval.

(4) A final plat received by the department of labor and economic growth more than 1 year following the date of approval of the city or county treasurer shall be returned to the city or county treasurer who shall make a new certificate currently dated, relative to paid or unpaid taxes, special assessments, and tax liens or titles.

(5) All final plats of subdivided land shall comply with the provisions of this section and sections 132 to 151.

560.142 Certificate required for recording.

Sec. 142. The proprietor shall provide a true copy of the final plat to each of the authorities named in sections 146 to 149. To entitle a final plat to be recorded, the following certificates, in the form prescribed by the department of labor and economic growth, lettered or printed legibly with black, durable ink or typed legibly with black ink shall appear on it and the certificates shall contain the statements and information and shall be signed and dated as prescribed in sections 141 to 151:

(a) A surveyor's certificate of compliance with the statute.

(b) A certificate of the proprietor submitting the plat.

(c) A certificate of taxes by the treasurer of the county in which the plat is situated, as required by section 135 of the general property tax act, 1893 PA 206, MCL 211.135.

(d) A certificate of taxes signed by the treasurer of the municipality in which the plat is located if the municipality does not return delinquent taxes to the state treasurer, as required by section 135 of the general property tax act, 1893 PA 206, MCL 211.135.

(e) A certificate of approval of the county drain commissioner, if there is a county drain commissioner.

(f) A certificate of approval of the board of county road commissioners, if public streets and roads shown on the plat are under its jurisdiction or to come under its jurisdiction and if any private streets or roads shown on the plat are in an unincorporated area.

(g) A certificate of approval of the governing body of the municipality. The certificate of the governing body of the municipality may not be placed on the plat unless the proprietor has deposited with the clerk both the filing and recording fee required by section 241 and the fee permitted by section 246 by the municipality for review and approval of a plat.

(h) A certificate of approval of the county plat board. The certificate may not be placed on the plat unless the filing and recording fee required by section 241 has been received by the chairperson or secretary of the county plat board.

(i) A certificate of approval of the state transportation department when the subdivision includes or abuts state trunk line highways.

(j) A certificate of approval of the department of labor and economic growth. The certificate of the department of labor and economic growth may not be placed on the plat unless the portion of the filing and recording fee due the state as provided by section 241 has been received by the department.

560.147 County road commissioner’s certificate.

Sec. 147. (1) A certificate shall be signed by the chairperson of the board of county road commissioners.

(2) The certificate shall show the date on which the board met and approved the plat and the date the certificate was placed on the plat.

(3) The certificate shall signify both of the following:

(a) That the plat has been reviewed and conforms to the requirements of this act and the board’s published rules and regulations relative to streets, alleys, roads, and highways under its jurisdiction.

(b) That the plat has the board’s approval.

560.161 Approval; general requirements.

Sec. 161. (1) The final plat shall be submitted in accordance with the procedure prescribed in this section and sections 162 to 173.

(2) The proprietor shall submit 1 true copy of the final plat to each of the following officers or agencies, as applicable, for their simultaneous review and action within the time periods prescribed in sections 163 to 167a:

(a) The drain commissioner, if the drain commissioner’s approval was required on the preliminary plat.

(b) The board of county road commissioners, if the board’s approval was required on the preliminary plat.

(c) The clerk of the governing body of the municipality, together with the filing and recording fee required by section 241.

(d) The state transportation department, if the department's approval was required on the preliminary plat.

(3) The sworn certificate of the surveyor who made the plat shall appear on each true copy of the final plat and shall state all of the following:

(a) A statement that the copy is a true copy of the final plat.

(b) A statement that the plat is subject to the approval of each of the officers and agencies whose approval is required under sections 162 to 169, with a list of those officers and agencies.

(c) The date of the certificate.

560.162 Drain commissioner; number of copies.

Sec. 162. The proprietor shall submit 1 true copy of the final plat to the drain commissioner, if his or her approval was required on the preliminary plat, or 2 true copies if the proprietor requests an additional copy to be returned to him or her.

560.163 Drain commissioner; approval procedure.

Sec. 163. Within 10 days after the date of receiving the plat under section 161(2)(a), the drain commissioner shall do 1 of the following:

(a) Approve the plat and notify the proprietor of his or her approval.

(b) Reject the plat, give his or her reasons in writing, and return it to the proprietor. The drain commissioner shall send a copy of the letter of rejection to the clerk of the governing body and the chairperson of the county plat board.

560.164 Board of county road commissioners; submission of plat.

Sec. 164. The proprietor shall submit 1 true copy of the plat to the board of county road commissioners, when their approval was required on the preliminary plat.

560.165 Board of county road commissioners; approval procedure.

Sec. 165. Within 15 days after the date of receiving the plat under section 161(2)(b), a majority of the board of county road commissioners shall do 1 of the following:

(a) Approve the plat, instruct the chairperson to certify their approval on the final plat, and notify the proprietor of the board's approval.

(b) Reject the plat, give their reasons in writing, and return it to the proprietor. The board of county road commissioners shall send a copy of the letter of rejection to the clerk of the governing body and the chairperson of the county plat board.

560.166 Municipality governing body; submission of plat.

Sec. 166. The proprietor shall submit 1 true copy of the plat to the clerk of the governing body of the municipality, together with the filing fee required by section 241.

560.167 Municipality governing body; approval procedure.

Sec. 167. (1) At its next regular meeting, or at a meeting called within 20 days after the date of receiving the plat under section 161(2)(c), the governing body shall do 1 of the following:

(a) Approve the plat if it conforms to all of the provisions of this act and instruct the clerk to notify the proprietor of the governing board's approval and certify the governing body's approval, showing the date of the governing body's approval, the approval of the health department, when required, and the date thereof as shown as the approved preliminary plat.

(b) Reject the plat, instruct the clerk to give the reasons in writing as set forth in the minutes of the meeting, and return the plat to the proprietor.

(2) The governing body shall instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection, and to send a copy of the minutes to the county plat board.

560.167a State transportation department; receipt of plat.

Sec. 167a. Within 10 days of receipt of the plat under section 161(2)(d), the state transportation department shall do 1 of the following:

(a) Approve the plat and notify the proprietor of its approval.

(b) Reject the plat and notify the proprietor directly, giving the reasons in writing. The commission shall send a copy of the letter of rejection to the chairperson of the county plat board.

560.168 Forwarding to county plat board; procedure of board.

Sec. 168. (1) Upon notice of each approval, the proprietor shall obtain the certificate on the final plat of each of the officers and agencies whose certificate is required by sections 145 to 148. The certificates and approvals may be obtained in any order. The proprietor shall then forward the final plat to the secretary of the county plat board, together with the filing and recording fee.

(2) Within 15 days of the date of receipt of the plat, a majority of the county plat board shall review the plat for conformance to all provisions of the act and do 1 of the following:

(a) Certify their approval on the plat.

(b) Reject the plat and notify the proprietor of the reasons in writing when returning the plat, and send a copy of the letter to the clerk of the governing body.

560.169 Forwarding approval and plat copies to state administrator.

Sec. 169. Upon approval of the plat by a majority of the county plat board, the chairperson of the board shall forward it with all copies of the plat to the state administrator.

560.171 Department of labor and economic growth; plat approval or rejection; recording.

Sec. 171. Within 15 days after receipt of the plat the department of labor and economic growth shall review the plat and do 1 of the following:

(a) If the plat conforms to all of the provisions of this act, procure at least 4 exact copies at the surveyor's expense, approve the plat, and send the original final plat to the register of deeds for recording.

(b) Reject the plat and notify the proprietor in writing of the reasons.

Repeal of MCL 560.170.

Enacting section 1. Section 170 of the land division act, 1967 PA 288, MCL 560.170, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect July 1, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 526]

(SB 1458)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding sections 14721, 14723, and 14724.

The People of the State of Michigan enact:

SUBPART 2 PBDE COMPOUNDS

324.14721 Definitions; heading of subpart.

Sec. 14721. (1) As used in this subpart:

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

(b) "Octa-BDE" means octabromodiphenyl ether.

(c) "PBDE" means polybrominated diphenyl ether.

(d) "Penta-BDE" means pentabromodiphenyl ether.

(2) This subpart may be cited as the "Mary Beth Doyle PBDE act".

324.14723 Product or material containing octa-BDE; limitation; manufacturing, processing, or distributing; exception.

Sec. 14723. (1) Beginning June 1, 2006, a person shall not manufacture, process, or distribute a product or material that contains more than 1/10 of 1% of octa-BDE.

(2) This section does not apply to original equipment manufacturer replacement service parts or the processing of recyclables containing octa-BDE in compliance with applicable federal, state, and local laws.

324.14724 PBDE advisory committee; recommendations.

Sec. 14724. The department may establish a PBDE advisory committee to assist the department in determining the risk posed by the release of PBDEs, other than penta-BDE or octa-BDE, to human health and the environment. The department may use existing programs to monitor the presence of PBDEs in the state's environment to determine exposure and risk. If new scientific information gathered by the advisory committee indicates a significant risk to human health and the environment in the state, the advisory committee shall inform the department of risk or risks and, if the department concurs, the department shall advise the legislature of the risk. Nothing in this section shall preclude the department from issuing recommendations to the legislature independent of any actions of the advisory committee.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4406 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 4406, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 562, Imd. Eff. Jan. 3, 2005.

[No. 527]

(SB 231)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 742 (MCL 330.1742), as amended by 1996 PA 588.

The People of the State of Michigan enact:

330.1742 Seclusion.

Sec. 742. (1) Seclusion shall be used only in a hospital, a center, or a child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128. A resident placed in a hospital or center shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.

(2) A minor placed in a child caring institution shall not be placed or kept in seclusion except as provided in 1973 PA 116, MCL 722.111 to 722.128, or rules promulgated under that act.

(3) A resident may be placed in seclusion only as provided under subsection (4), (5), or (6) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.

(4) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician shall be contacted. If, after being contacted, the physician does not authorize or order the seclusion, the resident shall be removed from seclusion.

(5) A resident may be placed in seclusion under an authorization by a physician. Authorized seclusion shall continue only until a physician can personally examine the resident or for 1 hour, whichever is less.

(6) A resident may be placed in seclusion under an order of a physician made after personal examination of the resident to determine if the ordered seclusion poses an undue

health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.

(7) A secluded resident shall continue to receive food, shall remain clothed unless his or her actions make it impractical or inadvisable, shall be kept in sanitary conditions, and shall be provided a bed or similar piece of furniture unless his or her actions make it impractical or inadvisable.

(8) A secluded resident shall be released from seclusion whenever the circumstance that justified its use ceases to exist.

(9) Each instance of seclusion requires full justification for its use, and the results of each periodic examination shall be placed promptly in the record of the resident.

(10) If a resident is secluded repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduced use of seclusion.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 528]

(SB 735)

AN ACT to amend 1996 PA 299, entitled "An act to regulate tourist-oriented directional signs on certain rural roads; and to impose certain duties upon the state transportation department," by amending sections 1 and 3 (MCL 247.401 and 247.403).

The People of the State of Michigan enact:

247.401 Definitions.

Sec. 1. As used in this act:

(a) "Department" means the state transportation department.

(b) "Eligible attraction" means a tourist-oriented activity that is all of the following:

(*i*) Within 10 miles of the rural road for which a tourist-oriented directional sign is sought, unless otherwise restricted or permitted by the department.

(*ii*) Not visible from the rural road for which a tourist-oriented directional sign is sought.

(*iii*) In compliance with section 131 of title 23 of the United States Code, 23 USC 131, and the national standards, criteria, and rules established under that act, if the activity is advertised by rural road signs.

(c) "Rural road" means a highway as that term is defined in section 20 of the Michigan vehicle code, 1949 PA 300, MCL 257.20, but does not include either of the following:

(*i*) A freeway as that term is defined in section 18a of the Michigan vehicle code, 1949 PA 300, MCL 257.18a.

(*ii*) A road that is part of the national system of interstate and defense highways.

(d) "Tourist-oriented activity" means a lawful cultural, historical, recreational, educational, or commercial activity that is annually attended by 2,000 or more people and for

which a major portion of the activity's income or visitors are derived during the normal business season from motorists not residing in the immediate area of the activity.

(e) "Tourist-oriented directional sign" means a sign used to provide motorists with advanced notice of a tourist-oriented activity.

247.403 Directional sign program; participation by operator of tourist-oriented activity; application; fee; determination; appeal; issuance of permit; order canceling permit; removal of signs; tourist-oriented directional signs.

Sec. 3. (1) The operator of a tourist-oriented activity who wishes to participate in a directional sign program under this act shall submit to the department or its designee an application described in section 2. If the department or its designee determines that an application is complete and that the applicant has complied with this act, the department or its designee shall notify the applicant of that determination in writing. If the applicant pays the permit fee following receipt of the written notice described in this subsection, the department or its designee shall issue the permit.

(2) If the department or its designee determines that an application is incomplete or that the applicant has not complied with this act, the department or its designee shall provide the applicant with written notice specifying the factual basis of that determination. A person aggrieved by a determination under this act may appeal the determination pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall establish the time period for which a permit issued or renewed under this section is valid. Additionally, the department shall establish criteria for the cancellation of a permit issued or renewed under this section.

(4) The department or its designee shall not issue permits that would result in installation of more signs at a single site than are permitted under this act. If applications for sign installation at a single site exceed the number of signs permitted for that site, permits shall be issued in accordance with the program described in section 2.

(5) If the eligible attraction for which a permit is in effect ceases operation, the owner or operator of that eligible attraction shall immediately return the permit to the department or the department's designee for cancellation.

(6) If the department or its designee has reasonable cause to believe that an eligible attraction for which a permit is in effect has ceased operation, the director of the department shall issue an order canceling the permit and provide the holder of that permit with a copy of the order. If the order is not appealed in a timely manner, or if the order is appealed and the cancellation is affirmed, the director shall order the removal of the sign or signs governed by the canceled permit.

(7) In addition to the other requirements of this section, the operator of a tourist-oriented activity who wishes to participate in a directional sign program under this act and is applying for a sign that would reside within the boundaries of an incorporated city or village shall have the application approved by the incorporated city or village if the incorporated city or village has adopted an ordinance that allows tourist-oriented directional signs within the jurisdictional boundaries of the incorporated city or village. If the incorporated city or village has not adopted an ordinance that allows tourist-oriented directional signs, then a tourist-oriented directional sign shall not be posted within the jurisdictional limits of the incorporated city or village. If the incorporated city or village has adopted an ordinance allowing tourist-oriented directional signs, the incorporated city

or village may reject any application for tourist-oriented directional signs within the jurisdictional limits of the incorporated city or village.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 529]

(SB 925)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 51501, 51506, 51509, 51510, and 51513 (MCL 324.51501, 324.51506, 324.51509, 324.51510, and 324.51513), as added by 1995 PA 57, and by adding section 51503b.

The People of the State of Michigan enact:

324.51501 Definitions.

Sec. 51501. As used in this part:

(a) "Certified prescribed burn manager" means an individual who has successfully completed the certification program of the department under section 51513 and possesses a valid certification number.

(b) "Department" means the department of natural resources.

(c) "Domestic purposes" refers to burning that is any of the following:

(*i*) A fire within the curtilage of a dwelling where the material being burned has been properly placed in a debris burner constructed of metal or masonry, with metal covering device with openings no larger than 3/4 of an inch.

(*ii*) A campfire.

(*iii*) Any fire within a building.

(d) "Extinguished", in reference to prescribed burning, means that there is no longer any spreading flame.

(e) "Forest land", subject to subdivision (f), means any of the following:

(*i*) Timber land, potential timber-producing land, or cutover or burned timber land.

(*ii*) Wetland.

(*iii*) Prairie or other land dominated by grasses or forbes.

(f) "Forest land" does not include land devoted to agriculture.

(g) "Flammable material" means any substance that will burn, including, but not limited to, refuse, debris, waste forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops, or crop residue.

(h) “Prescribed burn” or “prescribed burning” means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels.

(i) “Prescription” means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

(j) “Wetland” means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

324.51503b Prescribed burning; liability; requirements.

Sec. 51503b. (1) Prescribed burning does not constitute a public or private nuisance when conducted in compliance with this part, part 55, and rules promulgated to implement this part or part 55.

(2) Subject to subsections (3) and (4), a property owner or his or her agent conducting prescribed burning is not liable for damage or injury caused by the fire or resulting smoke.

(3) Subsections (1) and (2) apply to a prescribed burn only if all of the following requirements are met:

(a) The landowner or his or her designee has specifically consented to the prescribed burn.

(b) The requirements of section 51503 are met.

(c) There are adequate firebreaks at the burn site and sufficient personnel and firefighting equipment for the control of the fire.

(d) A certified prescribed burn manager is present on site with a copy of the prescription, from ignition of the prescribed burn to its completion.

(e) The damage or injury does not result from the fire escaping the boundary of the area authorized in the permit under section 51503.

(f) The property owner or his or her agent is not grossly negligent.

(4) Subsection (2) does not affect liability for injury to or death of a person engaged in the prescribed burning.

324.51506 Violation of part causing forest or grass fires; liability.

Sec. 51506. (1) Except as provided in section 51503b, a person who, in violating this part, causes a forest or grass fire is liable for all damages resulting from that fire, including the cost of any governmental unit fighting the fire.

(2) Except as provided in section 51503b, this part does not affect any other right of action for damages.

324.51509 Fire suppression expenses; liability; determination; collection of claim; actions.

Sec. 51509. (1) Except as provided in section 51503b, a person who sets fire on any land and negligently allows the fire to escape and become a forest or grass fire is liable for all expenses incurred by the state in the suppression of the fire.

(2) The department shall certify, in writing, to the person the claim of the state under subsection (1) and shall list the items of expense incurred in the suppression of the fire. The claim shall be paid within 60 days and, if not paid within that time, the department may bring suit against the person in a court of competent jurisdiction in the county of the residence of the defendant or of any defendant if there is more than 1, for the collection of the claim at any time within 2 years after the fire. If the amount of the claim is cognizable

by a circuit court, the department may file the suit in the circuit court of Ingham county, or in the circuit court of the county of the residence of the defendant or any defendant if there is more than 1.

324.51510 Prohibited acts; exception.

Sec. 51510. (1) A person shall not do any of the following:

(a) Willfully, maliciously, or wantonly set fire or cause or procure to be set on fire any forest land, lands adjacent to forest land, or flammable material on such forest land.

(b) Willfully, maliciously, or wantonly set, throw, or place any device, instrument, paraphernalia, or substance in or adjacent to any forest land with intent to set fire to the land or which in the natural course of events would result in fire being set to the forest land.

(2) This section does not apply to a prescribed burn conducted in compliance with section 51503b.

324.51513 Administration of part; rules; investigations; surveys; construction of part as to other law enforcement agencies and local ordinances and regulations.

Sec. 51513. (1) The department shall administer this part and shall promulgate rules necessary to implement this part. The department shall adopt rules governing prescribed burning and for certifying and decertifying prescribed burn managers based on their past experience, training, certification by another state, and record of compliance with section 51503b. The department shall submit the proposed rules for public hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 6 months after the effective date of the 2004 amendatory act that amended this section.

(2) The department may make, conduct, or participate in investigations and surveys designed to establish the cause of or responsibility for a particular forest fire or forest fire conditions generally.

(3) This part does not limit or otherwise impair the jurisdiction or powers of any other department, agency, or officer of this state to investigate, apprehend, and prosecute violators of this part. This part does not preempt local ordinances or local regulations that are as restrictive or more restrictive than this part, except to the extent the ordinances or regulations conflict with the exemption from liability for, or otherwise apply to either of the following:

(a) Prescribed burns conducted in compliance with section 51503b.

(b) Prescribed burns conducted by a federal agency or state agency on land that the agency is authorized to manage.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 530]

(SB 1202)

AN ACT to provide for the establishment of a historical neighborhood tax increment finance authority; to prescribe the powers and duties of the authority; to correct and

prevent deterioration in neighborhoods and certain other areas; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans and development areas; to promote residential and economic growth; to create a board; to prescribe the powers and duties of the board; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to prescribe powers and duties of certain state officials; to provide for rule promulgation; and to provide for enforcement of the act.

The People of the State of Michigan enact:

125.2841 Short title.

Sec. 1. This act shall be known and may be cited as the "historical neighborhood tax increment finance authority act".

125.2842 Definitions.

Sec. 2. 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 the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a historical neighborhood tax increment finance authority created under this act.

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

(e) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the development area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in section 3(d), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(f) "Chief executive officer" means the mayor or city manager of a city or the supervisor of a township.

(g) "Development area" means that area described in section 5 to which a development plan is applicable that is located inside a historic district.

(h) "Development plan" means that information and those requirements for a development area set forth in section 22.

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

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

(k) "Governing body" or "governing body of a municipality" means the elected body of a municipality having legislative powers.

(*l*) "Historic district" means that term as defined in section 1a of the local historic districts act, 1970 PA 169, MCL 399.201a.

(m) "Housing" means privately owned housing or publicly owned housing, individual or multifamily.

(n) "Initial assessed value" means the assessed value 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 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 section 3(d).

(o) "Land use plan" means a plan prepared under section 1 of the city and village zoning act, 1921 PA 207, MCL 125.581.

(p) "Municipality" means a city or township in which a historic district is located.

(q) "Residential district" means an area of a municipality zoned and used principally for residential housing.

125.2843 Additional definitions.

Sec. 3. As used in this act:

(a) "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.

(b) "Parcel" means an identifiable unit of land that is treated as separate for valuation or zoning purposes.

(c) "Public facility" means housing, 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, or building, including access routes 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, if the improvement complies 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.

(d) "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, or 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. 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.

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

(f) "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. Tax increment revenues do not include any of the following:

(*i*) Taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*ii*) Taxes levied by local or intermediate school districts.

(*iii*) 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 the ad valorem property taxes.

(*iv*) 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 the ad valorem property taxes.

(*v*) Ad valorem property taxes exempted from capture under section 17(5) or specific local taxes attributable to the ad valorem property taxes.

(*vi*) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.

125.2844 Authority; establishment of multiple authority; powers of authority as body corporate.

Sec. 4. (1) Except as otherwise provided in this subsection, a municipality may establish multiple authorities inside a historic district. A parcel of property shall not be included in more than 1 authority created under this act.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

125.2845 Intent to create and provide for operation of authority; resolution; notice of public hearing; adoption of ordinance; alteration or amendment of boundaries.

Sec. 5. (1) If the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in a residential district, to eliminate the causes of that deterioration, to promote residential growth and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority within the boundaries of a historic district.

(2) In the resolution of intent, the governing body shall set a date for a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the development area. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed development area and to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice does not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed development area not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the boundaries of the proposed development area. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed development area. The governing body of the municipality shall not incorporate

land into the development area not included in the description contained in the notice of public hearing, but it may eliminate described lands from the development area in the final determination of the boundaries.

(3) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the development area within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body of the municipality may alter or amend the boundaries of the development area to include or exclude lands from the development area in the same manner as adopting the ordinance creating the authority.

125.2846 Annexed or consolidated authority; effect on obligations, agreements, and bonds.

Sec. 6. If a development area is part of an area annexed to or consolidated with another municipality, the authority managing that development area shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

125.2847 Board; supervision and control; membership; appointment; vacancy; compensation; oath; meetings; removal of member; expense items, financial records, and writings open to public.

Sec. 7. (1) An authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality or his or her designee and not less than 5 or more than 9 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the development area. At least 1 of the members shall be a resident of the development area or of an area within 1/2 mile of any part of the development area. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

125.2848 Director; compensation; eligibility; service; oath; bond; duties; employment of treasurer, secretary, legal counsel, and other personnel.

Sec. 8. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning his or her duties, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall provide to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish bond in an amount prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

125.2849 Employees; participation in retirement and insurance programs.

Sec. 9. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

125.2850 Board; authority and powers.

Sec. 10. The board may do any of the following:

(a) Prepare an analysis of economic changes taking place in the development area.

(b) Study and analyze the impact of metropolitan growth upon the development area.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the residential growth and economic growth of the development area.

(d) Plan, propose, and implement an improvement to a public facility within the development area 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.

(e) Develop long-range plans, in cooperation with the historic district commission for the historic district and the agency that is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the development area and to promote the residential growth and economic growth of the development area, and take steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development, including housing for low-income individuals, in the development area necessary to achieve the purposes of this act in accordance with the powers of the authority granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, clear, improve, maintain, repair, and operate any public facility, building, including multiple-family dwellings, and any necessary or desirable appurtenances to those buildings, within the development area for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(j) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease, in whole or in part, any facility, building, or property under its control.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

125.2851 Authority as instrumentality of political subdivision.

Sec. 11. The authority is an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

125.2852 Acquisition of private property; transfer.

Sec. 12. A municipality may acquire private property under 1911 PA 149, MCL 213.21 to 213.25, or the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75,

for the purposes of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it considers appropriate, and the taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

125.2853 Funding sources; disposition of money received.

Sec. 13. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Money borrowed and to be repaid as authorized by sections 15 and 16.

(c) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(d) Proceeds of a tax increment financing plan established under sections 17 to 19.

(e) Proceeds from a special assessment district created as provided by law.

(f) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement under this act. Except as provided in this act, the municipality shall not obligate itself, and shall not be obligated, to pay any sums from public funds, other than money received by the municipality under this section, for or on account of the activities of the authority.

125.2854 Borrowing money and issuing bonds.

Sec. 14. The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

125.2855 Revenue bonds; issuance.

Sec. 15. The authority may borrow money and issue its negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the municipality unless the municipality by majority vote of the members of its governing body pledges its full faith and credit to support the authority's revenue bonds. Revenue bonds issued by the authority are never a debt of the state.

125.2856 Bonds and notes; pledge; lien; enforcement; exemption from taxation; liability; investment.

Sec. 16. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with either of the following:

(a) The implementation of a development plan in the development area.

(b) The refund, or refund in advance, of bonds or notes issued under this section.

(2) Any of the following may be financed by the issuance of revenue bonds or notes:

(a) The cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the development area.

(b) Any engineering, architectural, legal, accounting, or financial expenses.

(c) The costs necessary or incidental to the borrowing of money.

(d) Interest on the bonds or notes during the period of construction.

(e) A reserve for payment of principal and interest on the bonds or notes.

(f) A reserve for operation and maintenance until sufficient revenues have developed.

(3) The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection with the property.

(4) A pledge made by the authority is valid and binding from the time the pledge is made. The money or property pledged by the authority immediately is subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge is valid and binding against parties having claims of any kind in tort, contract, or otherwise, against the authority, whether or not the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created must be filed or recorded to be enforceable.

(5) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(6) The municipality is not liable on bonds or notes of the authority issued under this section, and the bonds or notes are not a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(7) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

125.2857 Tax increment financing plan.

Sec. 17. (1) If the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 19, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 18. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) Approval of the tax increment financing plan shall comply with the notice, hearing, and disclosure provisions of section 21. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(3) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to

capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the development area.

(4) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.

(5) Not more than 60 days after the public hearing, the governing body in a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. In the event that the governing body levies a separate millage for public library purposes, at the request of the public library board, that separate millage shall be exempt from the capture. The resolution shall take effect when filed with the clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

125.2858 Tax increment revenues; transmission from municipal and county treasurers to authority; expenditures; report.

Sec. 18. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority.

(2) The authority shall expend the tax increment revenues received for the development program only under the terms of the tax increment financing plan. Unused funds shall revert proportionately to the respective taxing bodies. Tax increment revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan if it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued under section 19 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of public facilities developed.

(i) The amount of public housing created or improved.

(j) The number of jobs created as a result of the implementation of the tax increment financing plan.

(k) Any additional information the governing body considers necessary.

125.2859 General obligation bonds; tax increment revenue bonds; issuance; limitations; additional security; resolution; lien.

Sec. 19. (1) The municipality may by resolution of its governing body and subject to voter approval authorize, issue, and sell general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality under section 13. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 13 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 13 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority under this subsection may be secured by any other revenues identified in section 13 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued under this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 14 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

125.2860 Development plan; contents.

Sec. 20. (1) If a board decides to finance a project in a development area by the use of revenue bonds as authorized in section 15 or tax increment financing as authorized in sections 17, 18, and 19, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, designating the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.

(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any residential housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.