

## STATEMENT OF WITNESSES

We sign below as witnesses, declaring that the individual who is making this will appears to be of sound mind and appears to be making this will freely, without duress, fraud, or undue influence, and that the individual making this will acknowledges that he or she has read the will, or has had it read to him or her, and understands the contents of this will.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

## DEFINITIONS

The following definitions and rules of construction apply to this Michigan statutory will:

(a) “Assets” means all types of property you can own, such as real estate, stocks and bonds, bank accounts, business interests, furniture, and automobiles.

(b) “Descendants” means your children, grandchildren, and their descendants.

(c) “Descendants” or “children” includes individuals born or conceived during marriage, individuals legally adopted, and individuals born out of wedlock who would inherit if their parent died without a will.

(d) “Jointly held assets” means those assets to which ownership is transferred automatically upon the death of 1 of the owners to the remaining owner or owners.

(e) “Spouse” means your husband or wife at the time you sign this will.

(f) Whenever a distribution under a Michigan statutory will is to be made to an individual's descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree shall receive 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the descendant. In this manner, all descendants who are in the same generation will take an equal share.

(g) "Heirs" means those persons who would have received your assets if you had died without a will, domiciled in Michigan, under the laws that are then in effect.

(h) "Person" includes individuals and institutions.

(i) Plural and singular words include each other, where appropriate.

(j) If a Michigan statutory will states that a person shall perform an act, the person is required to perform that act. If a Michigan statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in good faith exercise of the person's powers.

## ADDITIONAL CLAUSES

### Powers of personal representative

1. A personal representative has all powers of administration given by Michigan law to personal representatives and, to the extent funds are not needed to meet debts and expenses currently payable and are not immediately distributable, the power to invest and reinvest the estate from time to time in accordance with the Michigan prudent investor rule. In dividing and distributing the estate, the personal representative may distribute partially or totally in kind, may determine the value of distributions in kind without reference to income tax bases, and may make non-pro rata distributions.

2. The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to the minor's conservator or, in amounts not exceeding \$5,000.00 per year, either to the minor, if married; to a parent or another adult with whom the minor resides and who has the care, custody, or control of the minor; or to the guardian. The personal representative is free of liability and is discharged from further accountability for distributing assets in compliance with the provisions of this paragraph.

## POWERS OF GUARDIAN AND CONSERVATOR

A guardian named in this will has the same authority with respect to the child as a parent having legal custody would have. A conservator named in this will has all of the powers conferred by law.

## **700.2908 Disposition of disclaimed joint interest, trust interest, and fiduciary power.**

Sec. 2908. (1) If a disclaimed interest arises out of joint property created by a governing instrument, testamentary or nontestamentary, the following apply:

(a) If the disclaimant is the only living owner, the disclaimed interest devolves to the estate of the last to die of the other joint owners.

(b) If the disclaimant is not the only living owner, the disclaimed interest devolves to the other living joint owners equally or, if there is only 1 living owner, all to the other living owner.

(2) If the donee of a power of appointment or other power not held in a fiduciary capacity disclaims the power, all of the following apply:

(a) If the donee has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes effective.

(b) If the donee has exercised the power, the disclaimer takes effect immediately after the last exercise of the power.

(c) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

(3) If all incumbent trustees disclaim a disclaimable interest, and the governing instrument does not provide for another disposition of the disclaimed interest if it is disclaimed or for another disposition of disclaimed or failed interests in general, then the disclaimed interest devolves as if the trust with respect to which the disclaimer was made never existed. If less than all incumbent trustees disclaim a disclaimable interest and the governing instrument does not provide for another disposition of the disclaimed interest under those circumstances, then the trustee who disclaims is treated as never having had any interest in or power over the disclaimed interest.

(4) If a fiduciary disclaims a fiduciary power, the fiduciary power ceases to exist as of the effective date of the disclaimer. A disclaimer of a fiduciary power by 1 of multiple incumbent fiduciaries is binding only on the fiduciary who disclaims and is not binding on the other incumbent fiduciaries or on successor fiduciaries. A disclaimer of a fiduciary power by all incumbent fiduciaries is binding on all successor fiduciaries, unless the disclaimer states otherwise.

### **700.3715 Transactions authorized for personal representatives; exceptions.**

Sec. 3715. Except as restricted or otherwise provided by the will or by an order in a formal proceeding, and subject to the priorities stated in section 3902, a personal representative, acting reasonably for the benefit of interested persons, may properly do any of the following:

(a) Retain property owned by the decedent pending distribution or liquidation, including property in which the personal representative is personally interested or that is otherwise improper for trust investment.

(b) Receive property from a fiduciary or another source.

(c) Perform, compromise, or refuse performance of a contract of the decedent that continues as an estate obligation, as the personal representative determines under the circumstances. If the contract is for a conveyance of land and requires the giving of warranties, the personal representative shall include in the deed or other instrument of conveyance the required warranties. The warranties are binding on the estate as though the decedent made them but do not bind the personal representative except in a fiduciary capacity. In performing an enforceable contract by the decedent to convey or lease land, the personal representative, among other possible courses of action, may do any of the following:

(i) Execute and deliver a deed of conveyance for cash payment of the amount remaining due or for the purchaser's note for the amount remaining due secured by a mortgage on the land.

(ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the decedent's successors, as designated in the escrow agreement.

(d) If, in the judgment of the personal representative, the decedent would have wanted the pledge satisfied under the circumstances, satisfy a written charitable pledge of the decedent irrespective of whether the pledge constitutes a binding obligation of the decedent or is properly presented as a claim.

(e) If funds are not needed to meet a debt or expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including funds received from the sale of other property, in accordance with the Michigan prudent investor rule.

(f) Acquire or dispose of property, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon estate property.

(g) Make an ordinary or extraordinary repair or alteration in a building or other structure, demolish an improvement, or raze an existing or erect a new party wall or building.

(h) Subdivide, develop, or dedicate land to public use, make or obtain the vacation of a plat or adjust a boundary, adjust a difference in valuation on exchange or partition by giving or receiving consideration, or dedicate an easement to public use without consideration.

(i) Enter into a lease as lessor or lessee for any purpose, with or without an option to purchase or renew, for a term within or extending beyond the period of administration.

(j) Enter into a lease or arrangement for exploration and removal of minerals or another natural resource, or enter into a pooling or unitization agreement.

(k) Abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered or in such a condition as to be of no benefit to the estate.

(l) Vote stocks or another security in person or by general or limited proxy.

(m) Pay a call, assessment, or other amount chargeable or accruing against or on account of a security, unless barred by a provision relating to claims.

(n) Hold a security in the name of a nominee or in other form without disclosure of the estate's interest. However, the personal representative is liable for an act of the nominee in connection with the security so held.

(o) Insure the estate property against damage, loss, and liability and insure the personal representative against liability as to third persons.

(p) Borrow money with or without security to be repaid from the estate property or otherwise, and advance money for the estate's protection.

(q) Effect a fair and reasonable compromise with a debtor or obligor, or extend, renew, or in any manner modify the terms of an obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon another person's property, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered property from the property's owner in satisfaction of the indebtedness secured by lien.

(r) Pay a tax, an assessment, the personal representative's compensation, or another expense incident to the estate's administration.

(s) Sell or exercise a stock subscription or conversion right.

(t) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(u) Allocate items of income or expense to either estate income or principal, as permitted or provided by law.

(v) Employ, and pay reasonable compensation for reasonably necessary services performed by, a person, including, but not limited to, an auditor, investment advisor, or agent, even if the person is associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act on such a person's recommendations without independent investigation; and instead of acting personally, employ 1 or more agents to perform an act of administration, whether or not discretionary.

(w) Employ an attorney to perform necessary legal services or to advise or assist the personal representative in the performance of the personal representative's administrative duties, even if the attorney is associated with the personal representative, and act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(x) Prosecute or defend a claim or proceeding in any jurisdiction for the protection of the estate and of the personal representative in the performance of the personal representative's duties.

(y) Sell, mortgage, or lease estate property or an interest in estate property for cash, credit, or part cash and part credit, and with or without security for unpaid balances.

(z) Continue a business or venture in which the decedent was engaged at the time of death as a sole proprietor or a general partner, including continuation as a general partner by a personal representative that is a corporation in any of the following manners:

(i) In the same business form for a period of not more than 4 months after the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business, including goodwill.

(ii) In the same business form for an additional period of time if approved by court order in a formal proceeding to which the persons interested in the estate are parties.

(iii) Throughout the period of administration if the personal representative incorporates the business or converts the business to a limited liability company and if none of the probable distributees of the business who are competent adults object to its incorporation or conversion and its retention in the estate.

(aa) Change the form of a business or venture in which the decedent was engaged at the time of death through incorporation or formation as a limited liability company or other entity offering protection against or limiting exposure to liabilities.

(bb) Provide for the personal representative's exoneration from personal liability in a contract entered into on the estate's behalf.

(cc) Respond to an environmental concern or hazard affecting estate property as provided in section 3722.

(dd) Satisfy and settle claims and distribute the estate as provided in this act.

(ee) Make, revise, or revoke an available allocation, consent, or election in connection with a tax matter as appropriate in order to carry out the decedent's estate planning objectives and to reduce the overall burden of taxation, both in the present and in the future. This authority includes, but is not limited to, all of the following:

(i) Electing to take expenses as estate tax or income tax deductions.

(ii) Electing to allocate the exemption from the tax on generation skipping transfers among transfers subject to estate or gift tax.

(iii) Electing to have all or a portion of a transfer for a spouse's benefit qualify for the marital deduction.

(iv) Electing the date of death or an alternate valuation date for federal estate tax purposes.

(v) Excluding or including property from the gross estate for federal estate tax purposes.

(vi) Valuing property for federal estate tax purposes.

(vii) Joining with the surviving spouse or the surviving spouse's personal representative in the execution and filing of a joint income tax return and consenting to a gift tax return filed by the surviving spouse or the surviving spouse's personal representative.

(ff) Divide portions of the estate, including portions to be allocated into trust, into 2 or more separate portions or trusts with substantially identical terms and conditions, and allocate property between them, in order to simplify administration for generation skipping transfer tax purposes, to segregate property for management purposes, or to meet another estate or trust objective.

#### **700.3804 Manner of presentation of claims; commencement; claims by personal representative.**

Sec. 3804. (1) A claimant must present a claim against a decedent's estate in either of the following ways:

(a) By delivering or mailing a written statement to the personal representative indicating the claim's basis, the claimant's name and address, and the amount claimed, or by filing with the court a written statement of the claim in the form prescribed by supreme court rule and delivering or mailing a copy of the statement to the personal representative. The claim shall be considered presented on receipt of the claim statement by the personal representative or the filing of the claim statement with the court, whichever occurs first. If a claim is not yet due, the statement shall state the date when it will become due. If the claim is contingent or unliquidated, the statement shall state the nature of the uncertainty. If the claim is secured, the statement shall describe the security. Failure to describe correctly the security, the nature of any uncertainty, or the due date of a claim not yet due does not invalidate the claim's presentation.

(b) By commencing a proceeding to obtain payment of a claim against the estate in a court in which the personal representative may be subjected to jurisdiction. The commencement of the proceeding shall occur within the time limit for presenting the claim. The presentation of a claim is not required in regard to a matter claimed in a proceeding against the decedent that is pending at the time of death.

(2) Except as otherwise provided in this subsection, if a claim is presented under subsection (1)(a), a proceeding on the claim shall not be commenced more than 63 days after the personal representative delivers or mails a notice of disallowance to the claimant. For a claim that is not presently due or that is contingent or unliquidated, the personal representative may consent to an extension of the 63-day period or, to avoid injustice, the court, on petition, may order an extension of the 63-day period, but an extension shall not be consented to or ordered if the extension would run beyond the applicable statute of limitations.

(3) A claim by the personal representative against the estate shall be in the form prescribed by supreme court rule. The personal representative must give a copy of the claim to all interested persons not later than 7 days after the time for the claim's original presentation expires. The claim must contain a warning that the personal representative's

claim will be allowed unless a notice of objection is delivered or mailed to the personal representative within 63 days after the time for the claim's original presentation expires. This subsection does not apply to a claim for compensation for services rendered or for reimbursement of expenses advanced by the personal representative.

### **700.3919 Final distribution to domiciliary representative.**

Sec. 3919. (1) If there is a personal representative of the decedent's domicile willing to receive it, a nonresident decedent's estate being administered by a personal representative appointed in this state shall be distributed to the domiciliary personal representative for the benefit of the decedent's successors unless any of the following apply:

(a) By virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified under the law of this state without reference to the law of the decedent's domicile.

(b) After reasonable inquiry, this state's personal representative is unaware of the existence or identity of a domiciliary personal representative.

(c) The court orders otherwise in a proceeding for a closing order under section 3952 or incident to the closing of a supervised administration.

(2) If subsection (1) is not applicable to an estate, distribution of the decedent's estate shall be made in accordance with the other provisions of this article.

### **700.5202 Parental appointment of guardian for minor.**

Sec. 5202. (1) The parent of an unmarried minor may appoint a guardian for the minor by will or by another writing signed by the parent and attested by at least 2 witnesses.

(2) Subject to the right of the minor under section 5203, if both parents are dead or have been adjudged to be legally incapacitated or the surviving parent has no parental rights or has been adjudged to be legally incapacitated, a parental appointment becomes effective when the guardian's acceptance is filed in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the minor resides or is present. If both parents are dead, an effective appointment by the parent who died later has priority.

(3) A parental appointment effected by filing the guardian's acceptance under a will probated in the state of the testator's domicile is effective in this state.

(4) Upon acceptance of appointment, the guardian shall give written notice of acceptance to the minor and to the person having the minor's care or the minor's nearest adult relative.

### **700.5204 Court appointment of guardian of minor; conditions for appointment.**

Sec. 5204. (1) A person interested in the welfare of a minor, or a minor if 14 years of age or older, may petition for the appointment of a guardian for the minor. The court may order the family independence agency or a court employee or agent to conduct an investigation of the proposed guardianship and file a written report of the investigation.

(2) The court may appoint a guardian for an unmarried minor if any of the following circumstances exist:

(a) The parental rights of both parents or the surviving parent are terminated or suspended by prior court order, by judgment of divorce or separate maintenance, by death,



by judicial determination of mental incompetency, by disappearance, or by confinement in a place of detention.

(b) The parent or parents permit the minor to reside with another person and do not provide the other person with legal authority for the minor's care and maintenance, and the minor is not residing with his or her parent or parents when the petition is filed.

(c) All of the following:

(i) The minor's biological parents have never been married to one another.

(ii) The minor's parent who has custody of the minor dies or is missing and the other parent has not been granted legal custody under court order.

(iii) The person whom the petition asks to be appointed guardian is related to the minor within the fifth degree by marriage, blood, or adoption.

(3) A minor's limited guardian may petition to be appointed a guardian for that minor, except that the petition shall not be based upon suspension of parental rights by the order that appointed that person the limited guardian for that minor.

(4) A guardian appointed under section 5202 whose appointment is not prevented or nullified under section 5203 has priority over a guardian who may be appointed by the court. The court may proceed with an appointment upon a finding that a guardian appointed in a manner described in section 5202 has failed to accept the appointment within 28 days after the notice of the guardianship proceeding.

(5) For the minor ward's welfare, the court may at any time order the minor ward's parents to pay reasonable support and order reasonable parenting time and contact of the minor ward with his or her parents.

### **700.5217 Termination of appointment of guardian.**

Sec. 5217. A guardian's authority and responsibility terminate upon the guardian's death, resignation, or removal or upon the minor's death, adoption, marriage, or attainment of majority. However, a termination does not affect the guardian's liability for prior acts or the obligation to account for the ward's money and property. The guardian's resignation does not terminate the guardianship until it is approved by the court. A parental appointment under an unprobated or informally probated will terminates if the will is later denied probate in a formal proceeding.

### **700.5301 Appointment of guardian for incapacitated person by will or other writing.**

Sec. 5301. (1) If serving as guardian, the parent of an unmarried legally incapacitated individual may appoint by will, or other writing signed by the parent and attested by at least 2 witnesses, a guardian for the legally incapacitated individual. If both parents are dead or the surviving parent is adjudged legally incapacitated, a parental appointment becomes effective when, after having given 7 days' prior written notice of intention to do so to the legally incapacitated individual and to the person having the care of the legally incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the legally incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4). If both parents are dead, an effective appointment by the parent who died later has priority.



(2) If serving as guardian, the spouse of a married legally incapacitated individual may appoint by will, or other writing signed by the spouse and attested by at least 2 witnesses, a guardian of the legally incapacitated individual. The appointment becomes effective when, after having given 7 days' prior written notice of intention to do so to the legally incapacitated individual and to the person having care of the legally incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the legally incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4).

(3) An appointment effected by filing the guardian's acceptance under a will probated in the state of the decedent's domicile is effective in this state.

(4) Upon the filing of the legally incapacitated individual's written objection to a guardian's appointment under this section in either the court in which the will was probated or, for a nontestamentary nominating instrument or a testamentary nominating instrument made by a testator who is not deceased, the court at the place where the legally incapacitated individual resides or is present, the appointment is terminated. An objection does not prevent appointment by the court in a proper proceeding of the parental or spousal nominee or another suitable person upon an adjudication of incapacity in a proceeding under sections 5302 to 5317.

### **700.5308 Termination of guardian's authority and responsibility.**

Sec. 5308. The guardian's authority and responsibility for a legally incapacitated individual terminates upon the death of the guardian or ward, upon the determination of incapacity of the guardian, or upon removal or resignation as provided in section 5310. Testamentary appointment of a guardian under an unprobated will or a will informally probated under article III terminates if the will is later denied probate in a formal testacy proceeding.

### **700.5423 Powers of conservator in administration.**

Sec. 5423. (1) Subject to a limitation imposed under section 5427, a conservator has all of the powers conferred in this section and the additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor, as to whom no one has parental rights, has the powers, responsibilities, and duties of a guardian described in section 5215 until the individual is no longer a minor or marries. The parental rights conferred on a conservator by this section do not preclude a guardian's appointment as provided in part 2.

(2) Acting reasonably in an effort to accomplish the purpose of the appointment and without court authorization or confirmation, a conservator may do any of the following:

(a) Collect, hold, or retain estate property, including land in another state, until the conservator determines that disposition of the property should be made. Property may be retained even though it includes property in which the conservator is personally interested.

(b) Receive an addition to the estate.

(c) Continue or participate in the operation of a business or other enterprise.

(d) Acquire an undivided interest in estate property in which the conservator, in a fiduciary capacity, holds an undivided interest.

(e) Invest or reinvest estate property. If the conservator exercises the power conferred by this subdivision, the conservator must invest or reinvest the property in accordance with the Michigan prudent investor rule.

(f) Deposit estate money in a state or federally insured financial institution including one operated by the conservator.

(g) Except as provided in subsection (3), acquire or dispose of estate property, including land in another state, for cash or on credit, at public or private sale, or manage, develop, improve, exchange, partition, change the character of, or abandon estate property.

(h) Make an ordinary or extraordinary repair or alteration in a building or other structure, demolish an improvement, or raze an existing or erect a new party wall or building.

(i) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of a plat or adjust a boundary; adjust a difference in valuation on exchange or partition by giving or receiving consideration; or dedicate an easement to public use without consideration.

(j) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship.

(k) Enter into a lease or arrangement for exploration and removal of a mineral or other natural resource or enter into a pooling or unitization agreement.

(l) Grant an option involving disposition of estate property or take an option for the acquisition of property.

(m) Vote a security, in person or by general or limited proxy.

(n) Pay a call, assessment, or other amount chargeable or accruing against or on account of a security.

(o) Sell or exercise stock subscription or conversion rights.

(p) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise.

(q) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery. However, the conservator is liable for an act of the nominee in connection with the stock so held.

(r) Insure the estate property against damage or loss or the conservator against liability with respect to third persons.

(s) Borrow money to be repaid from estate property or otherwise.

(t) Advance money for the protection of the estate or the protected individual, and for all expense, loss, or liability sustained in the estate's administration or because of the holding or ownership of estate property. The conservator has a lien on the estate as against the protected individual for such an advance.

(u) Pay or contest a claim; settle a claim by or against the estate or the protected individual by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the estate to the extent that the claim is uncollectible.

(v) Pay a tax, assessment, conservator's compensation, or other expense incurred in the estate's collection, care, administration, and protection.

(w) Allocate an item of income or expense to either estate income or principal, as provided by law, including creation of a reserve out of income for depreciation, obsolescence, or amortization, or for depletion in a mineral or timber property.

(x) Pay money distributable to a protected individual or the protected individual's dependent by paying the money to the distributee or by paying the money for the use of the distributee to the distributee's guardian, or if none, to a relative or other person having custody of the distributee.

(y) Employ a person, including an auditor, investment advisor, or agent, even though the person is associated with the conservator, to advise or assist in the performance of an administrative duty; act upon the person's recommendation without independent investigation; and, instead of acting personally, employ an agent to perform an act of administration, whether or not discretionary.

(z) Employ an attorney to perform necessary legal services or to advise or assist the conservator in the performance of the conservator's administrative duties, even if the attorney is associated with the conservator, and act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(aa) Prosecute or defend an action, claim, or proceeding in any jurisdiction for the protection of estate property and of the conservator in the performance of a fiduciary duty.

(bb) Execute and deliver an instrument that will accomplish or facilitate the exercise of a power vested in the conservator.

(cc) Respond to an environmental concern or hazard affecting property as provided in section 5424.

(3) A conservator shall not sell or otherwise dispose of the protected individual's real property or interest in real property without approval of the court. The court shall only approve the sale or other disposal of the real property or interest in real property if, after a hearing with notice to interested persons as specified in the Michigan court rules, the court considers evidence of the value of the real property or interest in real property and otherwise determines that the sale or other disposal is in the protected individual's best interest.

### **700.7401 Specific powers of trustee; exceptions.**

Sec. 7401. (1) A trustee has the power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform incident to the collection, preservation, management, use, and distribution of the trust property to accomplish the desired result of administering the trust legally and in the trust beneficiaries' best interest.

(2) Subject to the standards described in subsection (1) and except as otherwise provided in the trust instrument, a trustee possesses all of the following specific powers:

(a) To take possession, custody, or control of property transferred to the trust.

(b) To retain property that the trustee receives, including property in which the trustee is personally interested, in accordance with the Michigan prudent investor rule.

(c) To receive property from a fiduciary or another source that is acceptable to the trustee.

(d) To perform, compromise, or refuse to perform a contract of the settlor that is an obligation of the trust, as the trustee may determine under the circumstances. In performing an enforceable contract by the settlor to convey or lease land, if the contract for a conveyance requires the giving of a warranty, the deed or other instrument of conveyance to be

given by the trustee must contain the warranty required. The warranty is binding on the trust as though made by the settlor, but does not bind the trustee except in the trustee's fiduciary capacity. The trustee, among other possible courses of action, may do either of the following:

(i) Execute and deliver a deed of conveyance for cash payment of money remaining due or the purchaser's note for the money remaining due secured by a mortgage on the land.

(ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the trustee, as designated in the escrow agreement.

(e) To satisfy a settlor's written charitable pledge irrespective of whether the pledge constitutes a binding obligation of the settlor or was properly presented as a claim, if in the trustee's judgment the settlor would have wanted the pledge completed under the circumstances.

(f) To deposit trust money in a bank, including a bank operated by the trustee and to invest and reinvest trust property as would a prudent investor acting in accordance with the Michigan prudent investor rule.

(g) To acquire property, including property in this or another state or country, in any manner for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, or change the character of trust property.

(h) To make an ordinary or extraordinary repair or alteration in a building or another structure, to demolish an improvement, or to raze an existing or erect a new party wall or building.

(i) To subdivide, develop, or dedicate land to public use; to make or obtain the vacation of a plat or adjust a boundary; to adjust a difference in valuation on exchange or partition by giving or receiving consideration; or to dedicate an easement to public use without consideration.

(j) To enter for any purpose into a lease as lessor or lessee, with or without an option to purchase or renew, for any term.

(k) To enter into a lease or arrangement for exploration and removal of minerals or another natural resource or to enter into a pooling or unitization agreement.

(l) To abandon property if, in the trustee's opinion, the property is valueless, or is so encumbered or in such a condition that it is of no benefit to the trust.

(m) To vote a stock or other security in person, by general or limited proxy, or in another manner provided by law.

(n) To pay a call, assessment, or other amount chargeable or accruing against or on account of a security.

(o) To hold property in the name of a nominee or in another form without disclosure of the interest of the trust. However, the trustee is liable for an act of the nominee in connection with the property so held.

(p) To insure the trust property against damage, loss, or liability and to insure the trustee against liability as to a third person.

(q) To borrow money for any purpose from the trustee or others and to mortgage or pledge trust property.

(r) To effect a fair and reasonable compromise with a debtor or obligor, or extend, renew, or in any manner modify the terms of an obligation owing to the trust. If the trustee holds a mortgage, pledge, or another lien on property of another person, the trustee may, instead of foreclosure, accept a conveyance or transfer of encumbered property from the property's owner in satisfaction of the indebtedness secured by a lien.

(s) To pay a tax, an assessment, the trustee's compensation, or another expense incident to the administration of the trust.

(t) To sell or exercise a subscription or conversion right or to consent, directly or through a committee or another agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a business enterprise.

(u) To allocate an item of income or expense to either trust income or principal, as permitted or provided by law.

(v) To employ, and pay reasonable compensation for services performed by, a person, including an auditor, investment advisor, accountant, appraiser, broker, custodian, rental agent, realtor, or agent, even if the person is associated with the trustee, for the purpose of advising or assisting the trustee in the performance of an administrative duty; to act without independent investigation upon such a person's recommendation; and, instead of acting personally, to employ 1 or more agents to perform an act of administration, whether or not discretionary.

(w) To employ an attorney to perform necessary legal services or to advise or assist the trustee in the performance of the trustee's administrative duties, even if the attorney is associated with the trustee, and to act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(x) To prosecute, defend, arbitrate, settle, release, compromise, or agree to indemnify a claim or proceeding in any jurisdiction or under an alternative dispute resolution procedure. The trustee may act under this subsection for the trustee's protection in the performance of the trustee's duties.

(y) To sell, exchange, partition, or otherwise dispose of, or grant an option with respect to, trust property for any purpose upon any terms or conditions.

(z) To continue or participate in a business or venture in any manner, in any form, and for any length of time.

(aa) To change the form, in any manner, of a business or venture in which the settlor was engaged at the time of death.

(bb) To provide for exoneration of the trustee from personal liability in a contract entered into on behalf of the trust.

(cc) To respond to environmental concerns and hazards affecting trust property as provided in section 7407.

(dd) To collect, pay, contest, settle, release, agree to indemnify against, compromise, or abandon a claim of or against the trust, including a claim against the trust by the trustee.

(ee) To respond to a tax matter as provided in section 7408.

(ff) To divide trust property into 2 or more separate portions or trusts with substantially identical terms and conditions and to allocate property between them, in order to simplify administration for generation skipping transfer tax purposes, to segregate property for management purposes, or to meet another trust objective.

(gg) To make a payment of money, or other property instead of money, to or for a minor or incapacitated individual as provided in section 7409.

(hh) To make a distribution or division of trust property in cash or in kind, or both; to allot a different kind or disproportionate portion of, or an undivided interest in, trust property among beneficiaries and determine the value of allotted trust property; or to distribute an unclaimed share as described in section 3916.

(ii) To transfer the property of a trust to another jurisdiction and appoint, compensate, or remove a successor trustee, individual or corporate, for trust property in another jurisdiction, with any trust powers set out in this part that the trustee delegates to the successor trustee.

(jj) To execute and deliver an instrument that accomplishes or facilitates the exercise of a power vested in the trustee.

(3) A trust that contains substantially identical provisions as another trust established for the same beneficiary or beneficiaries may be consolidated and administered as 1 trust. If the rule against perpetuities speaks from different dates with reference to the trusts or if there are other variations in terms, consolidation may still take place, but the property of the trusts shall be maintained in separate accounts if necessary to recognize and give effect to the differences.

### **700.7502 Trustee's duty to pay expenses and obligations of settlor's estate.**

Sec. 7502. (1) A trustee of a trust described in section 7501(1) shall pay to the personal representative of the settlor's estate the amount from time to time that the personal representative certifies in writing to the trustee is required to pay the administration expenses of the settlor's estate; an enforceable and timely presented claim of a creditor of the settlor, including a claim for the settlor's funeral and burial expenses; and homestead, family, and exempt property allowances. Without liability to a trust beneficiary or another party, the trustee may rely on the certificate of the personal representative. In the event there is no personal representative appointed for the settlor's estate, the trustee shall pay directly to the creditor an enforceable and timely served claim of a creditor of the settlor, including a claim for the settlor's funeral and burial expenses. If a personal representative is not appointed for the settlor's estate within 4 months after the date of the publication of notice to creditors, a trust described in section 7501(1) is not liable for payment of homestead, family, or exempt property allowances. A payment made by a trustee is subject to this section, but the payment shall be made exclusively out of property, or the proceeds of property, that is includable in the settlor's gross estate for federal estate tax purposes, other than assets described in section 7501(2), (3), and (4).

(2) Unless a settlor provides in his or her will or, in the absence of such a provision, designates in the trust the money or property passing under a trust to be used as described in section 7501, the administration expenses of the settlor's estate; an enforceable and timely filed claim of a creditor of the settlor, including a claim for the settlor's funeral and burial expenses; or homestead, family, and exempt property allowances, to be paid in accordance with subsection (1), shall be paid from the property of the trust in the following order:

(a) Property of the trust residue remaining after all distributions that are to be satisfied by reference to a specific property or type of property, fund, money, or statutory amount.

(b) Property that is not to be distributed out of specified or identified property or a specified or identified item of property.

(c) Property that is to be distributed out of specified or identified property or a specified or identified item of property.

### **700.7508 Payment of claims by trustee.**

Sec. 7508. (1) Upon the expiration of 4 months after the date of the publication of the notice to creditors, the trustee shall proceed to pay the claims allowed against the trust in the order of priority prescribed in section 7503(2)(f) to (g), after making provision for costs and expenses of trust administration, for reasonable funeral and burial expenses, for each claim already presented that is not yet allowed or whose allowance is appealed, and for each unbarred claim that may yet be presented. A claimant whose claim is allowed, but not paid as provided in this section, may petition the court to secure an order directing the trustee to pay the claim to the extent that money of the trust is available for the payment.

(2) At any time, the trustee may pay a claim that is not barred, with or without formal presentation, but is individually liable to another claimant whose claim is allowed and who is injured by the payment if either of the following occurs:

(a) Payment is made before the expiration of the time limit stated in subsection (1) and the trustee fails to require the payee to give adequate security for the refund of any of the payment necessary to pay another claimant.

(b) Payment is made, due to the negligence or willful fault of the trustee, in a manner that deprives the injured claimant of priority.

(3) If a claim is allowed, but the whereabouts of the claimant is unknown at the time the trustee attempts to pay the claim, upon petition by the trustee and after notice the court considers advisable, the court may disallow the claim. If the court disallows a claim under this subsection, the claim is barred.

This act is ordered to take immediate effect.

Approved November 10, 2005.

Filed with Secretary of State November 10, 2005.

---

## **[No. 205]**

### **(SB 74)**

AN ACT to amend 2002 PA 712, entitled “An act to prescribe the Amber alert of Michigan as the official response to reports of child abductions,” (MCL 28.751 to 28.753) by amending the title and by adding section 4.

*The People of the State of Michigan enact:*

## TITLE

An Act to prescribe the Amber alert of Michigan as the official response to reports of child abductions; to prohibit certain conduct; and to prescribe penalties.

### **28.754 False report of abducted or missing child; violation; penalty; order for payment of costs; definitions.**

Sec. 4. (1) A person shall not intentionally make a false report of the abduction of a child, or intentionally cause a false report of the abduction of a child to be made, to a peace



officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection 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.

(2) A person shall not intentionally make a false report that a child is missing who suffers from severe mental or physical disability that greatly impairs the child's ability to care for himself or herself, or intentionally cause such a report to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The court may order a person convicted under this section to pay to the state or a local unit of government and the media the costs of responding to the false report or threat including, but not limited to, use of police or fire emergency response vehicles and teams, pursuant to section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f, unless otherwise expressly provided for in this section.

(4) If the person ordered to pay costs under subsection (3) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(5) As used in this section:

(a) "Local unit of government" means:

(i) A city, village, township, or county.

(ii) A local or intermediate school district.

(iii) A public school academy.

(iv) A community college.

(b) "State" includes, but is not limited to, a state institution of higher education.

**Effective date.**

Enacting section 1. This amendatory act takes effect February 1, 2006.

This act is ordered to take immediate effect.

Approved November 10, 2005.

Filed with Secretary of State November 14, 2005.

---

**[No. 206]****(SB 708)**

AN ACT to amend 2004 PA 241, entitled “An act to establish the computer crime of sending certain electronic messages to minors; to create a child protection registry; to provide notice of contact points to which a minor has access; to prescribe the powers and duties of certain state agencies and officials; to create a fund and provide for fees; and to provide for penalties and remedies,” by amending section 3 (MCL 752.1063).

*The People of the State of Michigan enact:*

**752.1063 Child protection registry; establishment and operation; registration of contact points; duration; expiration; revocation; renewal; registration by schools and other institutions serving minor children; compliance mechanism; fees; operational date.**

Sec. 3. (1) The department shall establish and operate, or contract with a qualified third party to establish and operate, the child protection registry. The department or a third party administrator shall establish procedures, to the extent possible, to prevent the use or disclosure of protected contact points as required under section 6. If the department elects to contract with a third party, the department shall give due consideration to any person located in this state.

(2) A parent, guardian, individual, or an entity under subsection (4) who is responsible for a contact point to which a minor may have access may register that contact point with the department under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall establish procedures to ensure that a registrant meets the requirements of this subsection.

(3) A registration under this section shall be for not more than 3 years. If the contact point is established for a specific minor, the registration expires the year the minor turns 18 years of age. A registration can be revoked or renewed by the registrant upon notification to the department.

(4) Schools and other institutions or entities primarily serving minor children may register 1 or more contact points with the department. An entity under this subsection may make 1 registration for all contact points of the entity, and the registration may include the entity’s internet domain name under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) No fee or charge shall be assessed or incurred by a person registering a contact point under this act.

(6) The department shall establish a mechanism for senders to verify compliance with the registry.

(7) A person desiring to send a message described in section 5 shall pay the department a fee for access to the mechanism required under subsection (6). The fee required under this subsection shall be set by the department. The fee shall not exceed 3 cents and shall be based on the number of contact points checked against the registry for each time a contact point is checked. The mechanism to verify compliance under subsection (6) and the fee required under this subsection shall be established under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(8) The fees collected under this act shall be credited to the following:

(a) Eighty-five percent of the fees to the fund created under section 4.

(b) Not less than 15% of the fees to the attorney general to cover the costs of investigating, enforcing, and defending this act and section 5a of 1979 PA 53, MCL 752.795a. The department may reimburse the attorney general from the fund created under section 4 for any costs incurred under this subdivision that exceed the fees credited under this subdivision.

(9) The registry shall be fully operational not later than July 1, 2005.

This act is ordered to take immediate effect.

Approved November 11, 2005.

Filed with Secretary of State November 14, 2005.

---

**[No. 207]**

**(SB 134)**

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 11b of chapter XVII (MCL 777.11b), as amended by 2005 PA 139.

*The People of the State of Michigan enact:*

## CHAPTER XVII

**777.11b[1] Chapter 28 of Michigan Compiled Laws; felonies to which chapter applicable.**

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.422	Pub saf	F	Pistols — license application forgery	4
28.422a(4)	Pub saf	F	False statement on pistol sales record	4

28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(5)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)(c)	Pub ord	F	Failure to update sex offender registration information — third or subsequent offense	4
28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering — second or subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency — second or subsequent violation	2
28.754	Pub ord	F	False report of a child abduction	4

**Effective date.**

Enacting section 1. This amendatory act takes effect February 1, 2006.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 74 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved November 11, 2005.

Filed with Secretary of State November 14, 2005.

---

**Compiler's note:** Senate Bill No. 74, referred to in enacting section 2, was filed with the Secretary of State November 14, 2005, and became 2005 PA 205, Eff. Feb. 1, 2006.

---

**[No. 208]**

**(HB 4316)**

AN ACT to amend 1966 PA 293, entitled "An act to provide for the establishment of charter counties; to provide for the election of charter commissioners; to prescribe their powers and duties; to prohibit certain acts of a county board of commissioners after the approval of the election of a charter commission; to prescribe the mandatory and permissive provisions of a charter; to provide for the exercise by a charter county of certain

powers whether or not authorized by its charter; and to prescribe penalties and provide remedies,” by amending section 14 (MCL 45.514), as amended by 1982 PA 300.

*The People of the State of Michigan enact:*

**45.514 County charter; mandatory provisions; subsection (1)(d) inapplicable to certain counties; staggered terms of office.**

Sec. 14. (1) A county charter adopted under this act shall provide for all of the following:

(a) In a county having a population of less than 1,500,000, for a salaried county executive, who shall be elected at large on a partisan basis, and for the county executive's authority, duties, and responsibilities. In a county having a population of 1,500,000, or more, a county charter adopted under this act shall provide for a form of executive government described and adopted under section 11a.

(b) The election of a legislative body to be known as the county board of commissioners, whose term of office shall be concurrent with that of state representatives, and for their authority, duties, responsibilities, and number which shall be not less than 5 nor more than 21 in counties of less than 600,000, and not less than 5 nor more than 27 in counties of 600,000 or more. The county board of commissioners shall provide by ordinance for their compensation and may increase or decrease their compensation. A change in compensation shall not be effective during the term of office for which the legislative body making the change was elected. The charter shall also provide for the partisan election of members of the legislative body from single member districts to be established by the county apportionment commission as created in section 5 and pursuant to the standards and guidelines established in section 5 for reapportionment based upon the last official federal decennial census, effective at the first regular general election of the members of the legislative body occurring not less than 12 months after the completion and certification of the federal census. Each city and township shall be apportioned so that it has the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district.

(c) The partisan election of a sheriff, a prosecuting attorney, a county clerk, a county treasurer, and a register of deeds, and for the authority of the county board of commissioners to combine the county clerk and register of deeds into 1 office as authorized by law.

(d) Except as provided in subdivision (c), the continuation of all existing county offices, boards, commissions, and departments whether established by law or by action of the county board of commissioners; the performance of their respective duties by other county offices, boards, commissions, and departments; or for the discontinuance of these county offices, boards, commissions, and departments. Notwithstanding this subdivision in relation to existing county offices, boards, commissions, and departments, a county charter shall insure the following:

(i) Except as otherwise provided under subsection (2), in a county having a population of less than 1,500,000, the charter shall not be in derogation of the powers and duties of the county road commission in the exercise of their statutory duties concerning the preservation of a county road system. The charter for these counties shall provide for the creation of a commission consisting of not fewer than 3 or more than 5 members. Not less than 1 member of the commission shall be a resident of a township within the county.

(ii) Except as otherwise provided in subsection (2), in a county having a population of 1,500,000 or more, the charter shall provide for the continuation of a county road system within the county. Notwithstanding any other provisions of this act, the charter described in this subparagraph shall provide that responsibility for the determination of the expenditure

of all funds for road construction and road maintenance, and for carrying out the powers and duties pertaining to a county road system as provided in sections 9 to 32 of chapter 4 of 1909 PA 283, MCL 224.9 to 224.32, shall be vested in a commission consisting of not fewer than 3 or more than 5 members. The charter shall provide that 1 member of the commission shall be a resident of the most populous city in the county, 1 member shall be a resident of a city other than the most populous city within the county, and that 1 member shall be a resident of a township within the county. The charter shall provide that the commission shall be appointed by either the elected county executive or the chief administrative officer. Appointment to the commission shall require advice and consent by a majority of the county board of commissioners elected and serving not more than 60 days after the appointment. If the county board of commissioners does not vote on the appointment within 60 days, the appointment shall become final. The charter may provide for the number of members and a fixed term of years for the members of the commission, but the charter shall provide that the members of the commission may be removed at the pleasure of the elected county executive or the chief administrative officer. The charter shall specify duties and procedures to assure that administrative decisions made for road construction shall be coordinated with administrative decisions made for other programs which relate to roads. As used in this subparagraph, "road construction" means all of the following:

(A) The building of a new road or street and the improving of an existing road or street by correction grades, drainage structures, width, alignment, or surface.

(B) The building of bridges or grade separations and the repair of these structures by strengthening, widening, and the replacement of piers and abutments.

(C) The initial signing of newly constructed roads or streets, major resigning of projects, and the installation, replacement, or improvement of traffic signals.

(e) The continuation and implementation of a system of pensions and retirement for county officers and employees in those counties having a system in effect at the time of the adoption of the charter. The system provided under the charter shall recognize the accrued rights and benefits of the officers and employees under the system then in effect. The charter shall not infringe upon nor be in derogation of those accrued rights and benefits. The charter shall not preclude future modification of the system.

(f) The continuation and implementation of a system of civil service in those counties having a system at the time of the adoption of the charter. The system of civil service provided under the charter shall recognize the rights and status of persons under the civil service system then in effect. The charter shall not infringe upon nor be in derogation of those rights and that status. The charter shall not preclude future modification of the system. Except as provided in subdivision (d), the charter shall provide that the system of civil service be coordinated among the county offices, boards, commissions, and departments.

(g) That the general statutes and local acts of this state regarding counties and county officers shall continue in effect except to the extent that this act permits the charter to provide otherwise, if the charter does in fact provide otherwise.

(h) That all ordinances of the county shall remain in effect unless changed by the charter or an ordinance adopted under the charter.

(i) The power and authority to adopt, amend, and repeal any ordinance authorized by law, or necessary to carry out any power, function, or service authorized by this act and by the charter.

(j) The power and authority to enter into any intergovernmental contract which is not specifically prohibited by law.



(k) The power and authority to join, establish, or form with any other governmental unit an intergovernmental district or authority for the purpose of performing a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law.

(l) A debt limit of not to exceed 10% of the state equalized value of the taxable property within the county.

(m) The levy and collection of taxes, the fixing of an ad valorem property tax limitation of not to exceed 1% of the state equalized value of the taxable property within the county, and that the levy of taxes from within this ad valorem property tax limitation shall not exceed, unless otherwise approved by the electors, the tax rate in mills, equal to the number of mills allocated to the county either by a county tax allocation board or by a separate tax limitation under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, in the year immediately preceding the year in which the county adopts a charter.

(n) Initiative and referendum on all matters within the scope of the county's power and authority; and for the recall of all county officials.

(o) Amendment or revision of the charter initiated either by action of the legislative body of the county or by initiatory process. An amendment or revision shall not become effective unless the amendment or revision is submitted to the electorate of the county and approved by a majority of those voting.

(p) That the acquisition, operation, and sale of public utility facilities for furnishing light, heat, or power shall be subject to the same restrictions as imposed on cities and villages by the state constitution of 1963 and applicable law.

(q) Annual preparation, review, approval, and adherence to a balanced budget in a manner which assures coordination among the county offices, boards, commissions, and departments, except as provided in subdivision (d).

(r) An annual audit by an independent certified public accountant of all county funds.

(s) That a county that incurs a budget deficit in any fiscal year shall prepare and submit a detailed and specific 5-year plan for short term financial recovery and long range financial stability to the governor and the legislature, before adoption of the next annual county budget, for review. The 5-year plan shall include, but not be limited to, a projection of annual revenues and expenditures, an employee classification and pay plan, a capital improvements budget, and equipment replacement schedules.

(2) Subsection (1)(d) shall not apply to a county in which the charter is amended to provide for an alternative method of carrying out the powers and duties which are otherwise provided by law for a board of county road commissioners.

(3) The county board of commissioners may by resolution provide for staggered terms of office for the road commissioners under subsection (1)(d) so that not more than 2 road commissioners' terms of office expire in the same year.

This act is ordered to take immediate effect.

Approved November 11, 2005.

Filed with Secretary of State November 14, 2005.

---

**[No. 209]**

**(SB 365)**

AN ACT to amend 1968 PA 173, entitled "An act naming certain state buildings," by amending section 1 (MCL 19.131), as amended by 1999 PA 11.

*The People of the State of Michigan enact:*

**19.131 Buildings designated as Murray D. Van Wagoner transportation building and Richard H. Austin building.**

Sec. 1. The state transportation department building in the capitol complex, Lansing, Michigan, shall be designated and known as the Murray D. Van Wagoner transportation building, and the state treasury building shall be designated and known as the Richard H. Austin building.

Approved November 17, 2005.

Filed with Secretary of State November 17, 2005.

---

**[No. 210]**

**(HB 4369)**

AN ACT to provide for the establishment of commercial rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local governmental officials; and to provide penalties.

*The People of the State of Michigan enact:*

**207.841 Short title.**

Sec. 1. This act shall be known and may be cited as the “commercial rehabilitation act”.

**207.842 Definitions.**

Sec. 2. As used in this act:

(a) “Commercial property” means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise. Commercial property does not include any of the following:

(i) Land.

(ii) Property of a public utility.

(b) “Commercial rehabilitation district” or “district” means an area not less than 75 acres in size of a qualified local governmental unit established as provided in section 3.

(c) “Commercial rehabilitation exemption certificate” or “certificate” means the certificate issued under section 6.

(d) “Commercial rehabilitation tax” means the specific tax levied under this act.

(e) “Commission” means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(f) “Department” means the department of treasury.

(g) “Qualified facility” means a building or group of contiguous buildings of commercial property consisting of 1,000,000 or more square feet of space that is 40% or more vacant for 12 or more consecutive months immediately preceding the date of application for the certificate and that is 15 years old or older. A qualified facility does not include property that is to be used as a professional sports stadium. A qualified facility does not include property that is to be used as a casino. As used in this subdivision, “casino” means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(h) “Qualified local governmental unit” means a city, village, or township.

(i) “Rehabilitation” means changes to a qualified facility that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the qualified facility.

(j) “Taxable value” means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

### **207.843 Commercial rehabilitation district; establishment by qualified rehabilitation district; adoption of resolution; notice and opportunity for hearing; findings and determination; rejection.**

Sec. 3. (1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more qualified rehabilitation districts that may consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land, if at the time the resolution is adopted, the parcel or tract of land or portion of a parcel or tract of land within the district is a qualified facility.

(2) The legislative body of a qualified local governmental unit may establish a commercial rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed commercial rehabilitation district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing a commercial rehabilitation district, the legislative body shall give written notice by certified mail to the county in which the proposed district is to be located and the owners of all real property within the proposed commercial rehabilitation district and shall afford an opportunity for a hearing on the establishment of the commercial rehabilitation district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be

heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing a commercial rehabilitation district, shall set forth a finding and determination that the district meets the requirements set forth in subsection (1) and shall provide a copy of the resolution by certified mail to the county in which the district is located.

(5) Within 28 days after receiving a copy of the resolution establishing a commercial rehabilitation district, the county may reject the establishment of the district by 1 of the following methods:

(a) If the county has an elected county executive, by written notification to the qualified local governmental unit.

(b) If the county does not have an elected county executive, by a resolution of the county board of commissioners provided to the qualified local governmental unit.

#### **207.844 Commercial rehabilitation exemption certificate; filing application by owner of qualified facility; notice and hearing.**

Sec. 4. (1) If a commercial rehabilitation district is established under section 3, the owner of a qualified facility may file an application for a commercial rehabilitation exemption certificate with the clerk of the qualified local governmental unit that established the commercial rehabilitation district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the qualified facility, a general description of the proposed use of the qualified facility, the general nature and extent of the rehabilitation to be undertaken, a descriptive list of the fixed building equipment that will be a part of the qualified facility, a time schedule for undertaking and completing the rehabilitation of the qualified facility, a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitating the qualified facility, including expected construction employment, and information relating to the requirements in section 8.

(2) Upon receipt of an application for a commercial rehabilitation exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the qualified facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the qualified facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application shall be held separately from the hearing on the establishment of the commercial rehabilitation district.

#### **207.845 Commercial rehabilitation exemption certificate; approval or disapproval of application.**

Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for a commercial rehabilitation exemption certificate in accordance with section 8 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution

to the applicant and to the assessor. A resolution is not effective unless approved by the commission as provided in section 6.

**207.846 Commercial rehabilitation exemption certificate; issuance; form; contents; effective date; maintenance of record and copies.**

Sec. 6. (1) Not more than 60 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant a commercial rehabilitation exemption certificate in the form the commission determines, which shall contain all of the following:

(a) A legal description of the real property on which the qualified facility is located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) A statement of the taxable value of the qualified facility, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation shall be completed.

(e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (b) is less than 10 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the commercial rehabilitation exemption certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the commercial rehabilitation exemption certificate to the applicant and the assessor of the local tax collecting unit in which the qualified facility is located.

**207.847 Exemption of qualified facility from tax; duration of force and effect of certificate; commencement; date of issuance; extension.**

Sec. 7. (1) A qualified facility for which a commercial rehabilitation exemption certificate is in effect, but not the land on which the rehabilitated facility is located, or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after the effective date of the certificate and continuing so long as the commercial rehabilitation exemption certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) Unless earlier revoked as provided in section 12, a commercial rehabilitation exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 10 years. If the number of years determined

is less than 10, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 10 years after the completion of the qualified facility. The certificate shall commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the qualified facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 10 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the qualified facility is located, and the commission.

### **207.848 Separate filing; contents; compliance; requirements.**

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for a commercial rehabilitation exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the rehabilitation of the qualified facility does not occur earlier than 6 months before the applicant files the application for the commercial rehabilitation exemption certificate.

(b) The application relates to a rehabilitation program that when completed constitutes a qualified facility within the meaning of this act and that shall be situated within a commercial rehabilitation district established in a qualified local governmental unit eligible under this act.

(c) Completion of the qualified facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the qualified facility is situated.

(d) The applicant states, in writing, that the rehabilitation of the qualified facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the qualified facility.

### **207.849 Determining value of each qualified facility.**

Sec. 9. The assessor of each qualified local governmental unit in which there is a qualified facility with respect to which 1 or more commercial rehabilitation exemption certificates have been issued and are in force shall determine annually as of December 31

the value and taxable value, both for real and personal property, of each qualified facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2).

**207.850 Commercial rehabilitation tax; determination of amount; payment; exemption.**

Sec. 10. (1) There is levied upon every owner of a qualified facility to which a commercial rehabilitation exemption certificate is issued a specific tax to be known as the commercial rehabilitation tax.

(2) The amount of the commercial rehabilitation tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the qualified facility is located by the taxable value of the real and personal property of the qualified facility on the December 31 immediately preceding the effective date of the commercial rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the commercial rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the qualified facility, after deducting all of the following:

(i) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(ii) The taxable value used to calculate the tax under subdivision (a).

(3) The commercial rehabilitation tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the commercial rehabilitation tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(4) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of commercial rehabilitation tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(5) The amount of commercial rehabilitation tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury



and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

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

### **207.851 Lien.**

Sec. 11. The amount of the tax applicable to real property, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the commercial rehabilitation tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the qualified facility by certified mail, with the register of deeds of the county in which the qualified facility is situated.

### **207.852 Commercial rehabilitation exemption certificate; revocation.**

Sec. 12. The legislative body of the qualified local governmental unit may, by resolution, revoke the commercial rehabilitation exemption certificate of a facility if it finds that the completion of rehabilitation of the qualified facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the commercial rehabilitation exemption certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.

### **207.853 Transfer and assignment of certificate.**

Sec. 13. A commercial rehabilitation exemption certificate may be transferred and assigned by the holder of the certificate to a new owner of the qualified facility if the qualified local governmental unit approves the transfer after application by the new owner.

### **207.854 Status report by local government.**

Sec. 14. Not later than October 15 each year, each qualified local governmental unit granting a commercial rehabilitation exemption shall report to the commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the commercial rehabilitation tax is based, and a current estimate of the number of jobs retained or created by the exemption.

### **207.855 Report to legislature.**

Sec. 15. (1) The department annually shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development

issues a report on the utilization of commercial rehabilitation districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

### **207.856 Exemption not granted after December 31, 2015.**

Sec. 16. A new exemption shall not be granted under this act after December 31, 2015, but an exemption then in effect shall continue until the expiration of the exemption certificate.

This act is ordered to take immediate effect.

Approved November 17, 2005.

Filed with Secretary of State November 17, 2005.

---

## **[No. 211]**

### **(HB 4403)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 16215 (MCL 333.16215), as amended by 1999 PA 60.

*The People of the State of Michigan enact:*

### **333.16215 Delegation of acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity; third party reimbursement or worker’s compensation benefits.**

Sec. 16215. (1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual

who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.

(2) Subject to subsection (1) and except as otherwise provided in this subsection and subsections (3) and (4), a licensee who is an allopathic physician or osteopathic physician and surgeon shall delegate an act, task, or function that involves the performance of a procedure that requires the use of surgical instrumentation only to an individual who is licensed under this article. A licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in this subsection to an individual who is not licensed under this article if the unlicensed individual is 1 or more of the following and if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure:

(a) A student enrolled in a school of medicine or osteopathic medicine approved by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery.

(b) A student enrolled in a physician's assistant training program approved by the joint physician's assistant task force created under part 170.

(3) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article and who is 1 of the following:

(a) Performing acupuncture.

(b) Surgically removing only bone, skin, blood vessels, cartilage, dura mater, ligaments, tendons, pericardial tissue, or heart valves only from a deceased individual for transplantation, implantation, infusion, injection, or other medical or scientific purpose.

(4) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure, the delegation of such procedure is not prohibited or otherwise restricted by the board or that health facility or agency, and the delegation of that act, task, or function is specifically authorized by that health facility or agency to be delegated and performed by either of the following unlicensed individuals:

(a) A surgical technologist who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.

(b) A surgical first assistant who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.

(5) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual if the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.

(6) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required for acts, tasks, and functions delegated under this section.

(7) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part that regulates the scope of practice of that health profession.

(8) The amendatory act that added this subsection does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to perform those services under subsection (4).

This act is ordered to take immediate effect.

Approved November 17, 2005.

Filed with Secretary of State November 17, 2005.

---

**[No. 212]**

**(SB 298)**

AN ACT to amend 1972 PA 284, entitled "An act to provide for the organization and regulation of corporations; to prescribe their duties, rights, powers, immunities and liabilities; to provide for the authorization of foreign corporations within this state; to prescribe the functions of the administrator of this act; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending section 1062 (MCL 450.2062), as amended by 1997 PA 118.

*The People of the State of Michigan enact:*

**450.2062 Organization and admission fee; initial admission fee of foreign corporation for profit and foreign regulated investment company; fees for increase in authorized shares; additional admission fee; determining amount of authorized shares attributable to this state; information relating to determination of fees; "corporation" defined; determination of fee if capital of corporation not divided into shares; domestic corporation resulting from merger or consolidation; admission fees.**

Sec. 1062. (1) A domestic corporation or cooperative association, organized for profit, or a domestic regulated investment company, at the time of filing its articles of incorporation, shall pay 1 of the following to the administrator as an initial organization and admission fee:

(a) For 60,000 or fewer authorized shares, \$50.00.

(b) For more than 60,000 and fewer than 1,000,001 authorized shares, \$100.00.

(c) For more than 1,000,000 and fewer than 5,000,001 authorized shares, \$300.00.

(d) For more than 5,000,000 and fewer than 10,000,001 authorized shares, \$500.00.

(e) For more than 10,000,000 authorized shares, \$500.00 plus an additional \$1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(2) The initial admission fee of a foreign corporation for profit and foreign regulated investment company applying for admission to do business in this state is \$50.00 and 60,000 shares are considered initially attributable to this state at the time of admission.

(3) Every corporation incorporated under the laws of this state that increases its authorized shares, at the time of filing its amendment to the articles of incorporation, shall pay 1 of the following additional organizational fees:

(a) For an increase of 60,000 or fewer authorized shares, \$50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares, \$100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares, \$300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares, \$500.00.

(e) For an increase of more than 10,000,000 authorized shares, \$500.00 plus an additional \$1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(4) A foreign corporation authorized to transact business in this state that increases the number of authorized shares attributable to this state shall file an amended application in accordance with section 1021 and shall pay 1 of the following additional admission fees:

(a) For an increase of 60,000 or fewer authorized shares attributable to this state, \$50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares attributable to this state, \$100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares attributable to this state, \$300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares attributable to this state, \$500.00.

(e) For an increase of more than 10,000,000 authorized shares attributable to this state, \$500.00 plus an additional \$1,000.00 for each additional 10,000,000 authorized shares attributable to this state or portion of 10,000,000 authorized shares attributable to this state in excess of the initial 10,000,000 authorized shares attributable to this state.

(5) The number of authorized shares attributable to this state is determined by multiplying the total number of authorized shares by the most recent apportionment percentage used in the computation of the tax required by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145. If the business activities are confined solely to this state, the total number of authorized shares are considered attributable to this state.

(6) The administrator is authorized to require a corporation to furnish detailed and exact information relating to the determination of fees before making a final determination of the organization or admission franchise fee to be paid by the corporation.

(7) As used in this section, "corporation" includes a partnership association limited, a cooperative association, a joint association having any of the powers of a corporation, and a common law trust created by a statute of this state, another state, or a country exercising common law powers in the nature of a corporation, whether domestic or foreign, in addition to other corporations as are referred to in this act.

(8) If the capital of a corporation is not divided into shares, a fee for purposes of this section is determined as if the corporation had 60,000 shares.

(9) If a foreign corporation authorized to transact business in this state merges into a domestic corporation or consolidates with 1 or more corporations into a domestic corporation by complying with this act, the resulting domestic corporation shall pay an organization and admission fee for any increase in authorized shares or for any authorized shares as

provided in this section, less the amount that the merging or consolidating foreign corporation previously paid to this state under this section as an initial or additional admission fee.

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 533.
- (b) Senate Bill No. 664.
- (c) Senate Bill No. 665.
- (d) Senate Bill No. 666.
- (e) Senate Bill No. 667.
- (f) House Bill No. 5047.
- (g) House Bill No. 5048.
- (h) House Bill No. 5109.

This act is ordered to take immediate effect.

Approved November 21, 2005.

Filed with Secretary of State November 21, 2005.

---

**Compiler's note:** The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 533 was filed with the Secretary of State November 21, 2005, and became 2005 PA 215, Imd. Eff. Nov. 21, 2005.  
Senate Bill No. 664 was filed with the Secretary of State November 21, 2005, and became 2005 PA 217, Eff. Jan. 1, 2006.  
Senate Bill No. 665 was filed with the Secretary of State November 21, 2005, and became 2005 PA 218, Eff. Jan. 1, 2006.  
Senate Bill No. 666 was filed with the Secretary of State November 21, 2005, and became 2005 PA 219, Eff. Jan. 1, 2006.  
Senate Bill No. 667 was filed with the Secretary of State November 21, 2005, and became 2005 PA 220, Eff. Jan. 1, 2006.  
House Bill No. 5047 was filed with the Secretary of State November 21, 2005, and became 2005 PA 225, Imd. Eff. Nov. 21, 2005.  
House Bill No. 5048 was filed with the Secretary of State November 21, 2005, and became 2005 PA 226, Imd. Eff. Nov. 21, 2005.  
House Bill No. 5109 was filed with the Secretary of State November 21, 2005, and became 2005 PA 232, Imd. Eff. Nov. 21, 2005.

---

**[No. 213]**

**(SB 359)**

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, notes and bonds of the Michigan strategic fund; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of the state; to provide penalties; and to repeal certain acts and parts of acts," (MCL 125.2001 to 125.2093) by adding section 88p.

*The People of the State of Michigan enact:*

**125.2088p Michigan life sciences pipeline; establishment; purpose; commencement of operations; awards; selection of pipeline operator; request for proposals; contract; duration; report; “pipeline” defined.**

Sec. 88p. (1) The fund shall establish a Michigan life sciences pipeline to promote the development of businesses in this state engaged in providing goods and services related to the development and commercialization of life sciences. The pipeline shall begin operations not later than June 1, 2006. The pipeline shall do all of the following:

(a) Recruit Michigan-based businesses involved in life sciences research and commercialization and related goods and services to affiliate themselves with the pipeline as members.

(b) Market the services of the pipeline, its members, and life sciences research and commercialization in Michigan to develop and increase the amount of business activity for members of the pipeline.

(c) Otherwise assist members of the pipeline in developing life sciences research and commercialization activities in this state.

(d) Maintain and make available a list of members of the pipeline and services provided by members of the pipeline.

(e) At the discretion of the pipeline, charge members of the pipeline a reasonable fee based on the services provided by the pipeline.

(2) The fund shall encourage a recipient of expenditures under this chapter engaged in the development or commercialization of life sciences in this state to utilize goods or services provided by a member or members of the pipeline.

(3) When making awards under the commercialization, research, and development program established by the commercialization board under section 88k to recipients engaged in the development or commercialization of life sciences in this state, the commercialization board shall provide additional weighting to an applicant that demonstrates a commitment to utilize or collaborate with a member or members of the pipeline when procuring goods or services, if the goods or services are reasonably available from a member or members of the pipeline.

(4) The fund shall select a person or entity to operate the pipeline by issuing a request for proposals. The person or entity selected to operate the pipeline shall demonstrate to the fund the proven ability to do all the following:

(a) Coordinate commercialization of life sciences research initiatives.

(b) Assist life sciences start-up companies.

(c) Market life sciences related activities and capabilities.

(d) Coordinate or operate programs that have a history of ongoing independent peer review.

(e) Have regulatory experience necessary for commercial approval of pharmaceutical and medical devices.

(f) Develop and implement a plan for operating the pipeline.

(5) The fund shall enter into a contract with a duration of not less than 4 years with the person or entity selected to operate the pipeline.

(6) Not later than 5 years after the effective date of the amendatory act that added this section, the person or entity selected to operate the pipeline shall report to the governor, the clerk of the house of representatives, the secretary of the senate, and the chairpersons of the house of representatives and senate standing committees on appropriations on the



effectiveness of the pipeline in developing life sciences research and commercialization activities in this state.

(7) As used in this section, “pipeline” means the Michigan life sciences pipeline established in this section.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 533.
- (b) House Bill No. 5047.
- (c) House Bill No. 5048.
- (d) House Bill No. 5109.

This act is ordered to take immediate effect.

Approved November 21, 2005.

Filed with Secretary of State November 21, 2005.

---

**Compiler’s note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 533 was filed with the Secretary of State November 21, 2005, and became 2005 PA 215, Imd. Eff. Nov. 21, 2005.

House Bill No. 5047 was filed with the Secretary of State November 21, 2005, and became 2005 PA 225, Imd. Eff. Nov. 21, 2005.

House Bill No. 5048 was filed with the Secretary of State November 21, 2005, and became 2005 PA 226, Imd. Eff. Nov. 21, 2005.

House Bill No. 5109 was filed with the Secretary of State November 21, 2005, and became 2005 PA 232, Imd. Eff. Nov. 21, 2005.

---

## **[No. 214]**

### **(SB 521)**

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” by amending section 30 (MCL 206.30), as amended by 2004 PA 394.

*The People of the State of Michigan enact:*

**206.30 “Taxable income” defined; personal exemption; single additional exemption; certain deduction not considered allowable federal exemption for purposes of subsection (2); allowable exemption or deduction for nonresident or part-year resident; subtraction of prizes under MCL 432.1 to 432.47 from adjusted gross income prohibited; adjusted personal exemption; “retirement or pension benefits” defined.**

Sec. 30. (1) “Taxable income” means, for a person other than a corporation, estate, or trust, adjusted gross income as defined in the internal revenue code subject to the following adjustments under this section:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount that has been excluded from adjusted

gross income less related expenses not deducted in computing adjusted gross income because of section 265(a)(1) of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at adjusted gross income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at adjusted gross income.

(d) Deduct, to the extent included in adjusted gross income, income derived from obligations, or the sale or exchange of obligations, of the United States government that this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations and by any expenses incurred in the production of that income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at adjusted gross income.

(e) Deduct, to the extent included in adjusted gross income, compensation, including retirement benefits, received for services in the armed forces of the United States.

(f) Deduct the following to the extent included in adjusted gross income:

(i) Retirement or pension benefits received from a federal public retirement system or from a public retirement system of or created by this state or a political subdivision of this state.

(ii) Retirement or pension benefits received from a public retirement system of or created by another state or any of its political subdivisions if the income tax laws of the other state permit a similar deduction or exemption or a reciprocal deduction or exemption of a retirement or pension benefit received from a public retirement system of or created by this state or any of the political subdivisions of this state.

(iii) Social security benefits as defined in section 86 of the internal revenue code.

(iv) Before October 1, 1994, retirement or pension benefits from any other retirement or pension system as follows:

(A) For a single return, the sum of not more than \$7,500.00.

(B) For a joint return, the sum of not more than \$10,000.00.

(v) After September 30, 1994, retirement or pension benefits not deductible under subparagraph (i) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, to a maximum of \$30,000.00 for a single return and \$60,000.00 for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (i) or subdivision (e) and for tax years after the 1996 tax year by the amount of a deduction claimed under subdivision (r). For the 1995 tax year and each tax year after 1995, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph and subparagraph (iv) as necessary for tax years that end after September 30, 1994. As used in this subparagraph, “senior citizen” means that term as defined in section 514.

(vi) The amount determined to be the section 22 amount eligible for the elderly and the permanently and totally disabled credit provided in section 22 of the internal revenue code.

- (g) Adjustments resulting from the application of section 271.
- (h) Adjustments with respect to estate and trust income as provided in section 36.
- (i) Adjustments resulting from the allocation and apportionment provisions of chapter 3.
- (j) Deduct political contributions as described in section 4 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204, or 2 USC 431, not in excess of \$50.00 per annum, or \$100.00 per annum for a joint return.
- (k) Deduct, to the extent included in adjusted gross income, wages not deductible under section 280C of the internal revenue code.
- (l) Deduct the following payments made by the taxpayer in the tax year:
- (i) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.
- (ii) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:
- (A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract as described in subparagraph (i).
- (B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior college in Michigan.
- (C) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.
- (D) The contract is entered into after either of the following:
- (I) The purchaser has had his or her offer to enter into an advance tuition payment contract rejected by the board of directors of the Michigan education trust, if the board determines that the trust cannot accept an unlimited number of enrollees upon an actuarially sound basis.
- (II) The board of directors of the Michigan education trust determines that the trust can accept an unlimited number of enrollees upon an actuarially sound basis.
- (m) If an advance tuition payment contract under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or another contract for which the payment was deductible under subdivision (l) is terminated and the qualified beneficiary under that contract does not attend a university, college, junior or community college, or other institution of higher education, add the amount of a refund received by the taxpayer as a result of that termination or the amount of the deduction taken under subdivision (l) for payment made under that contract, whichever is less.
- (n) Deduct from the taxable income of a purchaser the amount included as income to the purchaser under the internal revenue code after the advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, is terminated because the qualified beneficiary attends an institution of postsecondary education other than either a state institution of higher education or an institution of postsecondary education located outside this state with which a state institution of higher education has reciprocity.
- (o) Add, to the extent deducted in determining adjusted gross income, the net operating loss deduction under section 172 of the internal revenue code.
- (p) Deduct a net operating loss deduction for the taxable year as determined under section 172 of the internal revenue code subject to the modifications under section 172(b)(2)

of the internal revenue code and subject to the allocation and apportionment provisions of chapter 3 of this act for the taxable year in which the loss was incurred.

(q) For a tax year beginning after 1986, deduct, to the extent included in adjusted gross income, benefits from a discriminatory self-insurance medical expense reimbursement plan.

(r) After September 30, 1994 and before the 1997 tax year, a taxpayer who is a senior citizen may deduct, to the extent included in adjusted gross income, interest and dividends received in the tax year not to exceed \$1,000.00 for a single return or \$2,000.00 for a joint return. However, for tax years before the 1997 tax year, the deduction under this subdivision shall not be taken if the taxpayer takes a deduction for retirement benefits under subdivision (e) or a deduction under subdivision (f)(i), (ii), (iv), or (v). For tax years after the 1996 tax year, a taxpayer who is a senior citizen may deduct to the extent included in adjusted gross income, interest, dividends, and capital gains received in the tax year not to exceed \$3,500.00 for a single return and \$7,000.00 for a joint return for the 1997 tax year, and \$7,500.00 for a single return and \$15,000.00 for a joint return for tax years after the 1997 tax year. For tax years after the 1996 tax year, the maximum amounts allowed under this subdivision shall be reduced by the amount of a deduction claimed for retirement benefits under subdivision (e) or a deduction claimed under subdivision (f)(i), (ii), (iv), or (v). For the 1995 tax year, for the 1996 tax year, and for each tax year after the 1998 tax year, the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary for tax years that end after September 30, 1994. As used in this subdivision, “senior citizen” means that term as defined in section 514.

(s) Deduct, to the extent included in adjusted gross income, all of the following:

(i) The amount of a refund received in the tax year based on taxes paid under this act.

(ii) The amount of a refund received in the tax year based on taxes paid under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(iii) The amount of a credit received in the tax year based on a claim filed under sections 520 and 522 to the extent that the taxes used to calculate the credit were not used to reduce adjusted gross income for a prior year.

(t) Add the amount paid by the state on behalf of the taxpayer in the tax year to repay the outstanding principal on a loan taken on which the taxpayer defaulted that was to fund an advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, if the cost of the advance tuition payment contract was deducted under subdivision (l) and was financed with a Michigan education trust secured loan.

(u) For the 1998 tax year and each tax year after the 1998 tax year, deduct the amount calculated under section 30d.

(v) For tax years that begin on and after January 1, 1994, deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermögensfragen, as a result of the settlement of the action entitled In re: Holocaust victim assets litigation, CV-96-4849, CV-96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

(i) “Holocaust victim” means a person, or the heir or beneficiary of that person, who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945.

(ii) “Recovered asset” means any asset of any type and any interest earned on that asset including, but not limited to, bank deposits, insurance proceeds, or artwork owned by a Holocaust victim during the period from 1920 to 1945, withheld from that Holocaust victim from and after 1945, and not recovered, returned, or otherwise compensated to the Holocaust victim until after 1993.

(w) For tax years that begin after December 31, 1999, deduct, to the extent not deducted in determining adjusted gross income, both of the following:

(i) The total of all contributions made on and after October 1, 2000 by the taxpayer in the tax year less qualified withdrawals made in the tax year to education savings accounts pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year.

(ii) The amount under section 30f.

(x) For tax years that begin after December 31, 1999, add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from education savings accounts, not to exceed the total amount deducted under subdivision (w) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an education savings account in all previous tax years for which no deduction was claimed under subdivision (w), less any contributions for which no deduction was claimed under subdivision (w) that were withdrawn in all previous tax years.

(y) For tax years that begin after December 31, 1999, deduct, to the extent included in adjusted gross income, the amount of a distribution from individual retirement accounts that qualify under section 408 of the internal revenue code if the distribution is used to pay qualified higher education expenses as that term is defined in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(z) For tax years that begin after December 31, 2000, deduct, to the extent included in adjusted gross income, an amount equal to the qualified charitable distribution made in the tax year by a taxpayer to a charitable organization. The amount allowed under this subdivision shall be equal to the amount deductible by the taxpayer under section 170(c) of the internal revenue code with respect to the qualified charitable distribution in the tax year in which the taxpayer makes the distribution to the qualified charitable organization, reduced by both the amount of the deduction for retirement or pension benefits claimed by the taxpayer under subdivision (f)(i), (ii), (iv), or (v) and by 2 times the total amount of credits claimed under sections 260 and 261 for the tax year. As used in this subdivision, “qualified charitable distribution” means a distribution of assets to a qualified charitable organization by a taxpayer not more than 60 days after the date on which the taxpayer received the assets as a distribution from a retirement or pension plan described in subsection (8)(a). A distribution is to a qualified charitable organization if the distribution is made in any of the following circumstances:

(i) To an organization described in section 501(c)(3) of the internal revenue code except an organization that is controlled by a political party, an elected official or a candidate for an elective office.

(ii) To a charitable remainder annuity trust or a charitable remainder unitrust as defined in section 664(d) of the internal revenue code; to a pooled income fund as defined in section 642(c)(5) of the internal revenue code; or for the issuance of a charitable gift

annuity as defined in section 501(m)(5) of the internal revenue code. A trust, fund, or annuity described in this subparagraph is a qualified charitable organization only if no person holds any interest in the trust, fund, or annuity other than 1 or more of the following:

- (A) The taxpayer who received the distribution from the retirement or pension plan.
- (B) The spouse of an individual described in sub-subparagraph (A).
- (C) An organization described in section 501(c)(3) of the internal revenue code.

(aa) A taxpayer who is a resident tribal member may deduct, to the extent included in adjusted gross income, all nonbusiness income earned or received in the tax year and during the period in which an agreement entered into between the taxpayer's tribe and this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is in full force and effect. As used in this subdivision:

(i) "Business income" means business income as defined in section 4 and apportioned under chapter 3.

(ii) "Nonbusiness income" means nonbusiness income as defined in section 14 and, to the extent not included in business income, all of the following:

(A) All income derived from wages whether the wages are earned within the agreement area or outside of the agreement area.

(B) All interest and passive dividends.

(C) All rents and royalties derived from real property located within the agreement area.

(D) All rents and royalties derived from tangible personal property, to the extent the personal property is utilized within the agreement area.

(E) Capital gains from the sale or exchange of real property located within the agreement area.

(F) Capital gains from the sale or exchange of tangible personal property located within the agreement area at the time of sale.

(G) Capital gains from the sale or exchange of intangible personal property.

(H) All pension income and benefits including, but not limited to, distributions from a 401(k) plan, individual retirement accounts under section 408 of the internal revenue code, or a defined contribution plan, or payments from a defined benefit plan.

(I) All per capita payments by the tribe to resident tribal members, without regard to the source of payment.

(J) All gaming winnings.

(iii) "Resident tribal member" means an individual who meets all of the following criteria:

(A) Is an enrolled member of a federally recognized tribe.

(B) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(C) The individual's principal place of residence is located within the agreement area as designated in the agreement under sub-subparagraph (B).

(bb) For tax years that begin after December 31, 2006, deduct, to the extent included in adjusted gross income, all or a portion of the gain, as determined under this section, realized from an initial equity investment of not less than \$100,000.00 made by the taxpayer before December 31, 2009, in a qualified business, if an amount equal to the sum

of the taxpayer's basis in the investment as determined under the internal revenue code plus the gain, or a portion of that amount, is reinvested in an equity investment in a qualified business within 1 year after the sale or disposition of the investment in the qualified business. If the amount of the subsequent investment is less than the sum of the taxpayer's basis from the prior equity investment plus the gain from the prior equity investment, the amount of a deduction under this section shall be reduced by the difference between the sum of the taxpayer's basis from the prior equity investment plus the gain from the prior equity investment and the subsequent investment. As used in this subdivision:

(i) "Advanced automotive, manufacturing, and materials technology" means any technology that involves 1 or more of the following:

(A) Materials with engineered properties created through the development of specialized process and synthesis technology.

(B) Nanotechnology, including materials, devices, or systems at the atomic, molecular, or macromolecular level, with a scale measured in nanometers.

(C) Microelectromechanical systems, including devices or systems integrating microelectronics with mechanical parts and a scale measured in micrometers.

(D) Improvements to vehicle safety, vehicle performance, vehicle production, or environmental impact, including, but not limited to, vehicle equipment and component parts.

(E) Any technology that involves an alternative energy vehicle or its components. "Alternative energy vehicle" means that term as defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(F) A new technology, device, or system that enhances or improves the manufacturing process of wood, timber, or agricultural-based products.

(G) Advanced computing or electronic device technology related to technology described under this subparagraph.

(H) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(I) Product research and development related to technology described under this subparagraph.

(ii) "Advanced computing" means any technology used in the design and development of 1 or more of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(iii) "Alternative energy technology" means applied research or commercialization of new or next generation technology in 1 or more of the following:

(A) Alternative energy technology as that term is defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(B) Devices or systems designed and used solely for the purpose of generating energy from agricultural crops, residue and waste generated from the production and processing of agricultural products, animal wastes, or food processing wastes, not including a conventional gasoline or diesel fuel engine or a retrofitted conventional gasoline or diesel fuel engine.

(C) A new technology, product, or system that permits the utilization of biomass for the production of specialty, commodity, or foundational chemicals or of novel or economical



commodity materials through the application of biotechnology that minimizes, complements, or replaces reliance on petroleum for the production.

(D) Advanced computing or electronic device technology related to technology described under this subparagraph.

(E) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(F) Product research and development related to a technology described under this subparagraph.

(iv) “Competitive edge technology” means 1 or more of the following:

(A) Advanced automotive, manufacturing, and materials technology.

(B) Alternative energy technology.

(C) Homeland security and defense technology.

(D) Life sciences technology.

(v) “Electronic device technology” means any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics; optical and opto-electrical devices; or data and digital communications and imaging devices.

(vi) “Homeland security and defense technology” means technology that assists in the assessment of threats or damage to the general population and critical infrastructure, protection of, defense against, or mitigation of the effects of foreign or domestic threats, disasters, or attacks, or support for crisis or response management, including, but not limited to, 1 or more of the following:

(A) Sensors, systems, processes, or equipment for communications, identification and authentication, screening, surveillance, tracking, and data analysis.

(B) Advanced computing or electronic device technology related to technology described under this subparagraph.

(C) Aviation technology including, but not limited to, avionics, airframe design, sensors, early warning systems, and services related to the technology described in this subparagraph.

(D) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(E) Product research and development related to technology described under this subparagraph.

(vii) “Life sciences technology” means any technology derived from life sciences intended to improve human health or the overall quality of human life, including, but not limited to, systems, processes, or equipment for drug or gene therapies, biosensors, testing, medical devices or instrumentation with a therapeutic or diagnostic value, a pharmaceutical or other product that requires United States food and drug administration approval or registration prior to its introduction in the marketplace and is a drug or medical device as defined by the federal food, drug, and cosmetic act, 21 USC 301 to 399, or 1 or more of the following:

(A) Advanced computing or electronic device technology related to technology described under this subparagraph.

(B) Design, engineering, testing, or diagnostics related to technology or the commercial manufacturing of technology described under this subparagraph.

(C) Product research and development related to technology described under this subparagraph.

(viii) “Life sciences” means science for the examination or understanding of life or life processes, including, but not limited to, all of the following:

- (A) Bioengineering.
- (B) Biomedical engineering.
- (C) Genomics.
- (D) Proteomics.
- (E) Molecular and chemical ecology.

(F) Biotechnology, including any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product for useful purposes. Biotechnology or life sciences do not include any of the following:

(I) Activities prohibited under section 2685 of the public health code, 1978 PA 368, MCL 333.2685.

(II) Activities prohibited under section 2688 of the public health code, 1978 PA 368, MCL 333.2688.

(III) Activities prohibited under section 2690 of the public health code, 1978 PA 368, MCL 333.2690.

(IV) Activities prohibited under section 16274 of the public health code, 1978 PA 368, MCL 333.16274.

(V) Stem cell research with human embryonic tissue.

(ix) “Qualified business” means a business that complies with all of the following:

(A) The business is a seed or early stage business as defined in section 3 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2233.

(B) The business has its headquarters in this state, is domiciled in this state, or has a majority of its employees working a majority of their time in this state.

(C) The business has a preinvestment valuation of less than \$10,000,000.00.

(D) The business has been in existence less than 5 years. This sub-subparagraph does not apply to a business, the business activity of which is derived from research at an institution of higher education located within this state or an organization exempt from federal taxation under section 501c(3) of the internal revenue code and that is located within this state.

(E) The business is engaged only in competitive edge technology.

(F) The business is certified by the Michigan strategic fund as meeting the requirements of sub-subparagraphs (A) to (E) at the time of each proposed investment.

(2) The following personal exemptions multiplied by the number of personal or dependency exemptions allowable on the taxpayer’s federal income tax return pursuant to the internal revenue code shall be subtracted in the calculation that determines taxable income:

(a) For a tax year beginning during 1987 .....	\$ 1,600.00.
(b) For a tax year beginning during 1988 .....	\$ 1,800.00.
(c) For a tax year beginning during 1989 .....	\$ 2,000.00.
(d) For a tax year beginning after 1989 and before 1995 .....	\$ 2,100.00.
(e) For a tax year beginning during 1995 or 1996 .....	\$ 2,400.00.
(f) Except as otherwise provided in subsection (7), for a tax year beginning after 1996 .....	\$ 2,500.00.

(3) A single additional exemption determined as follows shall be subtracted in the calculation that determines taxable income in each of the following circumstances:

(a) For tax years beginning after 1989 and before 2000, \$900.00 in each of the following circumstances:

(i) The taxpayer is a paraplegic, a quadriplegic, a hemiplegic, a person who is blind as defined in section 504, or a person who is totally and permanently disabled as defined in section 522.

(ii) The taxpayer is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.

(iii) The taxpayer is 65 years of age or older.

(iv) The return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(b) For tax years beginning after 1999, \$1,800.00 for each taxpayer and every dependent of the taxpayer who is 65 years of age or older. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision and subdivision (c), "dependent" means that term as defined in section 30e.

(c) For tax years beginning after 1999, \$1,800.00 for each taxpayer and every dependent of the taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a hemiplegic; a person who is blind as defined in section 504; or a person who is totally and permanently disabled as defined in section 522. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision.

(d) For tax years beginning after 1999, \$1,800.00 if the taxpayer's return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(4) For a tax year beginning after 1987, an individual with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year is not considered to have an allowable federal exemption for purposes of subsection (2), but may subtract \$500.00 in the calculation that determines taxable income for a tax year beginning in 1988, \$1,000.00 for a tax year beginning after 1988 and before 2000, and \$1,500.00 for a tax year beginning after 1999.

(5) A nonresident or a part-year resident is allowed that proportion of an exemption or deduction allowed under subsection (2), (3), or (4) that the taxpayer's portion of adjusted gross income from Michigan sources bears to the taxpayer's total adjusted gross income.

(6) For a tax year beginning after 1987, in calculating taxable income, a taxpayer shall not subtract from adjusted gross income the amount of prizes won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(7) For each tax year after the 1997 tax year, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 1997 by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States consumer price index for the 1995-96 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment. The personal exemption for the tax year shall be determined by adding \$200.00 to that rounded amount. As used in this section, "United States consumer

price index” means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics. For each year after the 2000 tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year beginning in 2000 by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States consumer price index for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment.

(8) As used in subsection (1)(f), “retirement or pension benefits” means distributions from all of the following:

(a) Except as provided in subdivision (d), qualified pension trusts and annuity plans that qualify under section 401(a) of the internal revenue code, including all of the following:

(i) Plans for self-employed persons, commonly known as Keogh or HR 10 plans.

(ii) Individual retirement accounts that qualify under section 408 of the internal revenue code if the distributions are not made until the participant has reached 59-1/2 years of age, except in the case of death, disability, or distributions described by section 72(t)(2)(A)(iv) of the internal revenue code.

(iii) Employee annuities or tax-sheltered annuities purchased under section 403(b) of the internal revenue code by organizations exempt under section 501(c)(3) of the internal revenue code, or by public school systems.

(iv) Distributions from a 401(k) plan attributable to employee contributions mandated by the plan or attributable to employer contributions.

(b) The following retirement and pension plans not qualified under the internal revenue code:

(i) Plans of the United States, state governments other than this state, and political subdivisions, agencies, or instrumentalities of this state.

(ii) Plans maintained by a church or a convention or association of churches.

(iii) All other unqualified pension plans that prescribe eligibility for retirement and pre-determine contributions and benefits if the distributions are made from a pension trust.

(c) Retirement or pension benefits received by a surviving spouse if those benefits qualified for a deduction prior to the decedent’s death. Benefits received by a surviving child are not deductible.

(d) Retirement and pension benefits do not include:

(i) Amounts received from a plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service. These plans include, but are not limited to, all of the following:

(A) Deferred compensation plans under section 457 of the internal revenue code.

(B) Distributions from plans under section 401(k) of the internal revenue code other than plans described in subdivision (a)(iv).

(C) Distributions from plans under section 403(b) of the internal revenue code other than plans described in subdivision (a)(iii).

(ii) Premature distributions paid on separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan.

(iii) Payments received as an incentive to retire early unless the distributions are from a pension trust.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 533.
- (b) House Bill No. 5047.
- (c) House Bill No. 5048.
- (d) House Bill No. 5109.

This act is ordered to take immediate effect.

Approved November 21, 2005.

Filed with Secretary of State November 21, 2005.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 533 was filed with the Secretary of State November 21, 2005, and became 2005 PA 215, Imd. Eff. Nov. 21, 2005.

House Bill No. 5047 was filed with the Secretary of State November 21, 2005, and became 2005 PA 225, Imd. Eff. Nov. 21, 2005.

House Bill No. 5048 was filed with the Secretary of State November 21, 2005, and became 2005 PA 226, Imd. Eff. Nov. 21, 2005.

House Bill No. 5109 was filed with the Secretary of State November 21, 2005, and became 2005 PA 232, Imd. Eff. Nov. 21, 2005.

---

**[No. 215]****(SB 533)**

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, notes and bonds of the Michigan strategic fund; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of the state; to provide penalties; and to repeal certain acts and parts of acts," (MCL 125.2001 to 125.2093) by adding sections 88k, 88l, 88m, 88n, and 88o.

*The People of the State of Michigan enact:*

**125.2088k Strategic economic investment and commercialization board; creation; powers, duties, and authority; award of grants and loans; duties of fund; standards for expenditures of money; prohibited expenditures; reasons for selection of grant recipient; resolution establishing or changing program; notice.**

Sec. 88k. (1) The strategic economic investment and commercialization board is created within the fund. The commercialization board shall exercise its powers, duties, and decision-making authority under this chapter independently of the fund, the fund board, and the department of treasury.

(2) The commercialization board shall award grants and loans from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256, and the investment fund only for basic research, applied research, university technology transfer, and commercialization of products, processes, and services to encourage the development of competitive edge technologies to create jobs in this state.

(3) Subject to subsection (2), the fund as determined by the commercialization board shall do all of the following:

(a) Establish a competitive process to award grants and make loans for competitive edge technologies. The competitive process shall include, but is not limited to, the following:

(i) A provision that the applications must be peer-reviewed by independent peer review experts based on the scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding of the application. Scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding shall be given equal weight in the review and scoring process.

(ii) A preference for proposals that can contribute to the development of economic diversification or the creation of employment opportunities in this state.

(iii) A provision that out-of-state business must have a significant existing or proposed business presence in this state.

(iv) A provision that the program will utilize contracts with measurable milestones, clear objectives, provisions to revoke awards for breach of contract, and repayment provisions for loans given to qualified businesses that leave Michigan within 3 years of the execution of the contract or otherwise breach the terms of the contract.

(v) A provision that the applicant leverage other resources as a condition of the grant or loan. If an applicant is seeking a grant or a loan under this chapter to match federal funds for small business innovation research or small business technology transfer programs, the grant or loan under this chapter shall not exceed 25% of the federal funds and must leverage third-party commercialization funding at both the phase I and phase II levels.

(vi) Limit overhead rates for recipients of grants and loans to reflect actual overhead but not greater than 15% of the grant or loan.

(vii) Except as provided in subparagraph (v), a provision that grants can only be awarded to Michigan institutions of higher education, Michigan nonprofit research institutions, and Michigan nonprofit corporations.

(viii) A preference for collaborations between institutions of higher education, Michigan nonprofit research institutions, Michigan nonprofit corporations, and qualified businesses.

(ix) A provision authorizing the award of grants to institutions of higher education to serve as match to promote or secure the award and receipt of competitively awarded federal research grants related to competitive edge technologies. A matching grant shall not exceed 10% of the amount of the competitively awarded federal research grants received.

(x) A provision encouraging the redevelopment of existing scientific wet lab space for the commercialization of life science technology.

(xi) A preference for proposals that meet 1 or more of the following:

(A) Forecast revenues within 2 years.

(B) Have outside investments from investors with experience and management teams with experience in the industry targeted by the proposal.

(C) Have outside directors with expertise in the industry targeted by the proposal.

(b) The fund shall contract with independent peer review experts selected by the commercialization board to assist the commercialization board with its responsibilities under this chapter.

(4) The commercialization board shall establish standards to ensure that money expended under this chapter will result in economic benefit to this state and ensure that a major share of the business activity resulting from the expenditures occurs in this state.

(5) The commercialization board shall ensure that a recipient of money expended under this chapter agrees as a condition of receiving the money not to use the money for any of the following:

(a) The development of a stadium or arena for use by a professional sports team.

(b) The development of a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino at which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or property associated or affiliated with the operation of either type of casino described in this subdivision, including, but not limited to, a parking lot, hotel, motel, or retail store.

(6) The commercialization board shall establish requirements to ensure that money expended under this section shall not be used for any of the following:

(a) Grants or loans to a person who has been convicted of a criminal offense incident to the application for or performance of a state contract or subcontract. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(b) Grants or loans to a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes. As used in this subdivision, if a person is a business entity, then person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(c) Grants or loans to induce a qualified business or a small business to leave this state.

(d) Grants or loans that would contribute to the violation of internationally recognized workers rights, as defined in section 507(4) of the trade act of 1974, 19 USC 2467(4), of workers in a country other than the United States, including any designated zone or area in that country.

(e) Grants or loans to a corporation or an affiliate of the corporation incorporated in a tax haven country after September 11, 2001, but with the United States as the principal market for the public trading of the corporation's stock. As used in this section, "tax haven country" includes a country with tax laws that facilitate avoidance by a corporation or an affiliate of the corporation of United States tax obligations, including Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, and the Republic of the Seychelles.

(7) When the commercialization board approves a grant or a loan under this chapter, the commercialization board shall state the specific objective reasons the applicant was selected over other applicants for a grant or loan under this chapter.

(8) After March 31, 2006, before adopting a resolution that establishes or substantially changes a program operated by the commercialization board, including any fees, charges,