

[No. 189]**(SB 723)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 32801 and 32803 (MCL 324.32801 and 324.32803), section 32801 as added by 2003 PA 148 and section 32803 as amended by 2006 PA 34.

The People of the State of Michigan enact:

324.32801 Definitions.

Sec. 32801. As used in this part:

(a) “Annex 2001” means the Great Lakes charter annex signed by the governors and premiers of the Great Lakes region on June 18, 2001.

(b) “Aquifer” means any water bearing bed or stratum of earth or rock capable of yielding groundwater to a water well in sufficient quantities that can be withdrawn.

(c) “Base flow” means groundwater discharge to rivers and streams.

(d) “Conflict areas” means an aquifer or a portion of an aquifer in which the department has determined that there is reasonable, scientifically based evidence of a pattern of groundwater withdrawal conflicts or a single extended groundwater withdrawal conflict.

(e) “Council” means the water resources conservation advisory council created under section 32803.

(f) “Department” means the department of environmental quality.

(g) “Director” means the director of the department.

(h) “Groundwater” means water below the land surface in a zone of saturation.

(i) “Groundwater withdrawal conflict” means the failure of an existing water well that was constructed in compliance with part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771, to furnish its normal supply of groundwater because of a progressive decline of the static water level within the aquifer due to the withdrawal of groundwater from the aquifer by a high-capacity well or sump, as determined based on reasonable, scientifically based evidence.

(j) “Static water level” means the distance between the ground surface and the water level within a well that is not being pumped.

324.32803 Water resources conservation advisory council; creation; qualifications and appointment of members; appointment of technical advisory committee; duties of council; reports; “assessment tool” defined.

Sec. 32803. (1) The water resources conservation advisory council is created within the department of natural resources. The council shall consist of all of the following members:

(a) Four individuals appointed by the senate majority leader as follows:

(i) One individual representing business and manufacturing interests.

- (ii) One individual representing public utilities.
 - (iii) One individual representing a statewide angler association.
 - (iv) One individual representing a statewide agricultural organization.
- (b) Four individuals appointed by the speaker of the house of representatives as follows:
- (i) One individual representing registered well drilling contractors with hydrology experience.
 - (ii) One individual representing local units of government.
 - (iii) One individual representing agricultural interests.
 - (iv) One individual with knowledge and expertise in limnology.
- (c) Five individuals appointed by the governor as follows:
- (i) One individual representing municipal water suppliers.
 - (ii) One individual representing a statewide conservation organization.
 - (iii) One individual representing a statewide riparian landowners association.
 - (iv) One individual representing a statewide tourism organization.
 - (v) One individual representing Indian tribes.
- (d) Four individuals appointed by the director as follows:
- (i) One individual representing nonagriculture irrigators.
 - (ii) One individual representing the aggregate industry.
 - (iii) One individual representing environmental organizations.
 - (iv) One individual representing the general public.
- (e) Four individuals representing the department, the department of agriculture, the department of natural resources, and the attorney general.
- (2) The appointments to the council under subsection (1) shall be made not later than 30 days after the effective date of the amendatory act that added this subsection. The person making the appointment under subsection (1) shall give consideration and deference to individuals who served on the former groundwater conservation advisory council.
- (3) The council shall appoint a technical advisory committee of individuals with specific technical and legal expertise relevant to the council's responsibilities.
- (4) The council shall do all of the following:
- (a) Not later than 6 months after the effective date of the amendatory act that added this subdivision, study and make recommendations to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment, and the department on how the assessment tool could be updated to reconcile differences between baseline capacity and actual withdrawal amounts to assure the accuracy of the assessment tool's determinations.
 - (b) When the department makes the assessment tool available for testing and evaluation, conduct testing and evaluate the operation and the accuracy of the assessment tool, including implications of section 32706e. Not later than 9 months after the effective date of the amendatory act that added this subdivision, submit a report to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment, and the department that contains the results of its testing and evaluation and any recommendations that the council has to improve the operation of the assessment tool.
 - (c) Study and make recommendations regarding the development and refinement of the assessment tool.

(d) Study and make recommendations on whether and how the definition of adverse resource impact in section 32701 should be modified to more specifically address potential impacts to the Great Lakes, inland lakes, and other aquatic systems due to large quantity withdrawals.

(e) Make recommendations on reconciling conflicts in state laws related to the use of the waters of the state.

(f) Make recommendations on the development and implementation of the state's water conservation and efficiency program under section 4.2 of the compact.

(g) Develop a framework for evaluating preventative measures designed to prevent adverse resource impacts.

(h) In consultation with academic institutions and other nonprofit organizations, make recommendations regarding educational materials related to the use and availability of water resources.

(i) Not earlier than 3 years after the effective date of the amendatory act that added this subdivision, submit a report to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment that makes recommendations regarding how the water withdrawal assessment process under part 327 could be improved in order to more accurately assess adverse resource impacts. The report shall contain specific recommendations on the use of the assessment tool, the site-specific review process, the permitting process, and any other measure that the council determines would improve the water withdrawal assessment process.

(5) The council shall submit the following reports, approved by a majority of the voting members of the council, to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment and to the department:

(a) Not later than February 8, 2009, a progress report on the council's findings and recommendations under subsection (4)(c) to (h) as of that date.

(b) Not later than August 8, 2009, the council's final report on its findings and recommendations under subsection (4)(c) to (h).

(6) As used in this section, "assessment tool" means the water withdrawal assessment tool provided for in part 327.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 727.
- (c) Senate Bill No. 858.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.

(k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

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

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
 Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
 Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
 Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
 Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
 House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
 House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
 House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
 House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
 House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
 House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 190]

(SB 212)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” (MCL 324.101 to 324.90106) by adding section 32730 and part 342.

The People of the State of Michigan enact:

324.32730 Compact; implementation.

Sec. 32730. The compact shall be implemented as follows:

(a) Except as specifically provided in this part, water withdrawals originating within this state shall be regulated exclusively under this part.

(b) A proposed use for which a water withdrawal permit is issued under section 32723 shall be considered to satisfy the requirements of section 4.11 of the compact.

(c) The 2008 amendments to this part, the 2008 amendments to part 328, and the 2008 amendments to sections 4 and 17 of the safe drinking water act, 1976 PA 399, MCL 325.1004 and 325.1017, are intended to fully implement the compact in this state. For purposes of section 9.1 of the compact, all acts and parts of acts that were inconsistent with the compact on the effective date of the amendatory act that added this section have been modified, as necessary, to be consistent with the compact, and therefore section 9.1 does not repeal any acts or parts of acts.

(d) If the council proposes a revision to the standard of review and decision under section 3.1 and 3.3 of the compact, the governor shall notify the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment. A regulation adopted pursuant to section 3.1 and 3.3 of the compact that amends the standard of review and decision shall not be deemed duly adopted in accordance with the statutory authorities and applicable procedures of this state unless the regulation is approved by the legislature and enacted into law.

PART 342 GREAT LAKES—ST. LAWRENCE RIVER BASIN
WATER RESOURCES COMPACT

324.34201 Great Lakes-St. Lawrence River Basin Water Resources Compact.

Sec. 34201. The Great Lakes-St. Lawrence River Basin Water Resources Compact is hereby ratified, enacted into law, and entered into by this state as a party as follows:

AGREEMENT

Section 1. The states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by the respective state legislatures and consent by the Congress of the United States as follows:

GREAT LAKES—ST. LAWRENCE RIVER BASIN
WATER RESOURCES COMPACT

ARTICLE 1

SHORT TITLE, DEFINITIONS, PURPOSES AND DURATION

Section 1.1. Short Title. This act shall be known and may be cited as the “Great Lakes—St. Lawrence River Basin Water Resources Compact.”

Section 1.2. Definitions. For the purposes of this Compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

Adaptive Management means a Water resources management system that provides a systematic process for evaluation, monitoring and learning from the outcomes of operational programs and adjustment of policies, plans and programs based on experience and the evolution of scientific knowledge concerning Water resources and Water Dependent Natural Resources.

Agreement means the Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement.

Applicant means a Person who is required to submit a Proposal that is subject to management and regulation under this Compact. Application has a corresponding meaning.

Basin or Great Lakes—St. Lawrence River Basin means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

Basin Ecosystem or Great Lakes—St. Lawrence River Basin Ecosystem means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

Community within a Straddling County means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community.

Compact means this Compact.

Consumptive Use means that portion of the Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into Products, or other processes.

Council means the Great Lakes—St. Lawrence River Basin Water Resources Council, created by this Compact.

Council Review means the collective review by the Council members as described in Article 4 of this Compact.

County means the largest territorial division for local government in a State. The County boundaries shall be defined as those boundaries that exist as of December 13, 2005.

Cumulative Impacts mean the impact on the Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present, and reasonably foreseeable future Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time.

Decision-Making Standard means the decision-making standard established by Section 4.11 for Proposals subject to management and regulation in Section 4.10.

Diversion means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, a tanker ship, tanker truck or rail tanker but does not apply to Water that is used in the Basin or a Great Lake watershed to manufacture or produce a Product that is then transferred out of the Basin or watershed. Divert has a corresponding meaning.

Environmentally Sound and Economically Feasible Water Conservation Measures mean those measures, methods, technologies or practices for efficient water use and for reduction of water loss and waste or for reducing a Withdrawal, Consumptive Use or Diversion that *i*) are environmentally sound, *ii*) reflect best practices applicable to the water use sector, *iii*) are technically feasible and available, *iv*) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs and *v*) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts and other appropriate factors.

Exception means a transfer of Water that is excepted under Section 4.9 from the prohibition against Diversions in Section 4.8.

Exception Standard means the standard for Exceptions established in Section 4.9.4.

Intra-Basin Transfer means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

Measures means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

New or Increased Diversion means a new Diversion, an increase in an existing Diversion, or the alteration of an existing Withdrawal so that it becomes a Diversion.

New or Increased Withdrawal or Consumptive Use means a new Withdrawal or Consumptive Use or an increase in an existing Withdrawal or Consumptive Use.

Originating Party means the Party within whose jurisdiction an Application or registration is made or required.

Party means a State party to this Compact.

Person means a human being or a legal person, including a government or a nongovernmental organization, including any scientific, professional, business, non-profit, or public interest organization or association that is neither affiliated with, nor under the direction of a government.

Product means something produced in the Basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial or other processes or intended for intermediate or end use consumers. (i) Water used as part of the packaging of a Product shall be considered to be part of the Product. (ii) Other than Water used as part of the packaging of a Product, Water that is used primarily to transport materials in or out of the Basin is not a Product or part of a Product. (iii) Except as provided in (i) above, Water which is transferred as part of a public or private supply is not a Product or part of a Product. (iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or water basins is not a Product.

Proposal means a Withdrawal, Diversion or Consumptive Use of Water that is subject to this Compact.

Province means Ontario or Québec.

Public Water Supply Purposes means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.

Regional Body means the members of the Council and the Premiers of Ontario and Québec or their designee as established by the Agreement.

Regional Review means the collective review by the Regional Body as described in Article 4 of this Compact.

Source Watershed means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

Standard of Review and Decision means the Exception Standard, Decision-Making Standard and reviews as outlined in Article 4 of this Compact.

State means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

Straddling Community means any incorporated city, town or the equivalent thereof, wholly within any County that lies partly or completely within the Basin, whose corporate boundary existing as of the effective date of this Compact, is partly within the Basin or partly within two Great Lakes watersheds.

Technical Review means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Compact meets the Standard of Review and Decision following procedures and guidelines as set out in this Compact.

Water means ground or surface water contained within the Basin.

Water Dependent Natural Resources means the interacting components of land, Water and living organisms affected by the Waters of the Basin.

Waters of the Basin or Basin Water means the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.

Withdrawal means the taking of water from surface water or groundwater. Withdraw has a corresponding meaning.

Section 1.3. Findings and Purposes.

The legislative bodies of the respective Parties hereby find and declare:

1. Findings:

a. The Waters of the Basin are precious public natural resources shared and held in trust by the States;

b. The Waters of the Basin are interconnected and part of a single hydrologic system;

c. The Waters of the Basin can concurrently serve multiple uses. Such multiple uses include municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, the subsistence, economic and cultural activities of native peoples, Water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other purposes are encouraged, recognizing that such uses are interdependent and must be balanced;

d. Future Diversions and Consumptive Uses of Basin Water resources have the potential to significantly impact the environment, economy and welfare of the Great Lakes—St. Lawrence River region;

e. Continued sustainable, accessible and adequate Water supplies for the people and economy of the Basin are of vital importance; and,

f. The Parties have a shared duty to protect, conserve, restore, improve and manage the renewable but finite Waters of the Basin for the use, benefit and enjoyment of all their citizens, including generations yet to come. The most effective means of protecting, conserving, restoring, improving and managing the Basin Waters is through the joint pursuit of unified and cooperative principles, policies and programs mutually agreed upon, enacted and adhered to by all Parties.

2. Purposes:

a. To act together to protect, conserve, restore, improve and effectively manage the Waters and Water Dependent Natural Resources of the Basin under appropriate arrangements for intergovernmental cooperation and consultation because current lack of full scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;

b. To remove causes of present and future controversies;

c. To provide for cooperative planning and action by the Parties with respect to such Water resources;

d. To facilitate consistent approaches to Water management across the Basin while retaining State management authority over Water management decisions within the Basin;

e. To facilitate the exchange of data, strengthen the scientific information base upon which decisions are made and engage in consultation on the potential effects of proposed Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;

f. To prevent significant adverse impacts of Withdrawals and losses on the Basin's ecosystems and watersheds;

g. To promote interstate and State-Provincial comity; and,

h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.

Section 1.4. Science.

1. The Parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound Water management decision making under this Compact.

2. The strategy shall guide the collection and application of scientific information to support:

a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Withdrawals may be assessed;

b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;

c. Improved scientific understanding of the Waters of the Basin;

d. Improved understanding of the role of groundwater in Basin Water resources management; and,

e. The development, transfer and application of science and research related to Water conservation and Water use efficiency.

ARTICLE 2

ORGANIZATION

Section 2.1. Council Created.

The Great Lakes—St. Lawrence River Basin Water Resources Council is hereby created as a body politic and corporate, with succession for the duration of this Compact, as an agency and instrumentality of the governments of the respective Parties.

Section 2.2. Council Membership.

The Council shall consist of the Governors of the Parties, *ex officio*.

Section 2.3. Alternates.

Each member of the Council shall appoint at least one alternate who may act in his or her place and stead, with authority to attend all meetings of the Council and with power to vote in the absence of the member. Unless otherwise provided by law of the Party for which he or she is appointed, each alternate shall serve during the term of the member appointing him or her, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

Section 2.4. Voting.

1. Each member is entitled to one vote on all matters that may come before the Council.

2. Unless otherwise stated, the rule of decision shall be by a simple majority.

3. The Council shall annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the Parties by unanimous vote of the Council. The appropriation of such amounts shall be subject to such review and approval as may be required by the budgetary processes of the respective Parties.

4. The participation of Council members from a majority of the Parties shall constitute a quorum for the transaction of business at any meeting of the Council.

Section 2.5. Organization and Procedure.

The Council shall provide for its own organization and procedure, and may adopt rules and regulations governing its meetings and transactions, as well as the procedures and timeline for submission, review and consideration of Proposals that come before the Council for its review and action. The Council shall organize, annually, by the election of a Chair and Vice Chair from among its members. Each member may appoint an advisor, who may attend all meetings of the Council and its committees, but shall not have voting power. The Council

may employ or appoint professional and administrative personnel, including an Executive Director, as it may deem advisable, to carry out the purposes of this Compact.

Section 2.6. Use of Existing Offices and Agencies.

It is the policy of the Parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent consistent with this Compact. Further, the Council shall promote and aid the coordination of the activities and programs of the Parties concerned with Water resources management in the Basin. To this end, but without limitation, the Council may:

1. Advise, consult, contract, assist or otherwise cooperate with any and all such agencies;
2. Employ any other agency or instrumentality of any of the Parties for any purpose; and,
3. Develop and adopt plans consistent with the Water resources plans of the Parties.

Section 2.7. Jurisdiction.

The Council shall have, exercise and discharge its functions, powers and duties within the limits of the Basin. Outside the Basin, it may act in its discretion, but only to the extent such action may be necessary or convenient to effectuate or implement its powers or responsibilities within the Basin and subject to the consent of the jurisdiction wherein it proposes to act.

Section 2.8. Status, Immunities and Privileges.

1. The Council, its members and personnel in their official capacity and when engaged directly in the affairs of the Council, its property and its assets, wherever located and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by the Parties, except to the extent that the Council may expressly waive its immunity for the purposes of any proceedings or by the terms of any contract.

2. The property and assets of the Council, wherever located and by whomsoever held, shall be considered public property and shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

3. The Council, its property and its assets, income and the operations it carries out pursuant to this Compact shall be immune from all taxation by or under the authority of any of the Parties or any political subdivision thereof; provided, however, that in lieu of property taxes the Council may make reasonable payments to local taxing districts in annual amounts which shall approximate the taxes lawfully assessed upon similar property.

Section 2.9. Advisory Committees.

The Council may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, State, tribal, county and local governments, water resources agencies, water-using industries and sectors, water-interest groups and academic experts in related fields.

ARTICLE 3

GENERAL POWERS AND DUTIES

Section 3.1. General.

The Waters and Water Dependent Natural Resources of the Basin are subject to the sovereign right and responsibilities of the Parties, and it is the purpose of this Compact to provide for joint exercise of such powers of sovereignty by the Council in the common interests of the people of the region, in the manner and to the extent provided in this

Compact. The Council and the Parties shall use the Standard of Review and Decision and procedures contained in or adopted pursuant to this Compact as the means to exercise their authority under this Compact. The Council may revise the Standard of Review and Decision, after consultation with the Provinces and upon unanimous vote of all Council members, by regulation duly adopted in accordance with Section 3.3 of this Compact and in accordance with each Party's respective statutory authorities and applicable procedures. The Council shall identify priorities and develop plans and policies relating to Basin Water resources. It shall adopt and promote uniform and coordinated policies for Water resources conservation and management in the Basin.

Section 3.2. Council Powers.

The Council may: plan; conduct research and collect, compile, analyze, interpret, report and disseminate data on Water resources and uses; forecast Water levels; conduct investigations; institute court actions; design, acquire, construct, reconstruct, own, operate, maintain, control, sell and convey real and personal property and any interest therein as it may deem necessary, useful or convenient to carry out the purposes of this Compact; make contracts; receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any Party or by any other public or private agency, corporation or individual; and, exercise such other and different powers as may be delegated to it by this Compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

Section 3.3. Rules and Regulations.

1. The Council may promulgate and enforce such rules and regulations as may be necessary for the implementation and enforcement of this Compact. The Council may adopt by regulation, after public notice and public hearing, reasonable Application fees with respect to those Proposals for Exceptions that are subject to Council review under Section 4.9. Any rule or regulation of the Council, other than one which deals solely with the internal management of the Council or its property, shall be adopted only after public notice and hearing.

2. Each Party, in accordance with its respective statutory authorities and applicable procedures, may adopt and enforce rules and regulations to implement and enforce this Compact and the programs adopted by such Party to carry out the management programs contemplated by this Compact.

Section 3.4. Program Review and Findings.

1. Each Party shall submit a report to the Council and the Regional Body detailing its Water management and conservation and efficiency programs that implement this Compact. The report shall set out the manner in which Water Withdrawals are managed by sector, Water source, quantity or any other means, and how the provisions of the Standard of Review and Decision and conservation and efficiency programs are implemented. The first report shall be provided by each Party one year from the effective date of this Compact and thereafter every 5 years.

2. The Council, in cooperation with the Provinces, shall review its Water management and conservation and efficiency programs and those of the Parties that are established in this Compact and make findings on whether the Water management program provisions in this Compact are being met, and if not, recommend options to assist the Parties in meeting the provisions of this Compact. Such review shall take place:

- a. 30 days after the first report is submitted by all Parties; and,
- b. Every five years after the effective date of this Compact; and,
- c. At any other time at the request of one of the Parties.

3. As one of its duties and responsibilities, the Council may recommend a range of approaches to the Parties with respect to the development, enhancement and application of Water management and conservation and efficiency programs to implement the Standard of Review and Decision reflecting improved scientific understanding of the Waters of the Basin, including groundwater, and the impacts of Withdrawals on the Basin Ecosystem.

ARTICLE 4

WATER MANAGEMENT AND REGULATION

Section 4.1. Water Resources Inventory, Registration and Reporting.

1. Within five years of the effective date of this Compact, each Party shall develop and maintain a Water resources inventory for the collection, interpretation, storage, retrieval exchange, and dissemination of information concerning the Water resources of the Party, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of Withdrawals, Diversions and Consumptive Uses. To the extent feasible, the Water resources inventory shall be developed in cooperation with local, State, federal, tribal and other private agencies and entities, as well as the Council. Each Party's agencies shall cooperate with that Party in the development and maintenance of the inventory.

2. The Council shall assist each Party to develop a common base of data regarding the management of the Water Resources of the Basin and to establish systematic arrangements for the exchange of those data with other States and Provinces.

3. To develop and maintain a compatible base of Water use information, within five years of the effective date of this Compact any Person who Withdraws Water in an amount of 100,000 gallons per day or greater average in any 30-day period (including Consumptive Uses) from all sources, or Diverts Water of any amount, shall register the Withdrawal or Diversion by a date set by the Council unless the Person has previously registered in accordance with an existing State program. The Person shall register the Withdrawal or Diversion with the Originating Party using a form prescribed by the Originating Party that shall include, at a minimum and without limitation: the name and address of the registrant and date of registration; the locations and sources of the Withdrawal or Diversion; the capacity of the Withdrawal or Diversion per day and the amount Withdrawn or Diverted from each source; the uses made of the Water; places of use and places of discharge; and, such other information as the Originating Party may require. All registrations shall include an estimate of the volume of the Withdrawal or Diversion in terms of gallons per day average in any 30-day period.

4. All registrants shall annually report the monthly volumes of the Withdrawal, Consumptive Use and Diversion in gallons to the Originating Party and any other information requested by the Originating Party.

5. Each Party shall annually report the information gathered pursuant to this Section to a Great Lakes—St. Lawrence River Water use data base repository and aggregated information shall be made publicly available, consistent with the confidentiality requirements in Section 8.3.

6. Information gathered by the Parties pursuant to this Section shall be used to improve the sources and applications of scientific information regarding the Waters of the Basin and the impacts of the Withdrawals and Diversions from various locations and Water sources on the Basin Ecosystem, and to better understand the role of groundwater in the Basin. The Council and the Parties shall coordinate the collection and application of scientific information to further develop a mechanism by which individual and Cumulative Impacts of Withdrawals, Consumptive Uses and Diversions shall be assessed.

Section 4.2. Water Conservation and Efficiency Programs.

1. The Council commits to identify, in cooperation with the Provinces, Basin-wide Water conservation and efficiency objectives to assist the Parties in developing their Water conservation and efficiency program. These objectives are based on the goals of:

- a. Ensuring improvement of the Waters and Water Dependent Natural Resources;
- b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;
- c. Retaining the quantity of surface water and groundwater in the Basin;
- d. Ensuring sustainable use of Waters of the Basin; and,
- e. Promoting the efficiency of use and reducing losses and waste of Water.

2. Within two years of the effective date of this Compact, each Party shall develop its own Water conservation and efficiency goals and objectives consistent with the Basin-wide goals and objectives, and shall develop and implement a Water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the Party's goals and objectives. Each Party shall annually assess its programs in meeting the Party's goals and objectives, report to the Council and the Regional Body and make this annual assessment available to the public.

3. Beginning five years after the effective date of this Compact, and every five years thereafter, the Council, in cooperation with the Provinces, shall review and modify as appropriate the Basin-wide objectives, and the Parties shall have regard for any such modifications in implementing their programs. This assessment will be based on examining new technologies, new patterns of Water use, new resource demands and threats, and Cumulative Impact assessment under Section 4.15.

4. Within two years of the effective date of this Compact, the Parties commit to promote Environmentally Sound and Economically Feasible Water Conservation Measures such as:

- a. Measures that promote efficient use of Water;
- b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;
- c. Application of sound planning principles;
- d. Demand-side and supply-side Measures or incentives; and,
- e. Development, transfer and application of science and research.

5. Each Party shall implement in accordance with paragraph 2 above a voluntary or mandatory Water conservation program for all, including existing, Basin Water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate.

Section 4.3. Party Powers and Duties.

1. Each Party, within its jurisdiction, shall manage and regulate New or Increased Withdrawals, Consumptive Uses and Diversions, including Exceptions, in accordance with this Compact.

2. Each Party shall require an Applicant to submit an Application in such manner and with such accompanying information as the Party shall prescribe.

3. No Party may approve a Proposal if the Party determines that the Proposal is inconsistent with this Compact or the Standard of Review and Decision or any implementing rules or regulations promulgated thereunder. The Party may approve, approve with modifications or disapprove any Proposal depending on the Proposal's consistency with this Compact and the Standard of Review and Decision.

4. Each Party shall monitor the implementation of any approved Proposal to ensure consistency with the approval and may take all necessary enforcement actions.

5. No Party shall approve a Proposal subject to Council or Regional Review, or both, pursuant to this Compact unless it shall have been first submitted to and reviewed by either the Council or Regional Body, or both, and approved by the Council, as applicable. Sufficient opportunity shall be provided for comment on the Proposal's consistency with this Compact and the Standard of Review and Decision. All such comments shall become part of the Party's formal record of decision, and the Party shall take into consideration any such comments received.

Section 4.4. Requirement for Originating Party Approval.

No Proposal subject to management and regulation under this Compact shall hereafter be undertaken by any Person unless it shall have been approved by the Originating Party.

Section 4.5. Regional Review.

1. General.

a. It is the intention of the Parties to participate in Regional Review of Proposals with the Provinces, as described in this Compact and the Agreement.

b. Unless the Applicant or the Originating Party otherwise requests, it shall be the goal of the Regional Body to conclude its review no later than 90 days after notice under Section 4.5.2 of such Proposal is received from the Originating Party.

c. Proposals for Exceptions subject to Regional Review shall be submitted by the Originating Party to the Regional Body for Regional Review, and where applicable, to the Council for concurrent review.

d. The Parties agree that the protection of the integrity of the Great Lakes—St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St. Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem.

e. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal, and shall consult with the Applicant throughout the Regional Review Process.

f. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal. Such Regional Review must be conducted, to the extent possible, within the time frames set forth in this Section. Any such Regional Review shall be undertaken only after consulting the Applicant.

2. Notice from Originating Party to the Regional Body.

a. The Originating Party shall determine if a Proposal is subject to Regional Review. If so, the Originating Party shall provide timely notice to the Regional Body and the public.

b. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Standard of Review and Decision have been provided.

c. An Originating Party may:

i. Provide notice to the Regional Body of an Application, even if notification is not required; or,

ii. Request Regional Review of an application, even if Regional Review is not required. Any such Regional Review shall be undertaken only after consulting the Applicant.

d. An Originating Party may provide preliminary notice of a potential Proposal.

3. Public Participation.

a. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.

b. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Standard of Review and Decision.

c. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Standard of Review and Decision.

d. The Regional Body shall consider the comments received before issuing a Declaration of Finding.

e. The Regional Body shall forward the comments it receives to the Originating Party.

4. Technical Review.

a. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.

b. The Originating Party's Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the Standard of Review and Decision.

c. Any member of the Regional Body may conduct their own Technical Review of any Proposal subject to Regional Review.

d. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.

e. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under Sections 4.5.4.c and 4.5.4.d does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body.

5. Declaration of Finding.

a. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time.

b. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Compact shall issue a Declaration of Finding that the Proposal under consideration:

i. Meets the Standard of Review and Decision;

ii. Does not meet the Standard of Review and Decision; or,

iii. Would meet the Standard of Review and Decision if certain conditions were met.

c. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.

d. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Standard of Review and Decision.

e. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.

f. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.

g. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.

h. The Regional Body shall release the Declarations of Finding to the public.

i. The Originating Party and the Council shall consider the Declaration of Finding before making a decision on the Proposal.

Section 4.6. Proposals Subject to Prior Notice.

1. Beginning no later than five years of the effective date of this Compact, the Originating Party shall provide all Parties and the Provinces with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard of Review and Decision. The Originating Party shall provide a response to any such comment received from another Party.

2. A Party may provide notice, an opportunity to comment and a response to comments even if this is not required under paragraph 1 of this Section. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the Applicant.

Section 4.7. Council Actions.

1. Proposals for Exceptions subject to Council Review shall be submitted by the Originating Party to the Council for Council Review, and where applicable, to the Regional Body for concurrent review.

2. The Council shall review and take action on Proposals in accordance with this Compact and the Standard of Review and Decision. The Council shall not take action on a Proposal subject to Regional Review pursuant to this Compact unless the Proposal shall have been first submitted to and reviewed by the Regional Body. The Council shall consider any findings resulting from such review.

Section 4.8. Prohibition of New or Increased Diversions.

All New or Increased Diversions are prohibited, except as provided for in this Article.

Section 4.9. Exceptions to the Prohibition of Diversions.

1. Straddling Communities. A Proposal to transfer Water to an area within a Straddling Community but outside the Basin or outside the source Great Lake Watershed shall be excepted from the prohibition against Diversions and be managed and regulated by the Originating Party provided that, regardless of the volume of Water transferred, all the Water so transferred shall be used solely for Public Water Supply Purposes within the Straddling Community, and:

a. All Water Withdrawn from the Basin shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or ground water from outside the Basin may be used to satisfy any portion of this criterion except if it:

i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

iii. Maximizes the portion of water returned to the Source Watershed as Basin Water and minimizes the surface water or groundwater from outside the Basin;

b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day or greater average over any 90-day period, the Proposal shall also meet the Exception Standard; and,

c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period, the Proposal shall also undergo Regional Review.

2. Intra-Basin Transfer. A Proposal for an Intra-Basin Transfer that would be considered a Diversion under this Compact, and not already excepted pursuant to paragraph 1 of this Section, shall be excepted from the prohibition against Diversions, provided that:

a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party.

b. If the Proposal results from a New or Increased Withdrawal 100,000 gallons per day or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day average over any 90-day period:

i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed;

ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and,

iii. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal.

c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day or greater average over any 90-day period:

i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed;

ii. The Applicant shall demonstrate that there is no feasible, cost effective, and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;

iii. The Proposal undergoes Regional Review; and,

iv. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

3. Straddling Counties. A Proposal to transfer Water to a Community within a Straddling County that would be considered a Diversion under this Compact shall be excepted from the prohibition against Diversions, provided that it satisfies all of the following conditions:

a. The Water shall be used solely for the Public Water Supply Purposes of the Community within a Straddling County that is without adequate supplies of potable water;

b. The Proposal meets the Exception Standard, maximizing the portion of water returned to the Source Watershed as Basin Water and minimizing the surface water or groundwater from outside the Basin;

c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size;

d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies;

e. Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception. This Exception should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem;

f. The Proposal undergoes Regional Review; and,

g. The Proposal is approved by the Council. Council approval shall be given unless one or more Council Members vote to disapprove.

A Proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the Proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to Waters of the Basin.

4. Exception Standard. Proposals subject to management and regulation in this Section shall be declared to meet this Exception Standard and may be approved as appropriate only when the following criteria are met:

a. The need for all or part of the proposed Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies;

b. The Exception will be limited to quantities that are considered reasonable for the purposes for which it is proposed;

c. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from the outside the Basin may be used to satisfy any portion of this criterion except if it:

i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;

ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

d. The Exception will be implemented so as to ensure that it will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal;

e. The Exception will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use;

f. The Exception will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909; and,

g. All other applicable criteria in Section 4.9 have also been met.

Section 4.10. Management and Regulation of New or Increased Withdrawals and Consumptive Uses.

1. Within five years of the effective date of this Compact, each Party shall create a program for the management and regulation of New or Increased Withdrawals and Consumptive Uses by adopting and implementing Measures consistent with the Decision-Making Standard. Each Party, through a considered process, shall set and may modify threshold levels for the regulation of New or Increased Withdrawals in order to assure an effective and efficient Water management program that will ensure that uses overall are reasonable, that Withdrawals overall will not result in significant impacts to the Waters and Water Dependent Natural Resources of the Basin, determined on the basis of significant impacts to the physical, chemical, and biological integrity of Source Watersheds, and that all other objectives of the Compact are achieved. Each Party may determine the scope and thresholds

of its program, including which New or Increased Withdrawals and Consumptive Uses will be subject to the program.

2. Any Party that fails to set threshold levels that comply with Section 4.10.1 any time before 10 years after the effective date of this Compact shall apply a threshold level for management and regulation of all New or Increased Withdrawals of 100,000 gallons per day or greater average in any 90 day period.

3. The Parties intend programs for New or Increased Withdrawals and Consumptive Uses to evolve as may be necessary to protect Basin Waters. Pursuant to Section 3.4, the Council, in cooperation with the Provinces, shall periodically assess the Water management programs of the Parties. Such assessments may produce recommendations for the strengthening of the programs, including without limitation, establishing lower thresholds for management and regulation in accordance with the Decision-Making Standard.

Section 4.11. Decision-Making Standard.

Proposals subject to management and regulation in Section 4.10 shall be declared to meet this Decision-Making Standard and may be approved as appropriate only when the following criteria are met:

1. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;

2. The Withdrawal or Consumptive Use will be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed;

3. The Withdrawal or Consumptive Use will be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures;

4. The Withdrawal or Consumptive Use will be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909;

5. The proposed use is reasonable, based upon a consideration of the following factors:

a. Whether the proposed Withdrawal or Consumptive Use is planned in a fashion that provides for efficient use of the water, and will avoid or minimize the waste of Water;

b. If the Proposal is for an increased Withdrawal or Consumptive use, whether efficient use is made of existing water supplies;

c. The balance between economic development, social development and environmental protection of the proposed Withdrawal and use and other existing or planned withdrawals and water uses sharing the water source;

d. The supply potential of the water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources;

e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed Withdrawal and use under foreseeable conditions, to other lawful consumptive or non-consumptive uses of water or to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and,

f. If a Proposal includes restoration of hydrologic conditions and functions of the Source Watershed, the Party may consider that.

Section 4.12. Applicability.

1. Minimum Standard. This Standard of Review and Decision shall be used as a minimum standard. Parties may impose a more restrictive decision-making standard for Withdrawals under their authority. It is also acknowledged that although a Proposal meets the Standard

of Review and Decision it may not be approved under the laws of the Originating Party that has implemented more restrictive Measures.

2. Baseline.

a. To establish a baseline for determining a New or Increased Diversion, Consumptive Use or Withdrawal, each Party shall develop either or both of the following lists for their jurisdiction:

i. A list of existing Withdrawal approvals as of the effective date of the Compact;

ii. A list of the capacity of existing systems as of the effective date of this Compact. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

b. For all purposes of this Compact, volumes of Diversions, Consumptive Uses, or Withdrawals of Water set forth in the list(s) prepared by each Party in accordance with this Section, shall constitute the baseline volume.

c. The list(s) shall be furnished to the Regional Body and the Council within one year of the effective date of this Compact.

3. Timing of Additional Applications. Applications for New or Increased Withdrawals, Consumptive Uses or Exceptions shall be considered cumulatively within ten years of any application.

4. Change of Ownership. Unless a new owner proposes a project that shall result in a Proposal for a New or Increased Diversion or Consumptive Use subject to Regional Review or Council approval, the change of ownership in and of itself shall not require Regional Review or Council approval.

5. Groundwater. The Basin surface water divide shall be used for the purpose of managing and regulating New or Increased Diversions, Consumptive Uses or Withdrawals of surface water and groundwater.

6. Withdrawal Systems. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a Withdrawal, Consumptive Use or Diversion.

7. Connecting Channels. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

8. Transmission in Water Lines. Transmission of Water within a line that extends outside the Basin as it conveys Water from one point to another within the Basin shall not be considered a Diversion if none of the Water is used outside the Basin.

9. Hydrologic Units. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

10. Bulk Water Transfer. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons shall be treated under this Compact in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons or less.

Section 4.13. Exemptions.

Withdrawals from the Basin for the following purposes are exempt from the requirements of Article 4.

1. To supply vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2. To use in a non-commercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

Section 4.14. U.S. Supreme Court Decree: Wisconsin et al. v. Illinois et al.

1. Notwithstanding any terms of this Compact to the contrary, with the exception of Paragraph 5 of this Section, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Compact nor any rules or regulations promulgated pursuant to this Compact. This means that, with the exception of Paragraph 5 of this Section, for purposes of this Compact, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

2. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Compact shall not modify any terms thereof, and that this Compact shall grant the parties no additional rights, obligations, remedies or defenses thereto. The Parties specifically acknowledge that this Compact shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Compact who are also parties to the decree shall seek formal input from the Canadian Provinces of Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.

3. With the exception of Paragraph 5 of this Section, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Compact, the State of Illinois is prohibited from using any term of this Compact, including Section 4.9, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.

4. With the exception of Paragraph 5 of this Section, because Sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 (Paragraphs 1, 2, 3, 4, 6 and 10 only), and 4.13 of this Compact all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Waters, said provisions do not apply to the State of Illinois. All other provisions of this Compact not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Section 4.2.

5. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Compact, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Compact, except Paragraphs 1, 3 and 4 of this Section.

6. For purposes of the State of Illinois' participation in this Compact, the entirety of this Section 4.14 is necessary for the continued implementation of this Compact and, if severed, this Compact shall no longer be binding on or enforceable by or against the State of Illinois.

Section 4.15. Assessment of Cumulative Impacts.

1. The Parties in cooperation with the Provinces shall collectively conduct within the Basin, on a Lake watershed and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin, every 5 years or each time the incremental Basin Water losses reach 50 million gallons per day average in any 90-day period in excess of the quantity at the time of the

most recent assessment, whichever comes first, or at the request of one or more of the Parties. The assessment shall form the basis for a review of the Standard of Review and Decision, Council and Party regulations and their application. This assessment shall:

a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;

b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty if serious damage may result;

c. Consider adaptive management principles and approaches, recognizing, considering and providing adjustments for the uncertainties in, and evolution of science concerning the Basin's water resources, watersheds and ecosystems, including potential changes to Basin-wide processes, such as lake level cycles and climate.

2. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment.

3. Unless required by other statutes, Applicants are not required to conduct a separate cumulative impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their Proposal meets the no significant adverse Cumulative Impact provision of the Standard of Review and Decision.

ARTICLE 5

TRIBAL CONSULTATION

Section 5.1. Consultation with Tribes

1. In addition to all other opportunities to comment pursuant to Section 6.2, appropriate consultations shall occur with federally recognized Tribes in the Originating Party for all Proposals subject to Council or Regional Review pursuant to this Compact. Such consultations shall be organized in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.

2. All federally recognized Tribes within the Basin shall receive reasonable notice indicating that they have an opportunity to comment in writing to the Council or the Regional Body, or both, and other relevant organizations on whether the Proposal meets the requirements of the Standard of Review and Decision when a Proposal is subject to Regional Review or Council approval. Any notice from the Council shall inform the Tribes of any meeting or hearing that is to be held under Section 6.2 and invite them to attend. The Parties and the Council shall consider the comments received under this Section before approving, approving with modifications or disapproving any Proposal subject to Council or Regional Review.

3. In addition to the specific consultation mechanisms described above, the Council shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from federally recognized Tribes on matters to be dealt with by the Council; and, the Council shall seek to establish mechanisms and processes with federally recognized Tribes designed to facilitate on-going scientific and technical interaction and data exchange regarding matters falling within the scope of this Compact. This may include participation of tribal representatives on advisory committees established under this Compact or such other processes that are mutually-agreed upon with federally recognized Tribes individually or through duly-authorized intertribal agencies or bodies.

ARTICLE 6
PUBLIC PARTICIPATION

Section 6.1. Meetings, Public Hearings and Records.

1. The Parties recognize the importance and necessity of public participation in promoting management of the Water Resources of the Basin. Consequently, all meetings of the Council shall be open to the public, except with respect to issues of personnel.

2. The minutes of the Council shall be a public record open to inspection at its offices during regular business hours.

Section 6.2. Public Participation.

It is the intent of the Council to conduct public participation processes concurrently and jointly with processes undertaken by the Parties and through Regional Review. To ensure adequate public participation, each Party or the Council shall ensure procedures for the review of Proposals subject to the Standard of Review and Decision consistent with the following requirements:

1. Provide public notification of receipt of all Applications and a reasonable opportunity for the public to submit comments before Applications are acted upon.

2. Assure public accessibility to all documents relevant to an Application, including public comment received.

3. Provide guidance on standards for determining whether to conduct a public meeting or hearing for an Application, time and place of such a meeting(s) or hearing(s), and procedures for conducting of the same.

4. Provide the record of decision for public inspection including comments, objections, responses and approvals, approvals with conditions and disapprovals.

ARTICLE 7
DISPUTE RESOLUTION AND ENFORCEMENT

Section 7.1. Good Faith Implementation.

Each of the Parties pledges to support implementation of all provisions of this Compact, and covenants that its officers and agencies shall not hinder, impair, or prevent any other Party carrying out any provision of this Compact.

Section 7.2. Alternative Dispute Resolution.

1. Desiring that this Compact be carried out in full, the Parties agree that disputes between the Parties regarding interpretation, application and implementation of this Compact shall be settled by alternative dispute resolution.

2. The Council, in consultation with the Provinces, shall provide by rule procedures for the resolution of disputes pursuant to this section.

Section 7.3. Enforcement.

1. Any Person aggrieved by any action taken by the Council pursuant to the authorities contained in this Compact shall be entitled to a hearing before the Council. Any Person aggrieved by a Party action shall be entitled to a hearing pursuant to the relevant Party's administrative procedures and laws. After exhaustion of such administrative remedies, (i) any aggrieved Person shall have the right to judicial review of a Council action in the United States District Courts for the District of Columbia or the District Court in which the Council maintains offices, provided such action is commenced within 90 days; and, (ii) any aggrieved Person shall have the right to judicial review of a Party's action in the relevant Party's court of competent jurisdiction, provided that an action or proceeding for such review

is commenced within the time frames provided for by the Party's law. For the purposes of this paragraph, a State or Province is deemed to be an aggrieved Person with respect to any Party action pursuant to this Compact.

2. a. Any Party or the Council may initiate actions to compel compliance with the provisions of this Compact, and the rules and regulations promulgated hereunder by the Council. Jurisdiction over such actions is granted to the court of the relevant Party, as well as the United States District Courts for the District of Columbia and the District Court in which the Council maintains offices. The remedies available to any such court shall include, but not be limited to, equitable relief and civil penalties.

b. Each Party may issue orders within its respective jurisdiction and may initiate actions to compel compliance with the provisions of its respective statutes and regulations adopted to implement the authorities contemplated by this Compact in accordance with the provisions of the laws adopted in each Party's jurisdiction.

3. Any aggrieved Person, Party or the Council may commence a civil action in the relevant Party's courts and administrative systems to compel any Person to comply with this Compact should any such Person, without approval having been given, undertake a New or Increased Withdrawal, Consumptive Use or Diversion that is prohibited or subject to approval pursuant to this Compact.

a. No action under this subsection may be commenced if:

i. The Originating Party or Council approval for the New or Increased Withdrawal, Consumptive Use or Diversion has been granted; or,

ii. The Originating Party or Council has found that the New or Increased Withdrawal, Consumptive Use or Diversion is not subject to approval pursuant to this Compact.

b. No action under this subsection may be commenced unless:

i. A Person commencing such action has first given 60 days prior notice to the Originating Party, the Council and Person alleged to be in noncompliance; and,

ii. Neither the Originating Party nor the Council has commenced and is diligently prosecuting appropriate enforcement actions to compel compliance with this Compact.

The available remedies shall include equitable relief, and the prevailing or substantially prevailing party may recover the costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such an award is appropriate.

4. Each of the Parties may adopt provisions providing additional enforcement mechanisms and remedies including equitable relief and civil penalties applicable within its jurisdiction to assist in the implementation of this Compact.

ARTICLE 8

ADDITIONAL PROVISIONS

Section 8.1. Effect on Existing Rights.

1. Nothing in this Compact shall be construed to affect, limit, diminish or impair any rights validly established and existing as of the effective date of this Compact under State or federal law governing the Withdrawal of Waters of the Basin.

2. Nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective Parties relating to common law Water rights.

3. Nothing in this Compact is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States.

4. An approval by a Party or the Council under this Compact does not give any property rights, nor any exclusive privileges, nor shall it be construed to grant or confer any right, title, easement, or interest in, to or over any land belonging to or held in trust by a Party; neither does it authorize any injury to private property or invasion of private rights, nor infringement of federal, State or local laws or regulations; nor does it obviate the necessity of obtaining federal assent when necessary.

Section 8.2. Relationship to Agreements Concluded by the United States of America.

1. Nothing in this Compact is intended to provide nor shall be construed to provide, directly or indirectly, to any Person any right, claim or remedy under any treaty or international agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in this Compact is intended to infringe nor shall be construed to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

3. Nothing in this Compact is intended to affect nor shall be construed to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this Compact.

Section 8.3. Confidentiality.

1. Nothing in this Compact requires a Party to breach confidentiality obligations or requirements prohibiting disclosure, or to compromise security of commercially sensitive or proprietary information.

2. A Party may take measures, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Council to exercise its authorities contained in this Compact.

Section 8.4. Additional Laws.

Nothing in this Compact shall be construed to repeal, modify or qualify the authority of any Party to enact any legislation or enforce any additional conditions and restrictions regarding the management and regulation of Waters within its jurisdiction.

Section 8.5. Amendments and Supplements.

The provisions of this Compact shall remain in full force and effect until amended by action of the governing bodies of the Parties and consented to and approved by any other necessary authority in the same manner as this Compact is required to be ratified to become effective.

Section 8.6. Severability.

Should a court of competent jurisdiction hold any part of this Compact to be void or unenforceable, it shall be considered severable from those portions of the Compact capable of continued implementation in the absence of the voided provisions. All other provisions capable of continued implementation shall continue in full force and effect.

Section 8.7. Duration of Compact and Termination.

Once effective, the Compact shall continue in force and remain binding upon each and every Party unless terminated.

This Compact may be terminated at any time by a majority vote of the Parties. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE 9
EFFECTUATION

Section 9.1. Repealer.

All acts and parts of acts inconsistent with this act are to the extent of such inconsistency hereby repealed.

Section 9.2. Effectuation by Chief Executive.

The Governor is authorized to take such action as may be necessary and proper in his or her discretion to effectuate the Compact and the initial organization and operation thereunder.

Section 9.3. Entire Agreement.

The Parties consider this Compact to be complete and an integral whole. Each provision of this Compact is considered material to the entire Compact, and failure to implement or adhere to any provision may be considered a material breach. Unless otherwise noted in this Compact, any change or amendment made to the Compact by any Party in its implementing legislation or by the U.S. Congress when giving its consent to this Compact is not considered effective unless concurred in by all Parties.

Section 9.4. Effective Date and Execution.

This Compact shall become binding and effective when ratified through concurring legislation by the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin and the Commonwealth of Pennsylvania and consented to by the Congress of the United States. This Compact shall be signed and sealed in nine identical original copies by the respective chief executives of the signatory Parties. One such copy shall be filed with the Secretary of State of each of the signatory Parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the Council upon its organization. The signatures shall be affixed and attested under the following form:

In Witness Whereof, and in evidence of the adoption and enactment into law of this Compact by the legislatures of the signatory parties and consent by the Congress of the United States, the respective Governors do hereby, in accordance with the authority conferred by law, sign this Compact in nine duplicate original copies, attested by the respective Secretaries of State, and have caused the seals of the respective states to be hereunto affixed this ____ day of (month), (year).

Conditional effective date.

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

- (a) Senate Bill No. 723.
- (b) Senate Bill No. 727.
- (c) Senate Bill No. 858.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.

(k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

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

Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.

Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.

Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.

Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.

Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.

House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.

House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.

House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.

House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.

House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.

House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 191]

(HB 4330)

AN ACT to amend 1953 PA 232, entitled “An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” by amending section 36 (MCL 791.236), as amended by 2006 PA 403.

The People of the State of Michigan enact:

791.236 Order of parole; signature by chairperson; notice; rescission; amendment; conditions; supervision; restitution; payment of parole supervision fee; condition requiring payment of assessment or minimum state cost; compliance with sex offenders registration act; violation of certain sections; condition requiring housing in community corrections center or community residential home; condition requiring payment by parolee; review to ensure payment of restitution; report of violation; registration of parolee; electronic monitoring; condition to protect named person; release of prisoner; notice of residence or domicile; monitoring by global positioning monitoring system; “violent felony” defined.

Sec. 36. (1) All paroles shall be ordered by the parole board and shall be signed by the chairperson. Written notice of the order shall be given to the sheriff or other police officer

of the municipality or county in which the prisoner was convicted, and to the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent.

(2) A parole order may be rescinded at the discretion of the parole board for cause before the prisoner is released on parole. A parole shall not be revoked unless an interview with the prisoner is conducted by 1 member of the parole board. The purpose of the interview is to consider and act upon information received by the board after the original parole release decision. A revocation interview shall be conducted within 45 days after receiving the new information. At least 10 days before the interview, the parolee shall receive a copy or summary of the new evidence that is the basis for the interview.

(3) A parole order may be amended at the discretion of the parole board for cause. An amendment to a parole order shall be in writing and is not effective until notice of the amendment is given to the parolee.

(4) When a parole order is issued, the order shall contain the conditions of the parole and shall specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the bureau of field services.

(5) The parole order shall contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution pursuant to the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(6) The parole order shall contain a condition requiring the parolee to pay a parole supervision fee as prescribed in section 36a.

(7) The parole order shall contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay pursuant to section 5 of 1989 PA 196, MCL 780.905.

(8) The parole order shall contain a condition requiring the parolee to pay the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, if the minimum state cost has not been paid.

(9) If the parolee is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole order shall contain a condition requiring the parolee to comply with that act.

(10) If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole, the parole order shall contain a notice that if the parolee violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole shall be revoked.

(11) A parole order issued for a prisoner subject to disciplinary time may contain a condition requiring the parolee to be housed in a community corrections center or a community residential home for not less than the first 30 days but not more than the first 180 days of his or her term of parole. As used in this subsection, "community corrections center" and "community residential home" mean those terms as defined in section 65a.

(12) The parole order shall contain a condition requiring the parolee to pay the following amounts owed by the prisoner, if applicable:

(a) The balance of filing fees and costs ordered to be paid under section 2963 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2963.

(b) The balance of any filing fee ordered to be paid by a federal court under section 1915 of title 28 of the United States Code, 28 USC 1915 and any unpaid order of costs assessed against the prisoner.

(13) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to a case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report shall include a statement of the amount of arrearage and any reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

(14) If a parolee is required to register pursuant to the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole officer shall register the parolee as provided in that act.

(15) Beginning August 28, 2006, if a parolee convicted of violating or conspiring to violate section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other than a parolee who is subject to lifetime electronic monitoring under section 85, is placed on parole, the parole board may require that the parolee be subject to electronic monitoring. The electronic monitoring required under this subsection shall be conducted in the same manner, and shall be subject to the same requirements, as is described in section 85 of this act and section 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, except as follows:

(a) The electronic monitoring shall continue only for the duration of the term of parole.

(b) A violation by the parolee of any requirement prescribed in section 520n(2)(a) to (c) is a violation of a condition of parole, not a felony violation.

(16) If the parole order contains a condition intended to protect 1 or more named persons, the department shall enter those provisions of the parole order into the corrections management information system, accessible by the law enforcement information network. If the parole board rescinds a parole order described in this subsection, the department within 3 business days shall remove from the corrections management information system the provisions of that parole order.

(17) Each prisoner who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, before being released on parole or being released upon completion of his or her maximum sentence, shall provide to the department notice of the location of his or her proposed place of residence or domicile. The department then shall forward that notice of location to the appropriate law enforcement agency as required under section 5(2) of the sex offenders registration act, 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice of the location of his or her proposed place of residence or domicile or knowingly provides an incorrect notice of the location of his or her proposed place of residence or domicile under 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.

(18) If a prisoner is serving a sentence for violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i (aggravated stalking), and if a victim of that crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the parole order for that prisoner shall require that the prisoner's location be monitored by a global positioning monitoring system during the entire period of the prisoner's parole. If, at the time a prisoner described in this subsection is paroled, no victim of the crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a victim of the crime subsequently registers to receive those notices,

the prisoner's order of parole shall immediately be modified to require that the prisoner's location be monitored by a global positioning system during the balance of the period of the prisoner's parole. As used in this subsection, "global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual, which transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not include any radio frequency identification technology, global positioning technology, or similar technology that would be implanted in the parolee or would otherwise violate the corporeal body of the parolee.

(19) As used in this section, "violent felony" means an offense against a person in violation of section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, and 750.530.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 10, 2008.

[No. 192]

(HB 4453)

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 6b of chapter V (MCL 765.6b), as amended by 1994 PA 335.

The People of the State of Michigan enact:

CHAPTER V

765.6b Release subject to protective conditions; contents of order; purchase or possession of firearm; entering or removing order from law enforcement information network; order to carry or wear global positioning system device; other orders; definitions; authority to impose other conditions not limited.

Sec. 6b. (1) A judge or district court magistrate may release under this section a defendant subject to conditions reasonably necessary for the protection of 1 or more named persons. If a judge or district court magistrate releases under this section a defendant subject to protective conditions, the judge or district court magistrate shall make a finding of the need for protective conditions and inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bail forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if the defendant is found in contempt of court.

(2) An order or amended order issued under subsection (1) shall contain all of the following:

(a) A statement of the defendant's full name.

(b) A statement of the defendant's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed.

(3) An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm. However, if the court orders the defendant to carry or wear a global positioning system device as a condition of release as described in subsection (6), the court shall also impose a condition that the defendant not purchase or possess a firearm.

(4) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (1) or subsections (1) and (3) into the law enforcement information network as provided by the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(5) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (4).

(6) If a defendant who is charged with a crime involving domestic violence is released under this section, the judge or district court magistrate may order the defendant to carry or wear a global positioning system device as a condition of release. With the informed consent

of the victim, the court may also order the defendant to provide the victim of the charged crime with an electronic receptor device capable of receiving the global positioning system information from the device carried or worn by the defendant that notifies the victim if the defendant is located within a proximity to the victim as determined by the judge or district court magistrate in consultation with the victim. The victim shall also be furnished with a telephone contact with the local law enforcement agency to request immediate assistance if the defendant is located within that proximity to the victim. In addition, the victim may provide the court with a list of areas from which he or she would like the defendant excluded. The court shall consider the victim's request and shall determine which areas the defendant shall be prohibited from accessing. The court shall instruct the global positioning monitoring system to notify the proper authorities if the defendant violates the order. In determining whether to order a defendant to participate in global positioning system monitoring, the court shall consider the likelihood that the defendant's participation in global positioning system monitoring will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the victim prior to trial. The victim may request the court to terminate the victim's participation in global positioning system monitoring of the defendant at any time. The court shall not impose sanctions on the victim for refusing to participate in global positioning system monitoring under this subsection. A defendant described in this subsection shall only be released under this section if he or she agrees to pay the cost of the device and any monitoring of the device as a condition of release or to perform community service work in lieu of paying that cost. As used in this subsection:

(a) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual that transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not contain or operate any global positioning system technology or radio frequency identification technology or similar technology that is implanted in or otherwise invades or violates the corporeal body of the individual.

(c) "Informed consent" means that the victim was given information concerning all of the following before consenting to participate in global positioning system monitoring:

(i) The victim's right to refuse to participate in global positioning system monitoring and the process for requesting the court to terminate the victim's participation after it has been ordered.

(ii) The manner in which the global positioning system monitoring technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements.

(iii) The boundaries imposed on the defendant during the global positioning system monitoring.

(iv) Sanctions that the court may impose on the defendant for violating an order issued under this subsection.

(v) The procedure that the victim is to follow if the defendant violates an order issued under this subsection or if global positioning system equipment fails.

(vi) Identification of support services available to assist the victim to develop a safety plan to use if the court's order issued under this subsection is violated or if global positioning system equipment fails.

(vii) Identification of community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other help in addressing the consequences and effects of domestic violence.

(viii) The nonconfidential nature of the victim's communications with the court concerning global positioning system monitoring and the restrictions to be imposed upon the defendant's movements.

(7) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

Short title of amendatory act.

Enacting section 1. This amendatory act shall be known and may be cited as “Mary’s Law”.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 10, 2008.

[No. 193]

(SB 412)

AN ACT to amend 1984 PA 431, entitled “An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts,” (MCL 18.1101 to 18.1594) by adding section 261d.

The People of the State of Michigan enact:

18.1261d Products containing mercury or mercury compounds; purchase; limitation.

Sec. 261d. In addition to the requirements of section 261, the department and all state agencies shall, whenever possible, avoid purchasing products containing mercury or mercury compounds if products that do not contain mercury or mercury compounds are available and those products are cost effective as determined by the department.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 194]**(SB 370)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 2a, 5f, and 5o (MCL 28.422a, 28.425f, and 28.425o), section 2a as added by 2000 PA 381 and sections 5f and 5o as amended by 2002 PA 719.

The People of the State of Michigan enact:

28.422a Individual licensed under MCL 28.425b; completion of record by seller; duties of purchaser; noncompliance as state civil infraction; penalty; forwarding copy of record to state police; exemption; materially false statement as felony; penalty; rules.

Sec. 2a. (1) An individual who is licensed under section 5b to carry a concealed pistol is not required to obtain a license under section 2 to purchase, carry, possess, or transport a pistol.

(2) If an individual licensed under section 5b purchases or otherwise acquires a pistol, the seller shall complete a record in quadruplicate on a form provided by the department of state police. The record shall include the purchaser’s concealed weapon license number. The purchaser shall sign the record. The seller may retain 1 copy of the record. The purchaser shall receive 3 copies of the record and forward 2 copies to the police department of the city, village, or township in which the purchaser resides, or, if the purchaser does not reside in a city, village, or township having a police department, to the county sheriff, within 10 days following the purchase or acquisition. The return of the copies to the police department or county sheriff may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the proper address of the police department or county sheriff. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than \$250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(3) Within 48 hours after receiving the record copies returned under subsection (2), the police department or county sheriff shall forward 1 copy of the record to the department of state police. The police department or county sheriff shall retain the other copy of the record as an official record for not less than 6 years. Within 10 days after receiving the record copies returned under subsection (2), the police department or county sheriff shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the police department or county sheriff does not have that ability, the police department or county sheriff shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any police department or county sheriff that provided pistol descriptions to the department of state police under former section 9 of this act shall continue

to provide pistol descriptions to the department of state police under this subsection. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The police department or county sheriff may charge a fee not to exceed \$1.00 for the cost of providing the copy. The purchaser may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the record. However, the person is not required to have the record in his or her possession while carrying, using, possessing, or transporting the pistol after this period.

(4) This section does not apply to a person or entity exempt under section 2(7).

(5) An individual who makes a material false statement on a sales record under this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(6) The department of state police may promulgate rules to implement this section.

28.425f Concealed pistol license; possession; disclosure to police officer; violation; penalty; seizure; forfeiture; "peace officer" defined.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol.

(2) An individual who is licensed under this act to carry a concealed pistol and who is carrying a concealed pistol shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than \$100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than \$500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of not more than \$1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol to the individual unless the individual is prohibited by law from possessing a firearm. If the individual does not display his or her license or documentation within the 45-day period, the pistol is subject to forfeiture as provided in section 5g. A pistol

is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

(8) As used in this section, “peace officer” includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

28.425o Premises on which carrying concealed weapon prohibited; “premises” defined; exceptions to subsection (1); violation; penalties.

Sec. 50. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, “school” and “school property” mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that “This establishment prohibits patrons from carrying concealed weapons”. The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) As used in subsection (1), “premises” does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the private detective license act, 1965 PA 285, MCL 338.821 to 338.851.

(d) Any of the following who is licensed under this act:

(i) A corrections officer of a county sheriff’s department.

(ii) A motor carrier officer or capitol security officer of the department of state police.

(iii) A member of a sheriff’s posse.

(iv) An auxiliary officer or reserve officer of a police or sheriff’s department.

(v) A parole or probation officer of the department of corrections.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than \$500.00. The court shall order the individual’s license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. The court shall order the individual’s license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both. The court shall order the individual’s license to carry a concealed pistol revoked.

Effective date.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 4490.

(b) House Bill No. 4491.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

Compiler’s note: House Bill No. 4490 referred to in enacting section 2, was filed with the Secretary of State July 11, 2008, and became 2008 PA 195, Eff. Jan. 7, 2009.

House Bill No. 4491, also referred to in enacting section 2, was filed with the Secretary of State July 11, 2008, and became 2008 PA 196, Eff. Jan. 7, 2009.

[No. 195]**(HB 4490)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending sections 2, 12, and 12b (MCL 28.422, 28.432, and 28.432b), section 2 as amended by 2004 PA 101, section 12 as amended by 2006 PA 75, and section 12b as added by 1982 PA 182; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

28.422 License to purchase, carry, possess, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; basic pistol safety brochure; forging application; implementation during business hours.

Sec. 2. (1) Except as provided in subsection (2), a person shall not purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol into this state who is on leave from active duty with the armed forces of the United States or who has been discharged from active duty with the armed forces of the United States shall obtain a license for the pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, possess, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, possess, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing, and which was entered into the law enforcement information network pursuant to any of the following:

(i) Section 464a(1) of the mental health code, 1974 PA 258, MCL 330.1464a.

(ii) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA 642.

(iii) Section 2950(10) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(iv) Section 2950a(7) of 1961 PA 236, MCL 600.2950a.

(v) Section 14 of 1846 RS 84, MCL 552.14.

(vi) Section 6b(5) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed under section 6b(3) of chapter V of 1927 PA 175, MCL 765.6b.

(vii) Section 16b(1) of chapter IX of 1927 PA 175, MCL 769.16b.

(b) The person is 18 years of age or older or, if the seller is licensed pursuant to section 923 of title 18 of the United States Code, 18 USC 923, is 21 years of age or older.

(c) The person is a citizen of the United States and is a legal resident of this state.

(d) A felony charge against the person is not pending at the time of application.

(e) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(g) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(h) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.

(i) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the basic pistol safety review board and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, possess, or transport pistols shall be executed in quadruplicate upon forms provided by the director of the department of state police and shall be signed by the licensing authority. Four copies of the license shall be delivered to the applicant by the licensing authority. A license is void unless used within 10 days after the date it is issued.

(5) If an individual purchases or otherwise acquires a pistol, the seller shall fill out the license forms describing the pistol, together with the date of sale or acquisition, and sign his or her name in ink indicating that the pistol was sold to or otherwise acquired by the purchaser. The purchaser shall also sign his or her name in ink indicating the purchase or other acquisition of the pistol from the seller. The seller may retain a copy of the license as a record of the transaction. The purchaser shall receive 3 copies of the license. The purchaser shall return 2 copies of the license to the licensing authority within 10 days after the date the pistol is purchased or acquired. The return of the copies to the licensing authority may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the proper address of the licensing authority. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined

not more than \$250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police of that determination.

(6) Within 48 hours after receiving the license copies returned under subsection (5), the licensing authority shall forward 1 copy of the license to the department of state police. The licensing authority shall retain the other copy of the license as an official record for not less than 6 years. Within 10 days after receiving the license copies returned under subsection (5), the licensing authority shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the licensing authority does not have that ability, the licensing authority shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any licensing authority that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The licensing authority may charge a fee not to exceed \$1.00 for the cost of providing the copy. The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license. However, the person is not required to have the license in his or her possession while carrying, using, possessing, or transporting the pistol after this period.

(7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept as relics or curios not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols that are inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or their authorized deputies, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol.

(8) The licensing authority shall provide a basic pistol safety brochure to each applicant for a license under this section before the applicant answers the basic pistol safety review questionnaire. A basic pistol safety brochure shall contain, but is not limited to providing, information on all of the following subjects:

- (a) Rules for safe handling and use of pistols.
- (b) Safe storage of pistols.
- (c) Nomenclature and description of various types of pistols.
- (d) The responsibilities of owning a pistol.

(9) The basic pistol safety brochure shall be supplied in addition to the safety pamphlet required by section 9b.

(10) The basic pistol safety brochure required in subsection (8) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

(11) A person who forges any matter on an application for a license under this section 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.

(12) A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection (6).

28.432 Inapplicability of MCL 28.422; citation as “Janet Kukuk act”

Sec. 12. (1) Section 2 does not apply to any of the following:

(a) A police or correctional agency of the United States or of this state or any subdivision of this state.

(b) The United States army, air force, navy, or marine corps.

(c) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(d) The national guard, armed forces reserves, or other duly authorized military organization.

(e) A member of an entity or organization described in subdivisions (a) through (d) for a pistol while engaged in the course of his or her duties with that entity or while going to or returning from those duties.

(f) A United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms or a licensed dealer.

(h) Purchasing, owning, carrying, possessing, using, or transporting an antique firearm. As used in this subdivision, “antique firearm” means that term as defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(i) An individual carrying, possessing, using, or transporting a pistol belonging to another individual, if the other individual’s possession of the pistol is authorized by law and the individual carrying, possessing, using, or transporting the pistol has obtained a license under section 5b to carry a concealed pistol or is exempt from licensure as provided in section 12a.

(2) The amendatory act that added subsection (1)(h) shall be known and may be cited as the “Janet Kukuk act”.

28.432b Signaling devices to which MCL 28.422 inapplicable.

Sec. 12b. Section 2 does not apply to a signaling device that is approved by the United States coast guard pursuant to regulations issued under 46 USC 481, or under 46 USC 1454.

Repeal of MCL 28.429.

Enacting section 1. Section 9 of 1927 PA 372, MCL 28.429, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect 180 days after the date it is enacted into law.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 370.

(b) House Bill No. 4491.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

Compiler’s note: Senate Bill No. 370 referred to in enacting section 3, was filed with the Secretary of State July 11, 2008, and became 2008 PA 194, Eff. Jan. 7, 2009.

House Bill No. 4491, also referred to in enacting section 3, was filed with the Secretary of State July 11, 2008, and became 2008 PA 196, Eff. Jan. 7, 2009.

[No. 196]**(HB 4491)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 224b and 231a (MCL 750.224b and 750.231a), section 231a as amended by 2002 PA 82; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

750.224b Short-barreled shotgun or rifle; manufacture, sale, or possession as felony; penalty; exceptions; applicability to collector’s item.

Sec. 224b. (1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(3) This section does not apply to the sale, offering for sale, or possession of a short-barreled rifle or a short-barreled shotgun which the secretary of the treasury of the United States of America, or his or her delegate, under 26 USC, sections 5801 through 5872, or 18 USC, sections 921 through 928, has found to be a curio, relic, antique, museum piece, or collector’s item not likely to be used as a weapon, but only if the person selling, offering for sale or possessing the firearm has also fully complied with section 2 or 2a of 1927 PA 372, MCL 28.422 and 28.422a.

Section 20 of chapter 16 of the code of criminal procedure, 1927 PA 175, MCL 776.20, applies to this subsection.

750.231a Exceptions to MCL 750.227(2); definitions.

Sec. 231a. (1) Subsection (2) of section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by his or her state of residence except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded in a closed case or container designed for the storage of firearms in the trunk of a vehicle.

(d) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in the trunk of the vehicle.

(e) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in

a vehicle that does not have a trunk and is not readily accessible to the occupants of the vehicle.

(2) As used in this section:

(a) “Antique firearm” means either of the following:

(i) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica of such a firearm, whether actually manufactured before or after 1898.

(ii) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) “Lawful purpose” includes the following:

(i) While en route to or from a hunting or target shooting area.

(ii) While transporting a pistol en route to or from his or her home or place of business and place of repair.

(iii) While moving goods from 1 place of abode or business to another place of abode or business.

(iv) While transporting a licensed pistol en route to or from a law enforcement agency or for the purpose of having a law enforcement official take possession of the weapon.

(v) While en route to or from his or her abode or place of business and a gun show or places of purchase or sale.

(vi) While en route to or from his or her abode to a public shooting facility or public land where discharge of firearms is permitted by law, rule, regulation, or local ordinance.

(vii) While en route to or from his or her abode to a private property location where the pistol is to be used as is permitted by law, rule, regulation, or local ordinance.

Repeal of MCL 750.228.

Enacting section 1. Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect 180 days after the date it is enacted into law.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 370.

(b) House Bill No. 4490.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

Compiler's note: Senate Bill No. 370, referred to in enacting section 3, was filed with the Secretary of State July 11, 2008, and became 2008 PA 194, Eff. Jan. 7, 2009.

House Bill No. 4490, also referred to in enacting section 3, was filed with the Secretary of State July 11, 2008, and became 2008 PA 195, Eff. Jan. 7, 2009.

[No. 197]**(HB 5833)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending section 151d (MCL 600.151d), as amended by 2004 PA 465.

The People of the State of Michigan enact:

600.151d Juror compensation reimbursement fund; creation; use; deposits; investments; disposition of unencumbered balance; transfer to general fund.

Sec. 151d. (1) The juror compensation reimbursement fund is created in the state treasury. The money in the fund shall be used as provided in section 151e.

(2) The state treasurer shall credit to the juror compensation reimbursement fund deposits of proceeds from the collection of driver license clearance fees as provided in section 321a(11) of the Michigan vehicle code, 1949 PA 300, MCL 257.321a, and deposits of proceeds from the collection of jury demand fees as provided in sections 2529(1)(c) and 8371(9), and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by section 151e. The state treasurer shall credit to the fund all income earned as a result of an investment of money in the fund. Except as provided in subsection (3), the unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

(3) For the state fiscal year ending September 30, 2005 only, \$4,000,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the general fund.

(4) For the state fiscal year ending September 30, 2008 only, \$2,250,000.00 of the unencumbered balance remaining in the fund at the end of that fiscal year shall be transferred by the state treasurer to the general fund.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 198]**(SB 1239)**

AN ACT to amend 1893 PA 206, entitled “An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property

taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts,” by amending section 7cc (MCL 211.7cc), as amended by 2008 PA 96.

The People of the State of Michigan enact:

211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures; definitions.

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) Except as otherwise provided in subsection (5), an owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner; 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner’s spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner’s number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(i) That person has claimed an exemption under this section for any other property for that tax year.

(ii) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or, except as otherwise provided in subsection (5), is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. However, if an owner is eligible for and claims an exemption for that owner's current principal residence, that owner may retain an exemption for not more than 3 tax years on property previously exempt as his or her principal residence if that property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose by filing a conditional rescission form prescribed by the department of treasury on or before May 1 with the local tax collecting unit. Property is eligible for a conditional rescission if that property is available for lease and all other conditions under this subsection are met. A copy of the conditional rescission form shall be forwarded to the department of treasury according to a schedule prescribed by the department of treasury. An owner who files a conditional rescission form shall annually verify to the assessor of the local tax collecting unit on or before December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. If an owner does not annually verify by December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose, the assessor of the local tax collecting unit shall deny the principal residence exemption on that property. If property subject to a conditional rescission is leased, the local tax collecting unit shall deny that conditional rescission and that denial is retroactive and is effective on December 31 of the year immediately preceding the year in which the property subject to the conditional rescission is leased. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) Except as otherwise provided in subsection (5), if the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. Except as otherwise provided in subsection (5), if the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and

to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Before 2009, subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. Beginning in 2009, an election to audit exemptions shall be made every 5 years and shall

require 5 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than April 1 preceding the October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may, except as otherwise provided in subsection (5), deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who

claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) Except as otherwise provided in subsection (5), an affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located if the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.