

HOUSE BILL No. 4214

February 9, 2011, Introduced by Rep. Pscholka and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to safeguard the continued financial viability of units of local government, including school districts; to preserve the capacity of units of local government to provide necessary services essential to the public health, safety, and welfare; to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of units of local government, including school districts; to permit a declaration of the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state departments, boards, agencies, officials, and employees, and officials and employees of units of local government, including school districts; to provide for placing units of local government, including school districts, into state

receivership; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency manager; to require the development of financial plans to regulate expenditures and investments by units of local government, including school districts, in a state of financial stress or financial emergency; to provide for the suspension of collective bargaining under certain circumstances; to set forth the conditions for termination of a local government financial emergency; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "local
2 government and school district fiscal accountability act".

3 Sec. 3. The legislature hereby determines that the health,
4 safety, and welfare of the citizens of this state would be
5 materially and adversely affected by the insolvency of units of
6 local government, including certain school districts, and that the
7 survival and financial viability of units of local government is
8 vitally necessary to the interests of the citizens of this state to
9 assure the provision of necessary governmental services essential
10 to public health, safety, and welfare. The legislature further
11 determines that it is vitally necessary to protect the credit of
12 this state and its political subdivisions and that it is necessary
13 for the public good and it is a valid public purpose for this state
14 to take action and to assist a unit of local government in a
15 condition of financial stress or financial emergency so as to
16 remedy the stress or emergency by requiring prudent fiscal
17 management, permitting the restructuring of contractual

1 obligations, and prescribing the powers and duties of state and
2 local government officials and emergency managers. The legislature,
3 therefore, determines that the authority and powers conferred by
4 this act constitute a necessary program and serve a valid public
5 purpose.

6 Sec. 5. As used in this act:

7 (a) "Chief administrative officer" means any of the following:

8 (i) The manager of a village or, if a village does not employ a
9 manager, the president of the village.

10 (ii) The city manager of a city or, if a city does not employ a
11 city manager, the mayor of the city.

12 (iii) The manager of a township, the superintendent of a charter
13 township, or if the township does not employ a manager or
14 superintendent, the supervisor of the township.

15 (iv) The elected county executive or appointed county manager
16 of a county; or if the county has not adopted the provisions of
17 either 1973 PA 139, MCL 45.551 to 45.573, or 1966 PA 293, MCL
18 45.501 to 45.521, the county's chairperson of the county board of
19 commissioners.

20 (v) The chief operating officer of an authority or of a public
21 utility owned by a city, village, township, or county.

22 (vi) The superintendent of a school district.

23 (b) "Emergency manager" or "manager" means the emergency
24 manager appointed under section 15.

25 (c) "Local government" means a municipal government or a
26 school district.

27 (d) "Municipal government" means a city, a village, a

1 township, a charter township, a county, an authority established by
2 law, or a public utility owned by a city, village, township, or
3 county.

4 (e) "Review team" means a review team designated under section
5 12.

6 (f) "School board" means the governing body of a school
7 district.

8 (g) "School district" means a school district, an intermediate
9 school district, or a public school academy as those terms are
10 defined in the revised school code, 1976 PA 451, MCL 380.1 to
11 380.1852.

12 (h) "State financial authority" means the following:

13 (i) For a municipal government, the state treasurer.

14 (ii) For a school district, the superintendent of public
15 instruction.

16 Sec. 12. (1) The state financial authority of a local
17 government may conduct a preliminary review to determine the
18 existence of a local government financial problem if 1 or more of
19 the following occur:

20 (a) The governing body or the chief administrative officer of
21 a local government requests a preliminary review under this act.
22 The request shall be in writing and shall identify the existing or
23 anticipated financial conditions or events that make the request
24 necessary.

25 (b) The state financial authority receives a written request
26 from a creditor with an undisputed claim that remains unpaid 6
27 months after its due date against the local government that exceeds

1 the greater of \$10,000.00 or 1% of the annual general fund budget
2 of the local government, provided that the creditor notifies the
3 local government in writing at least 30 days before his or her
4 request to the state financial authority of his or her intention to
5 submit a written request under this subdivision.

6 (c) The state financial authority receives a petition
7 containing specific allegations of local government financial
8 distress signed by a number of registered electors residing within
9 the local government's jurisdiction equal to not less than 5% of
10 the total vote cast for all candidates for governor within the
11 local government's jurisdiction at the last preceding election at
12 which a governor was elected. Petitions shall not be filed under
13 this subdivision within 60 days before any election of the local
14 government.

15 (d) The state financial authority receives written
16 notification that a local government has not timely deposited its
17 minimum obligation payment to the local government pension fund as
18 required by law.

19 (e) The state financial authority receives written
20 notification that the local government has failed for a period of 7
21 days or more to pay wages and salaries or other compensation owed
22 to employees or benefits owed to retirees.

23 (f) The state financial authority receives written
24 notification from a trustee, paying agent, bondholder, or auditor
25 engaged by the local government of a default in a bond or note
26 payment or a violation of 1 or more bond or note covenants.

27 (g) The state financial authority of a local government

1 receives a resolution from either the senate or the house of
2 representatives requesting a preliminary review under this section.

3 (h) The local government has violated a requirement of, or a
4 condition of an order issued pursuant to, former 1943 PA 202, the
5 revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the
6 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
7 141.2821, or any other law governing the issuance of bonds or
8 notes.

9 (i) A municipal government has violated the conditions of an
10 order issued by the local emergency financial assistance loan board
11 pursuant to the emergency municipal loan act, 1980 PA 243, MCL
12 141.931 to 141.942.

13 (j) The local government has violated a requirement of
14 sections 17 to 20 of the uniform budgeting and accounting act, 1968
15 PA 2, MCL 141.437 to 141.440.

16 (k) The local government fails to timely file an annual
17 financial report or audit that conforms with the minimum procedures
18 and standards of the state financial authority and is required for
19 local governments under the uniform budgeting and accounting act,
20 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
21 21.55. In addition, if the local government is a school district,
22 the school district fails to provide an annual financial report or
23 audit that conforms with the minimum procedures and standards of
24 the superintendent of public instruction and is required under the
25 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the
26 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

27 (l) A municipal government is delinquent in the distribution of

1 tax revenues, as required by law, that it has collected for another
2 taxing jurisdiction, and that taxing jurisdiction requests a
3 preliminary review.

4 (m) A local government is in breach of its obligations under a
5 deficit elimination plan or an agreement entered into pursuant to a
6 deficit elimination plan.

7 (n) A court has ordered an additional tax levy without the
8 prior approval of the governing body of the local government.

9 (o) A municipal government has ended a fiscal year in a
10 deficit condition as defined in section 21 of the Glenn Steil state
11 revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or has
12 failed to comply with the requirements of that section for filing
13 or instituting a financial plan to correct the deficit condition.

14 (p) A school district ended its most recently completed fiscal
15 year with a deficit in 1 or more of its funds and the school
16 district has not submitted a deficit elimination plan to the state
17 financial authority within 3 months after the district's deadline
18 for submission of its annual financial statement.

19 (q) A local government has been assigned a long-term debt
20 rating within or below the BBB category or its equivalent by 1 or
21 more nationally recognized credit rating agencies.

22 (r) The existence of other facts or circumstances that in the
23 state treasurer's sole discretion for a municipal government are
24 indicative of municipal financial stress, or, that in the
25 superintendent of public instruction's sole discretion for a school
26 district are indicative of school district financial stress.

27 (2) If the state financial authority determines that a

1 preliminary review is appropriate under this section, before
2 commencing the preliminary review the state financial authority
3 shall give the local government specific written notification of
4 the review. The preliminary review shall be completed within 30
5 days following its commencement. Elected and appointed officials of
6 a local government shall promptly and fully provide the assistance
7 and information requested by the state financial authority for that
8 local government in conducting the preliminary review.

9 (3) If a finding of probable financial stress is made for a
10 municipal government under subsection (2), the governor shall
11 appoint a review team for that municipal government consisting of
12 the state treasurer or his or her designee, the director of the
13 department of technology, management, and budget or his or her
14 designee, a nominee of the senate majority leader, and a nominee of
15 the speaker of the house of representatives. The governor may
16 appoint other state officials or other persons with relevant
17 professional experience to serve on a review team to undertake a
18 municipal financial management review.

19 (4) If a finding of probable financial stress is made for a
20 school district under subsection (2), the governor shall appoint a
21 review team for that school district consisting of the state
22 treasurer or his or her designee, the superintendent of public
23 instruction or his or her designee, the director of the department
24 of technology, management, and budget or his or her designee, a
25 nominee of the senate majority leader, and a nominee of the speaker
26 of the house of representatives. The governor may appoint other
27 state officials or other persons with relevant professional

1 experience to serve on a review team to undertake a school district
2 financial management review.

3 (5) The department of treasury shall provide staff support to
4 each review team.

5 (6) A review team appointed under former 1988 PA 101 or former
6 1990 PA 72 and serving on the effective date of this act shall
7 continue under this act to fulfill their powers and duties. All
8 proceedings and actions taken by the governor, the state treasurer,
9 or a review team under former 1988 PA 101 or former 1990 PA 72
10 before the effective date of this act are ratified and are
11 enforceable as if the proceedings and actions were taken under this
12 act, and a consent agreement entered into under former 1988 PA 101
13 or 1990 PA 72 is ratified and is binding and enforceable under this
14 act.

15 Sec. 13. (1) The review team shall have full power in its
16 review to perform all of the following functions:

17 (a) Examine the books and records of the local government.

18 (b) Utilize the services of other state agencies and
19 employees.

20 (c) Negotiate and sign a consent agreement with the chief
21 administrative officer of the local government. The consent
22 agreement may provide for remedial measures considered necessary to
23 address the local financial problem and provide for the financial
24 stability of the local government and may include either a
25 continuing operations plan or recovery plan as described in section
26 14a. The consent agreement may utilize state financial management
27 and technical assistance as necessary in order to alleviate the

1 local financial problem. The consent agreement shall also provide
2 for periodic financial status reports to the state financial
3 authority. In order for the consent agreement to go into effect, it
4 shall be approved, by resolution, by the governing body of the
5 local government and shall be approved and executed by the state
6 financial authority. A consent agreement shall provide that in the
7 event of a material uncured breach of the consent agreement, the
8 state treasurer, with the concurrence of the superintendent of
9 public instruction if the local government is a school district, is
10 authorized to place the local government in receivership as
11 provided under section 15.

12 (2) The review team shall meet with the local government as
13 part of its review. At this meeting, the review team shall receive,
14 discuss, and consider information provided by the local government
15 concerning the financial condition of the local government.

16 (3) The review team shall report its findings to the governor,
17 with a copy to the state financial authority, within 60 days
18 following the appointment of the review team under section 12 or
19 earlier if required by the governor or the state financial
20 authority. Upon request, the governor may grant one 30-day
21 extension of this 60-day time limit. A copy of the report shall be
22 forwarded by the state treasurer to the chief administrative
23 officer and the governing body of the local government, the speaker
24 of the house of representatives, the senate majority leader, and
25 the superintendent of public instruction if the local government is
26 a school district. The report shall include the existence, or an
27 indication of the likely occurrence, of any of the following:

1 (a) A default in the payment of principal or interest upon
2 bonded obligations, notes, or other municipal securities for which
3 no funds or insufficient funds are on hand and, if required,
4 segregated in a special trust fund.

5 (b) Failure for a period of 30 days or more beyond the due
6 date to transfer 1 or more of the following to the appropriate
7 agency:

8 (i) Taxes withheld on the income of employees.

9 (ii) For a municipal government, taxes collected by the
10 municipal government as agent for another governmental unit, school
11 district, or other entity or taxing authority.

12 (iii) Any contribution required by a pension, retirement, or
13 benefit plan.

14 (c) Failure for a period of 7 days or more to pay wages and
15 salaries or other compensation owed to employees or benefits owed
16 to retirees.

17 (d) The total amount of accounts payable for the current
18 fiscal year, as determined by the state financial authority's
19 uniform chart of accounts, is in excess of 10% of the total
20 expenditures of the local government in that fiscal year.

21 (e) Failure to eliminate an existing deficit in any fund of
22 the local government within the 2-year period preceding the end of
23 the local government's fiscal year during which the review team
24 report is received.

25 (f) Projection of a deficit in the general fund of the local
26 government for the current fiscal year in excess of 5% of the
27 budgeted revenues for the general fund.

1 (g) Failure to comply in all material respects with the terms
2 of an approved deficit elimination plan or an agreement entered
3 into pursuant to a deficit elimination plan.

4 (h) Existence of material loans to the general fund from other
5 local government funds.

6 (i) Existence of material recurring unbudgeted subsidies from
7 the general fund to other major funds as defined under government
8 accounting standards board principles.

9 (j) Existence of a structural operating deficit.

10 (k) Use of restricted revenues for purposes not authorized by
11 law.

12 (l) Any other facts and circumstances indicative of local
13 government financial stress or financial emergency.

14 (4) The review team shall include 1 of the following
15 conclusions in its report:

16 (a) The local government is not in financial stress or is in a
17 condition of mild financial stress as provided in section 14.

18 (b) The local government is in a condition of severe financial
19 stress as provided in section 14, but a consent agreement
20 containing a plan to resolve the problem has been adopted pursuant
21 to subsection (1)(c).

22 (c) The local government is in a condition of severe financial
23 stress as provided in section 14, and a consent agreement has not
24 been adopted pursuant to subsection (1)(c).

25 (d) A financial emergency exists as provided in section 14 and
26 no satisfactory plan exists to resolve the emergency.

27 (5) The review team may appoint an individual or firm to carry

1 out the review and submit a report to the review team for approval.
2 The department of treasury may enter into a contract with the
3 individual or firm respecting the terms and conditions of the
4 appointment.

5 Sec. 14. (1) For purposes of this act, a local government is
6 considered to be in a condition of no financial stress or mild
7 financial stress if the report required in section 13 concludes
8 that none of the factors in section 13(3) exist or are likely to
9 occur within the current or next succeeding fiscal year or, if they
10 occur, do not threaten the local government's capability to provide
11 necessary governmental services essential to public health, safety,
12 and welfare.

13 (2) For purposes of this act, a local government is considered
14 to be in a condition of severe financial stress if either of the
15 following occurs:

16 (a) The report required in section 13 concludes that 1 or more
17 of the factors in section 13(3) exist or are likely to occur within
18 the current or next succeeding fiscal year and, if left
19 unaddressed, may threaten the local government's future capability
20 to provide necessary governmental services essential to the public
21 health, safety, and welfare.

22 (b) The chief administrative officer of the local government
23 recommends that the local government be considered in severe
24 financial stress.

25 (3) For purposes of this act, a local government is considered
26 to be in a condition of financial emergency if any of the following
27 occur:

1 (a) The report required in section 13 concludes that 2 or more
2 of the factors in section 13(3) exist or are likely to occur within
3 the current fiscal year and threaten the local government's current
4 and future capability to provide necessary governmental services
5 essential to the public health, safety, and welfare.

6 (b) The local government has failed to provide timely and
7 accurate information enabling the review team to complete its
8 report under section 13.

9 (c) The local government has failed to comply in all material
10 respects with a continuing operations plan or recovery plan, as
11 provided in section 14a, or with the terms of an approved deficit
12 elimination plan or an agreement entered into pursuant to a deficit
13 elimination plan.

14 (d) The local government is in material breach of a consent
15 agreement entered into under section 13(1)(c).

16 (e) The local government is in a condition of severe financial
17 stress as provided in subsection (2), and a consent agreement has
18 not been adopted pursuant to section 13(1)(c).

19 (f) The chief administrative officer of the local government,
20 based upon the existence or likely occurrence of 1 or more of the
21 factors in section 13(3), recommends that a financial emergency be
22 declared and the state financial authority concurs with the
23 recommendation.

24 Sec. 14a. (1) A consent agreement as provided in section
25 13(1)(c) may require a continuing operations plan or a recovery
26 plan if required by the state financial authority.

27 (2) If the state financial authority requires that a consent

1 agreement include a continuing operations plan, the local
2 government shall prepare and file the continuing operations plan
3 with the state financial authority as provided for in the consent
4 agreement. The state financial authority shall approve or reject
5 the initial continuing operations plan within 14 days of receiving
6 it from the local government. If a plan is rejected, the local
7 government shall refile an amended plan within 30 days of the
8 rejection addressing any concerns raised by the state financial
9 authority. If the amended plan is rejected, then the local
10 government is considered to be in material breach of the consent
11 agreement. The local government is required to file annual updates
12 to its continuing operations plan. The annual updates shall be
13 included with the annual filing of the local government's audit
14 report with the state financial authority as long as the continuing
15 operations plan remains in effect.

16 (3) The continuing operations plan shall be in a form
17 prescribed by the state financial authority, but shall, at a
18 minimum, include all of the following:

19 (a) A detailed projected budget of revenues and expenditures
20 over not less than 3 fiscal years which demonstrates that the local
21 government's expenditures will not exceed its revenues and that any
22 existing deficits will be eliminated during the projected budget
23 period.

24 (b) A cash flow projection for the budget period.

25 (c) An operating plan for the budget period that ensures
26 continued viability for the local government.

27 (d) A plan showing reasonable and necessary maintenance and

1 capital expenditures so as to ensure the local government's
2 continued viability.

3 (e) An evaluation of the costs associated with pension and
4 health care for which the local government is responsible and a
5 plan for how those costs will be addressed within the budget
6 period.

7 (f) A provision for submitting quarterly compliance reports to
8 the state financial authority demonstrating compliance with the
9 continuing operations plan.

10 (4) If a continuing operations plan is approved for a local
11 government, the local government shall amend the budget and general
12 appropriations ordinance adopted by the local government under the
13 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
14 141.440a, to the extent necessary or advisable to give full effect
15 to the continuing operations plan. The chief administrative
16 officer, the chief financial officer, the governing body, and other
17 officials of the local government shall take and direct such
18 actions as may be necessary or advisable to maintain the local
19 government's operations in compliance with the continuing
20 operations plan.

21 (5) If the state financial authority requires that a consent
22 agreement include a recovery plan, the state financial authority
23 shall develop and adopt, in consultation with the review team if
24 desired by the state financial authority, a recovery plan. If a
25 recovery plan is developed and adopted for the local government,
26 the local government thereafter is required to file annual updates
27 to its recovery plan. The annual updates shall be included with the

1 annual filing of the local government's audit report with the state
2 financial authority as long as the recovery plan remains in effect.

3 (6) A recovery plan may include terms and provisions as may be
4 approved in the discretion of the state treasurer, including, but
5 not limited to, any 1 or more of the following:

6 (a) A detailed projected budget of revenues and expenditures
7 over not less than 3 fiscal years which demonstrates that the local
8 government's expenditures will not exceed its revenues and that any
9 existing deficits will be eliminated during the projected budget
10 period.

11 (b) A cash flow projection for the budget period.

12 (c) An operating plan for the budget period that ensures
13 continued viability for the local government.

14 (d) A plan showing reasonable and necessary maintenance and
15 capital expenditures so as to ensure the local government's
16 continued viability.

17 (e) An evaluation of legacy costs for which the local
18 government is responsible and a plan for how those costs will be
19 addressed within the budget period.

20 (f) Procedures for cash control and cash management,
21 including, but not limited to, procedures for timely collection,
22 securing, depositing, balancing, and expending of cash, and may
23 include the designation of appropriate fiduciaries.

24 (g) A provision for submitting quarterly compliance reports to
25 the state financial authority and the chief administrative officer
26 of the local government that demonstrates compliance with the
27 recovery plan.

1 (7) The recovery plan may include the appointment of a local
2 auditor or local inspector, or both, in accordance with section
3 19(1) (o) .

4 (8) If a recovery plan is developed and adopted by the state
5 financial authority for a local government, the recovery plan shall
6 supersede the budget and general appropriations ordinance adopted
7 by the local government under the uniform budgeting and accounting
8 act, 1968 PA 2, MCL 141.421 to 141.440a, and the budget and general
9 appropriations ordinance is considered amended to the extent
10 necessary or advisable to give full effect to the recovery plan. In
11 the event of any inconsistency between the recovery plan and the
12 budget or general appropriations ordinance, the recovery plan shall
13 control. The chief administrative officer, the chief financial
14 officer, the governing body, and other officers of the local
15 government shall take and direct actions as may be necessary or
16 advisable to bring and maintain the local government's operations
17 in compliance with the recovery plan.

18 (9) The consent agreement may include a grant to the chief
19 administrative officer, the chief financial officer, the governing
20 body, or other officers of the local government by the state
21 financial authority of 1 or more of the powers prescribed for
22 emergency managers in section 19 for such periods and upon such
23 terms and conditions as the state financial authority considers
24 necessary or convenient, in the state financial authority's sole
25 discretion, to enable the local government to achieve the goals and
26 objectives of the consent agreement.

27 (10) The consent agreement may provide for the required

1 retention by the local government of a turnaround consultant for
2 the purpose of assisting the local government to achieve the goals
3 and objectives of the consent agreement.

4 (11) A local government is released from the requirements
5 under this section upon compliance with the consent agreement as
6 determined by the state financial authority.

7 Sec. 15. (1) Within 10 days after receipt of the report
8 provided for in section 13, the governor shall make 1 of the
9 following determinations:

10 (a) The local government is not in a condition of severe
11 financial stress.

12 (b) The local government is in a condition of severe financial
13 stress as provided in section 14, but a consent agreement
14 containing a plan to resolve the financial stress has been adopted
15 under this act.

16 (c) A local government financial emergency exists
17 as provided in section 14 and no satisfactory plan exists to
18 resolve the emergency.

19 (2) If the governor determines pursuant to subsection (1) that
20 a financial emergency exists, the governor shall provide the
21 governing body and chief administrative officer of the local
22 government with a written notification of the determination,
23 findings of fact utilized as the basis upon which this
24 determination was made, a concise and explicit statement of the
25 underlying facts supporting the factual findings, and notice that
26 the chief administrative officer or the governing body of the local
27 government has 7 days after the date of the notification to request

1 a hearing conducted by the state financial authority or the state
2 financial authority's designee. Following the hearing, or if no
3 hearing is requested following the expiration of the deadline by
4 which a hearing may be requested, the governor, in his or her sole
5 discretion based upon the record, shall either confirm or revoke,
6 in writing, the determination of the existence of a financial
7 emergency. If confirmed, the governor shall provide a written
8 report to the governing body and chief administrative officer of
9 the local government of the findings of fact of the continuing or
10 newly developed conditions or events providing a basis for the
11 confirmation of a financial emergency, and a concise and explicit
12 statement of the underlying facts supporting these factual
13 findings.

14 (3) A local government for which a financial emergency
15 determination under this section has been confirmed to exist may,
16 by resolution adopted by a vote of 2/3 of the members of its
17 governing body elected and serving, appeal this determination to
18 the Ingham county circuit court. The court shall not set aside a
19 determination of financial emergency by the governor unless it
20 finds that the determination is either of the following:

21 (a) Not supported by competent, material, and substantial
22 evidence on the whole record.

23 (b) Arbitrary, capricious, or clearly an abuse or unwarranted
24 exercise of discretion.

25 (4) Upon the confirmation of a finding of a financial
26 emergency, the state treasurer, with the concurrence of the
27 superintendent of public instruction if the local government is a

1 school district, shall declare the local government in receivership
2 and shall appoint an emergency manager to act for and in the place
3 and stead of the governing body and the office of chief
4 administrative officer of the local government. The emergency
5 manager shall have broad powers in receivership to rectify the
6 financial emergency and to preserve the local government's capacity
7 to provide necessary governmental services essential to the public
8 health, safety, and welfare. Upon the declaration of receivership
9 and during the pendency of receivership, the governing body and the
10 chief administrative officer of the local government may not
11 exercise any of the powers of those offices except as may be
12 specifically authorized in writing by the emergency manager and are
13 subject to any conditions required by the emergency manager.

14 (5) All of the following apply to an emergency manager:

15 (a) The emergency manager shall be chosen on the basis of
16 competence.

17 (b) The emergency manager may but need not be a resident of
18 the local government.

19 (c) The emergency manager may be an individual or firm.

20 (d) The emergency manager shall serve at the pleasure of the
21 state treasurer, with the concurrence of the superintendent of
22 public instruction if the local government is a school district.

23 (e) The emergency manager's compensation and reimbursement for
24 actual and necessary expenses shall be paid by the local government
25 and shall be set forth in a contract approved by the state
26 treasurer.

27 (6) In addition to staff otherwise authorized by law, an

1 emergency manager shall appoint additional staff and secure
2 professional assistance as the emergency manager considers
3 necessary to fulfill his or her appointment.

4 (7) The emergency manager shall make quarterly reports to the
5 state treasurer with respect to the financial condition of the
6 local government in receivership, with a copy to the superintendent
7 of public instruction if the local government is a school district.

8 (8) The emergency manager shall continue in this capacity
9 until removed or replaced by the state treasurer, with the
10 concurrence of the superintendent of public instruction if the
11 local government is a school district, or until the financial
12 emergency is rectified.

13 (9) A local government shall be removed from receivership when
14 the financial conditions are corrected in a sustainable fashion as
15 determined by the state treasurer, with the concurrence of the
16 superintendent of public instruction if the local government is a
17 school district, in accordance with this act.

18 (10) The governor may delegate his or her duties under this
19 section to the state treasurer, with the concurrence of the
20 superintendent of public instruction if the local government is a
21 school district.

22 Sec. 16. An emergency financial manager appointed under former
23 1988 PA 101 or former 1990 PA 72, and serving on the effective date
24 of this act, shall continue under this act to fulfill his or her
25 powers and duties.

26 Sec. 17. (1) The emergency manager shall issue to the
27 appropriate officials or employees of the local government the

1 orders the manager considers necessary to accomplish the purposes
2 of this act, including, but not limited to, orders for the timely
3 and satisfactory implementation of a financial and operating plan
4 developed pursuant to section 18, including an academic plan for a
5 school district, or to take actions, or refrain from taking
6 actions, to enable the orderly accomplishment of the financial and
7 operating plan. An order issued under this section is binding on
8 the local officials or employees to whom it is issued.

9 (2) If an order of the emergency manager to officials or
10 employees of the local government under subsection (1) is not
11 reasonably carried out and the failure to carry out an order is
12 disrupting the emergency manager's ability to manage the local
13 government, the emergency manager, in addition to other remedies
14 provided in this act, may prohibit the official or employee from
15 access to the local government's office facilities, electronic
16 mail, and internal information systems.

17 Sec. 18. (1) The emergency manager shall develop and may amend
18 a written financial and operating plan for the local government.
19 The plan shall have the objectives of ensuring that the local
20 government is able to provide necessary governmental services
21 essential to the public health, safety, and welfare on an ongoing
22 and sustainable basis, and protecting the continued financial
23 viability of the local government. The financial and operating plan
24 shall provide for all of the following:

25 (a) Conducting all aspects of the operations of the local
26 government within the resources available according to the
27 emergency manager's revenue estimate.

1 (b) The payment in full of the scheduled debt service
2 requirements on all bonds, notes, and municipal securities of the
3 local government and all other uncontested legal obligations.

4 (c) The modification, rejection, termination, and
5 renegotiation of contracts pursuant to section 19.

6 (d) The timely deposit of required payments to the pension
7 fund for the local government or in which the local government
8 participates.

9 (e) For school districts, an academic plan.

10 (f) Any other actions considered necessary by the emergency
11 manager in the emergency manager's discretion to achieve the
12 objectives of the financial and operating plan, alleviate the
13 financial emergency, and remove the local government from
14 receivership.

15 (2) Within 45 days after the emergency manager's appointment,
16 the emergency manager shall submit the financial and operating plan
17 to the state treasurer, with a copy to the superintendent of public
18 instruction if the local government is a school district, and to
19 the chief administrative officer and governing body of the local
20 government. The plan shall be regularly reexamined by the emergency
21 manager and the state treasurer and may be modified from time to
22 time by the emergency manager. If the emergency manager reduces his
23 or her revenue estimates, the emergency manager shall modify the
24 plan to conform to the revised revenue estimates.

25 (3) The financial and operating plan shall be in a form as
26 provided by the state financial authority and shall contain that
27 information for each year during which year the plan is in effect

1 that the emergency manager, in consultation with the state
2 financial authority, specifies. The financial and operating plan
3 may serve as a deficit elimination plan otherwise required by law
4 if so approved by the state financial authority.

5 (4) The emergency manager, within 30 days of submitting the
6 financial and operating plan to the state financial authority,
7 shall conduct a public informational meeting on the plan and any
8 modifications to the plan. This subsection does not mean that the
9 emergency manager must receive public approval before he or she
10 implements the plan or any modification of the plan.

11 Sec. 19. (1) An emergency manager may take 1 or more of the
12 following additional actions with respect to a local government
13 which is in receivership, notwithstanding any provisions of law or
14 charter to the contrary:

15 (a) Analyze factors and circumstances contributing to the
16 financial emergency of the local government and initiate steps to
17 correct the condition.

18 (b) Amend, revise, approve, or disapprove the budget of the
19 local government, and limit the total amount appropriated or
20 expended.

21 (c) Receive and disburse on behalf of the local government all
22 federal, state, and local funds earmarked for the local government.
23 These funds may include, but are not limited to, funds for specific
24 programs and the retirement of debt.

25 (d) Require and approve or disapprove, or amend or revise a
26 plan for paying all outstanding obligations of the local
27 government.

1 (e) Require and prescribe the form of special reports to be
2 made by the finance officer of the local government to its
3 governing body, the creditors of the local government, the
4 emergency manager, or the public.

5 (f) Examine all records and books of account, and require
6 under the procedures of the uniform budgeting and accounting act,
7 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
8 21.55, or both, the attendance of witnesses and the production of
9 books, papers, contracts, and other documents relevant to an
10 analysis of the financial condition of the local government.

11 (g) Make, approve, or disapprove any appropriation, contract,
12 expenditure, or loan, the creation of any new position, or the
13 filling of any vacancy in a permanent position by any appointing
14 authority.

15 (h) Review payrolls or other claims against the local
16 government before payment.

17 (i) Notwithstanding any minimum staffing level requirement
18 established by charter or contract, establish and implement
19 staffing levels for the local government.

20 (j) Reject, modify, or terminate 1 or more terms and
21 conditions of an existing contract. After meeting and conferring
22 with the appropriate bargaining representative and, if in the
23 emergency manager's sole discretion and judgment, a prompt and
24 satisfactory resolution is unlikely to be obtained, reject, modify,
25 or terminate 1 or more terms and conditions of an existing
26 collective bargaining agreement.

27 (k) Act as sole agent of the local government in collective

1 bargaining with employees or representatives and
2 approve any contract or agreement.

3 (l) For municipal governments, elect to have the municipal
4 government participate in the municipal employees retirement system
5 under the municipal employees retirement act of 1984, 1984 PA 427,
6 MCL 38.1501 to 38.1555.

7 (m) Consolidate or eliminate departments of the local
8 government or transfer functions from 1 department to another and
9 appoint, supervise, and, at his or her discretion, remove
10 administrators, including heads of departments other than elected
11 officials.

12 (n) Employ or contract for, at the expense of the local
13 government and with the approval of the state financial authority,
14 auditors and other technical personnel considered necessary to
15 implement this act.

16 (o) Retain 1 or more persons or firms, which may be an
17 individual or firm selected from a list approved by the state
18 financial authority, to perform the duties of a local inspector or
19 a local auditor as described in this subdivision. The duties of a
20 local inspector are to ensure integrity, economy, efficiency, and
21 effectiveness in the operations of the local government by
22 conducting meaningful and accurate investigations and forensic
23 audits, and to detect and deter waste, fraud, and abuse. At least
24 annually, a report of the local inspector shall be submitted to the
25 emergency manager, the state treasurer, and the superintendent of
26 public instruction if the local government is a school district.
27 The duties of a local auditor are to ensure that internal controls

1 over local government operations are designed and operating
2 effectively to mitigate risks that hamper the achievement of the
3 emergency manager's financial plan, ensure that local government
4 operations are effective and efficient, ensure that financial
5 information is accurate, reliable, and timely, comply with
6 policies, regulations, and applicable laws, and ensure assets are
7 properly safeguarded. At least annually, a report of the local
8 auditor shall be submitted to the emergency manager, the state
9 treasurer, and the superintendent of public instruction if the
10 local government is a school district.

11 (p) Require compliance with his or her orders by court action
12 if necessary.

13 (q) If provided in the financial and operating plan, or
14 otherwise with the prior written approval of the state treasurer in
15 the case of a municipal government or the superintendent of public
16 instruction in the case of a school district, sell, lease, convey,
17 or otherwise use the assets of the local government to meet past or
18 current obligations, provided the use of assets for this purpose
19 does not endanger the health, safety, or welfare of residents of
20 the local government.

21 (r) Apply for a loan from the state on behalf of the local
22 government, subject to the conditions of the emergency municipal
23 loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient
24 amount to pay the expenses of the emergency manager and for other
25 lawful purposes.

26 (s) Order, as necessary, 1 or more millage elections for the
27 local government consistent with the Michigan election law, 1954 PA

1 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of article
2 IX of the state constitution of 1963, and any other applicable
3 state law.

4 (t) Authorize the borrowing of money by the local government
5 as provided by law.

6 (u) Approve or disapprove of the issuance of obligations of
7 the local government on behalf of the local government under this
8 subdivision. An emergency manager may, with the prior approval of
9 the state treasurer, authorize the issuance of financial recovery
10 bonds or notes by the local government in amounts greater than the
11 limitations established otherwise by state law or charter. Any
12 financial recovery bonds or notes issued under this subdivision are
13 subject to the terms and conditions approved by the state
14 treasurer. Any financial recovery bonds or notes issued under this
15 subdivision are not subject to notice requirements established
16 otherwise by state law or charter. The net indebtedness of a local
17 government, reduced by any amounts excluded otherwise by law, shall
18 not exceed 10% of the state equalized value of the local
19 government. An emergency manager may provide in the order
20 authorizing the issuance of the bonds or notes for the deposit of
21 revenues generated from taxes levied by the local government into
22 an escrow account to be used for the sole purpose of paying
23 principal of and interest on the bonds or notes, and such tax
24 revenues may be pledged by the local government for the payment of
25 the bonds or notes issued under this subdivision. If the local
26 government enters into an agreement with a third-party tax
27 collector pursuant to which the third-party tax collector has the

1 duty to collect taxes that otherwise would be collected by the
2 treasurer for the local government, the agreement shall also
3 provide for the direct payment of pledged tax revenues collected by
4 the third-party tax collector to a trustee to be deposited into an
5 escrow account and used for the sole purpose of paying principal of
6 and interest on bonds or notes issued pursuant to this subdivision.
7 If the local government and a third-party tax collector enter into
8 such an agreement providing for the direct payment of taxes to a
9 trustee, a statutory lien and trust is created applicable to such
10 tax revenues received or to be received from the third-party tax
11 collector by the trustee. The tax revenues paid or to be paid to a
12 trustee for the purpose of paying the principal of and interest on
13 the bonds or notes issued pursuant to this subdivision shall be
14 subject to a lien and trust, which is hereby made a statutory lien
15 and trust paramount and superior to all other liens and interests
16 of any kind, for the sole purpose of paying the principal of and
17 interest on bonds or notes issued pursuant to this subdivision and
18 any other bonds or notes subsequently issued by the local
19 government sharing a parity or subordinate pledge of such tax
20 revenues. The lien and trust imposed by this subdivision with
21 respect to pledged tax revenues has a priority as established in
22 the agreement, except that the agreement shall not impair any
23 existing lien and trust previously created pursuant to this
24 subdivision. The lien created under this subdivision for the
25 benefit of holders of bonds or notes or others is perfected without
26 delivery, recording, or notice. The tax revenues held or to be held
27 by a trustee shall be held in trust for the sole benefit of the

1 holders of the bonds or notes issued pursuant to this subdivision
2 and shall be exempt from being levied upon, taken, sequestered, or
3 applied toward paying the debts or liabilities of the local
4 government other than for payment of debt service on the bonds or
5 notes to which the lien applies. Financial recovery bonds or notes
6 issued under this subdivision are not subject to the revised
7 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. As
8 used in this subdivision, "third-party tax collector" means a party
9 that is not the treasurer for the local government or other elected
10 or appointed local government official with whom the local
11 government has entered into a contractual agreement pursuant to
12 which the third-party tax collector agrees to collect taxes that
13 otherwise would be collected by the treasurer for the local
14 government.

15 (v) Enter into agreements with creditors for the payment of
16 existing debts, including the settlement of claims by the
17 creditors.

18 (w) Enter into agreements with creditors to restructure debt
19 on terms, at rates of interest, and with security as shall be
20 agreed among the parties, subject to approval by the state
21 treasurer.

22 (x) To the extent applicable, set and approve all actuarial
23 assumptions for pension obligations of a municipal government to a
24 pension fund.

25 (y) Enter into agreements with other local governments, or
26 with private entities to the extent provided by law, for the
27 provision of services.

1 (z) For municipal governments, enter into agreements with
2 other units of government to transfer property of the municipal
3 government under 1984 PA 425, MCL 124.21 to 124.30, or as otherwise
4 provided by law, subject to approval by the state treasurer.

5 (aa) Enter into agreements with 1 or more other municipal
6 governments for the consolidation of services. For a city, village,
7 or township, the emergency manager may recommend to the state
8 boundary commission that the municipal government consolidate with
9 1 or more other municipal governments, if the emergency manager
10 determines that consolidation would materially alleviate the
11 financial emergency of the municipal government and would not
12 materially and adversely affect the financial situation of the
13 government or governments with which the municipal government in
14 receivership is consolidated. Any consolidation under this
15 subdivision is not subject to sections 7 to 14 of 1968 PA 191, MCL
16 123.1007 to 123.1014, or other relevant law.

17 (bb) For municipal governments, disincorporate or dissolve the
18 municipal government and assign its assets, debts, and liabilities
19 as provided by law.

20 (cc) Exercise solely, for and on behalf of the local
21 government, all other authority and responsibilities of the chief
22 administrative officer and governing body concerning the adoption,
23 amendment, and enforcement of ordinances or resolutions of the
24 local government as provided in the following acts:

25 (i) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

26 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
27 113.20.

1 (iii) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

2 (iv) 1851 PA 156, MCL 46.1 to 46.32.

3 (v) 1966 PA 293, MCL 45.501 to 45.521.

4 (vi) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

5 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
6 78.28.

7 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
8 380.1852.

9 (dd) Replace the serving trustees and assume and exercise the
10 authority and responsibilities of a local pension board as sole
11 trustee of the pension fund of the municipal government if
12 appointed to that role by the state treasurer.

13 (ee) Take any other action or exercise any power or authority
14 of any officer, employee, department, board, commission, or other
15 similar entity of the local government, whether elected or
16 appointed, relating to the operation of the local government. The
17 power of the emergency manager shall be superior to and supersede
18 the power of any of the foregoing entities.

19 (ff) Remove, replace, appoint, or confirm the appointments to
20 any board, commission, authority, or other entity which is a
21 component unit of the local government.

22 (2) Except as otherwise provided in this act, during the
23 pendency of the receivership, the authority of the chief
24 administrative officer and governing body to exercise power for and
25 on behalf of the local government under law and charter shall be
26 suspended.

27 Sec. 19a. Immediately upon the local government being placed

1 in receivership under section 15 and during the pendency of the
2 receivership, the salary or other compensation, including the
3 accrual of postemployment benefits, and other benefits of the chief
4 administrative officer and members of the governing body of the
5 local government shall be eliminated. This section does not
6 authorize the impairment of vested retirement benefits. If an
7 emergency manager has reduced, suspended, or eliminated the salary
8 or other compensation of the chief administrative officer and
9 members of the governing body of a local government before the
10 effective date of this act, the reduction, suspension, or
11 elimination is valid to the same extent had it occurred after the
12 effective date of this act. The emergency manager may restore, in
13 whole or in part, any of the salary, other compensation, or
14 benefits of the chief administrative officer and members of the
15 governing body during the pendency of the receivership, for such
16 time and on such terms as the emergency manager considers
17 appropriate, to the extent that the manager finds that the
18 restoration of salary, compensation, or benefits is consistent with
19 the financial and operating plan.

20 Sec. 20. In addition to the actions authorized in section 19,
21 an emergency manager for a school district may take 1 or more of
22 the following additional actions with respect to a school district
23 that is in receivership:

24 (a) Negotiate, renegotiate, approve, and enter into contracts
25 on behalf of the school district.

26 (b) Receive and disburse on behalf of the school district all
27 federal, state, and local funds earmarked for the school district.

1 These funds may include, but are not limited to, funds for specific
2 programs and the retirement of debt.

3 (c) Seek approval from the superintendent of public
4 instruction for a reduced class schedule in accordance with
5 administrative rules governing the distribution of state school
6 aid.

7 (d) Sell or otherwise use the assets of the school district to
8 meet past or current obligations, provided the use of assets for
9 this purpose does not impair the education of the pupils of the
10 school district.

11 (e) Approve or disapprove of the issuance of obligations of
12 the school district.

13 (f) Recommend to the governor, the legislature, and the
14 superintendent of public instruction that the school district be
15 reorganized with 1 or more contiguous school districts.

16 (g) Exercise solely, for and on behalf of the school district,
17 all other authority and responsibilities affecting the school
18 district that are prescribed by law to the school board and
19 superintendent of the school district.

20 Sec. 21. The emergency manager shall, on his or her own or
21 upon the advice of the local inspector if a local inspector has
22 been retained, make a determination as to whether possible criminal
23 conduct contributed to the financial situation resulting in the
24 local government's receivership status. If the emergency manager
25 determines that there is reason to believe that criminal conduct
26 has occurred, the manager shall refer the matter to the attorney
27 general and the local prosecuting attorney for investigation.

1 Sec. 22. (1) An emergency manager appointed under this act
2 shall file with the governor, the senate majority leader, and the
3 speaker of the house of representatives, and shall post on the
4 internet on the website of the local government, a report that
5 contains all of the following:

6 (a) A description of each expenditure made, approved, or
7 disapproved during the reporting period that has a cumulative value
8 of \$10,000.00 or more and the source of the funds.

9 (b) A list of each contract that the emergency manager awarded
10 or approved with a cumulative value of \$10,000.00 or more, the
11 purpose of the contract, and the identity of the contractor.

12 (c) A description of each loan sought, approved, or
13 disapproved during the reporting period that has a cumulative value
14 of \$10,000.00 or more and the proposed use of the funds.

15 (d) A description of any new position created or any vacancy
16 in a permanent position filled by the appointing authority.

17 (e) A description of any position that has been eliminated or
18 from which an employee has been laid off.

19 (2) The report required under this section shall be submitted
20 every 6 months, beginning 6 months after the emergency manager's
21 appointment.

22 Sec. 23. (1) If, in the judgment of the emergency manager, no
23 reasonable alternative to rectifying the financial emergency of the
24 local government which is in receivership exists, then the
25 emergency manager may recommend to the governor and the state
26 treasurer that the local government be authorized to proceed under
27 title 11 of the United States Code, 11 USC 101 to 1532. If the

1 governor approves of the recommendation, the governor shall inform
2 the state treasurer and the emergency manager in writing of the
3 decision, with a copy to the superintendent of public instruction
4 if the local government is a school district. Upon receipt of the
5 written approval, the emergency manager is authorized to proceed
6 under title 11 of the United States Code, 11 USC 101 to 1532. This
7 section empowers the local government for which an emergency
8 manager has been appointed to become a debtor under title 11 of the
9 United States Code, 11 USC 101 to 1532, as required by section 109
10 of title 11 of the United States Code, 11 USC 109, and empowers the
11 emergency manager to act exclusively on the local government's
12 behalf in any such case under title 11 of the United States Code,
13 11 USC 101 to 1532.

14 (2) The recommendation to the governor and the state treasurer
15 under subsection (1) shall include 1 of the following:

16 (a) A determination by the emergency manager that no feasible
17 financial plan can be adopted that can satisfactorily rectify the
18 financial emergency of the local government in a timely manner.

19 (b) A determination by the emergency manager that a plan, in
20 effect for at least 180 days, cannot be implemented as written or
21 as it might be amended in a manner that can satisfactorily rectify
22 the financial emergency in a timely manner.

23 (3) The emergency manager shall provide a copy of the
24 recommendation as provided under subsection (1) to the
25 superintendent of public instruction if the local government is a
26 school district.

27 Sec. 24. A local government that is in receivership is

1 considered to be in a condition of financial emergency until the
2 emergency manager declares the financial emergency to be rectified
3 in his or her quarterly report to the state treasurer required
4 under section 15, and is subject to the written concurrence of the
5 state treasurer, and the concurrence of the superintendent of
6 public instruction if the local government is a school district.
7 The declaration shall not be made until the financial conditions
8 have been addressed and rectified.

9 Sec. 25. (1) The state, state officers, state employees, an
10 emergency manager, and any employee, agent, appointee, or
11 contractor of an emergency manager are not liable for any
12 obligation of a local government or for any civil claim, demand, or
13 lawsuit resulting from actions or responsibilities taken in
14 accordance with the terms of this act.

15 (2) The attorney general shall defend any civil claim, demand,
16 or lawsuit which challenges any of the following:

17 (a) The validity of this act.

18 (b) The authority of a state official or officer acting under
19 this act.

20 (c) The authority of an emergency manager if the emergency
21 manager is or was acting within the scope of authority for an
22 emergency manager under this act.

23 (3) With respect to any aspect of a receivership under this
24 act, the costs incurred by the attorney general in carrying out the
25 responsibilities of subsection (2) for attorneys, experts, court
26 filing fees, and other reasonable and necessary expenses shall be
27 at the expense of the local government that is subject to that

1 receivership and shall be reimbursed to the attorney general by the
2 local government. The failure of the local government that is or
3 was in receivership to remit to the attorney general the costs
4 incurred by the attorney general within 30 days after written
5 notice to the local government from the attorney general of the
6 costs is a debt owed to this state and shall be recovered by the
7 state treasurer as provided in section 17a(5) of the Glenn Steil
8 state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a.

9 (4) An emergency manager may procure and maintain, at the
10 expense of the local government for which the emergency manager is
11 appointed, worker's compensation, general liability, professional
12 liability, and motor vehicle insurance for the emergency manager
13 and any employee, agent, appointee, or contractor of the emergency
14 manager as may be provided to elected officials, appointed
15 officials, or employees of the local government. The insurance
16 procured and maintained by an emergency manager may extend to any
17 claim, demand, or lawsuit asserted or costs recovered against the
18 emergency manager and any employee, agent, appointee, or contractor
19 of the emergency manager from the date of appointment of the
20 emergency manager to the expiration of the applicable statute of
21 limitation if the claim, demand, or lawsuit asserted or costs
22 recovered against the emergency manager or any employee, agent,
23 appointee, or contractor of the emergency manager resulted from
24 conduct of the emergency manager or any employee, agent, appointee,
25 or contractor of the emergency manager taken in accordance with this
26 act during the emergency manager's term of service.

27 (5) If, after the date that the service of an emergency

1 manager is concluded, the emergency manager or any employee, agent,
2 appointee, or contractor of the emergency manager is subject to a
3 claim, demand, or lawsuit arising from an action taken during the
4 service of that emergency manager, and not covered by a procured
5 worker's compensation, general liability, professional liability,
6 or motor vehicle insurance, litigation expenses of the emergency
7 manager or any employee, agent, appointee, or contractor of the
8 emergency manager, including attorney fees for civil and criminal
9 proceedings and preparation for reasonably anticipated proceedings,
10 and payments made in settlement of civil proceedings both filed and
11 anticipated, shall be paid out of the funds of the local government
12 that is or was subject to the receivership administered by that
13 emergency manager, provided that the litigation expenses are
14 approved by the state treasurer and that the state treasurer
15 determines that the conduct resulting in actual or threatened legal
16 proceedings that is the basis for the payment is based upon both of
17 the following:

18 (a) The scope of authority of the person or entity seeking the
19 payment.

20 (b) The conduct occurred on behalf of a local government while
21 it was in receivership under this act.

22 (6) The failure of the local government to honor and remit the
23 legal expenses of a former emergency manager or any employee,
24 agent, appointee, or contractor of the emergency manager as
25 required by this section is a debt owed to this state and shall be
26 recovered by the state treasurer as provided in section 17a(5) of
27 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL

1 141.917a.

2 Sec. 26. (1) Elected and appointed officials of a local
3 government shall promptly and fully provide the assistance and
4 information necessary and properly requested by the state financial
5 authority, a review team, or the emergency manager in the
6 effectuation of their duties and powers and of the purposes of this
7 act. If the review team or emergency manager believes that an
8 official or employee of the local government is not answering
9 questions accurately or completely or is not furnishing information
10 requested, the review team or emergency manager may issue subpoenas
11 and administer oaths to the official or employee to furnish answers
12 to questions or to furnish documents or records, or both. If the
13 official or employee refuses, the review team or emergency manager
14 may bring an action in the circuit court in which the local
15 government is located or Ingham county circuit court, as determined
16 by the emergency manager, to compel testimony and furnish records
17 and documents. An action in mandamus may be used to enforce this
18 section.

19 (2) Failure of a local government official to abide by this
20 act shall be considered gross neglect of duty, which the review
21 team or emergency manager may report to the state financial
22 authority and the attorney general. Following review and a hearing
23 with a local government elected official, the state financial
24 authority may recommend to the governor that the governor remove
25 the elected official from office. If the governor removes the
26 elected official from office, the resulting vacancy in office shall
27 be filled as prescribed by law.

1 (3) An elected chief administrative officer or member of the
2 governing body of a local government serving and in office at the
3 time the local government is placed in receivership is not eligible
4 to be a candidate for election to public office for that local
5 government for a period of 10 years from the date the local
6 government is placed in receivership.

7 (4) Subject to section 30(2), a local government placed in
8 receivership under this act is not subject to section 15 of 1947 PA
9 336, MCL 423.215, for a period of 5 years from the date the local
10 government is placed in receivership or until the time the
11 receivership is terminated, whichever occurs first.

12 Sec. 27. (1) Before the termination of receivership and the
13 completion of the emergency manager's term, the manager shall
14 approve collective bargaining agreements and adopt and implement a
15 2-year budget for the local government commencing with the
16 termination of receivership.

17 (2) After the completion of the emergency manager's term and
18 the termination of receivership, the governing body of the local
19 government shall not amend the collective bargaining agreement
20 approved under subsection (1) or the 2-year budget adopted under
21 subsection (1) without the approval of the state financial
22 authority, and shall not revise any ordinance implemented by the
23 emergency manager during his or her term prior to 1 year after the
24 termination of receivership.

25 Sec. 28. This act is not construed to give the emergency
26 manager or the state financial authority the power to impose taxes,
27 over and above those already authorized by law, without the

1 approval at an election of a majority of the qualified electors
2 voting on the question.

3 Sec. 29. The state financial authority is authorized and
4 directed to issue bulletins or adopt rules as necessary to carry
5 out the purposes of this act. A rule adopted under this section
6 shall be adopted in accordance with the administrative procedures
7 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

8 Sec. 30. (1) An emergency financial manager appointed and
9 serving under state law prior to the effective date of this act
10 shall continue under this act as an emergency manager for the local
11 government and shall fulfill his or her duties and responsibilities
12 and exercise all of the powers granted under former 1988 PA 101 or
13 former 1990 PA 72. Except as provided in subsection (2), the
14 provisions of this act shall apply to any local government for
15 which an emergency financial manager is appointed and serving as of
16 the effective date of this act.

17 (2) For a local government for which an emergency manager is
18 serving as of the effective date of this act, the provisions of
19 section 26(4) shall not become applicable until 60 days after the
20 effective date of this act.

21 Sec. 31. If any portion of this act or the application of this
22 act to any person or circumstances is found to be invalid by a
23 court, the invalidity shall not affect the remaining portions or
24 applications of the act which can be given effect without the
25 invalid portion or application. The provisions of this act are
26 severable.

27 Enacting section 1. The local government fiscal responsibility

1 act, 1990 PA 72, MCL 141.1201 to 141.1291, is repealed.

2 Enacting section 2. This act does not take effect unless all
3 of the following bills of the 96th Legislature are enacted into
4 law:

5 (a) Senate Bill No. ___ or House Bill No. 4218 (request no.
6 00011'11 a).

7 (b) Senate Bill No. ___ or House Bill No. 4216 (request no.
8 00011'11 b).

9 (c) Senate Bill No. ___ or House Bill No. 4217 (request no.
10 00011'11 c).

11 (d) Senate Bill No. ___ or House Bill No. 4215 (request no.
12 00011'11 d).

13 (e) Senate Bill No. ___ or House Bill No. ___ (request no.
14 00057'11).