

SENATE BILL No. 153

February 16, 2011, Introduced by Senators PAVLOV, BRANDENBURG, MARLEAU and PROOS and referred to the Committee on Education.

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 modification or termination of contracts 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 or an
9 intermediate school district as those terms are defined in the
10 revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

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

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

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

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

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

24 (b) The state financial authority receives a written request
25 from a creditor with an undisputed claim that remains unpaid 6
26 months after its due date against the local government that exceeds
27 the greater of \$10,000.00 or 1% of the annual general fund budget

1 of the local government, provided that the creditor notifies the
2 local government in writing at least 30 days before his or her
3 request to the state financial authority of his or her intention to
4 submit a written request under this subdivision.

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

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

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

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

26 (g) The state financial authority of a local government
27 receives a resolution from either the senate or the house of

1 representatives requesting a preliminary review under this section.

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

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

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

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

26 (l) A municipal government is delinquent in the distribution of
27 tax revenues, as required by law, that it has collected for another

1 taxing jurisdiction, and that taxing jurisdiction requests a
2 preliminary review.

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

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

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

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

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

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

26 (2) If the state financial authority determines that a
27 preliminary review is appropriate under this section, before

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

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

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

1 financial management review.

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

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

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

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

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

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

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

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

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

27 (a) A default in the payment of principal or interest upon

1 bonded obligations, notes, or other municipal securities for which
2 no funds or insufficient funds are on hand and, if required,
3 segregated in a special trust fund.

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

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

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

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

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

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

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

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

27 (g) Failure to comply in all material respects with the terms

1 of an approved deficit elimination plan or an agreement entered
2 into pursuant to a deficit elimination plan.

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

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

8 (j) Existence of a structural operating deficit.

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

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

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

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

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

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

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

26 (5) The review team may appoint an individual or firm to carry
27 out the review and submit a report to the review team for approval.

1 The department of treasury may enter into a contract with the
2 individual or firm respecting the terms and conditions of the
3 appointment.

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

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

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

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

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

27 (a) The report required in section 13 concludes that 2 or more

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

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

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

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

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

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

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

26 (2) If the state financial authority requires that a consent
27 agreement include a continuing operations plan, the local

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

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

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

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

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

26 (d) A plan showing reasonable and necessary maintenance and
27 capital expenditures so as to ensure the local government's

1 continued viability.

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

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

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

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

1 financial authority as long as the recovery plan remains in effect.

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

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

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

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

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

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

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

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

27 (7) The recovery plan may include the appointment of a local

1 auditor or local inspector, or both, in accordance with section
2 19(1) (o) .

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

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

26 (10) The consent agreement may provide for the required
27 retention by the local government of a turnaround consultant for

1 the purpose of assisting the local government to achieve the goals
2 and objectives of the consent agreement.

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

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

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

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

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

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

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

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

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

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

24 (4) Upon the confirmation of a finding of a financial
25 emergency, the state treasurer, with the concurrence of the
26 superintendent of public instruction if the local government is a
27 school district, shall declare the local government in receivership

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

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

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

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

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

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

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

26 (6) In addition to staff otherwise authorized by law, an
27 emergency manager shall appoint additional staff and secure

1 professional assistance as the emergency manager considers
2 necessary to fulfill his or her appointment.

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

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

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

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

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

25 Sec. 17. (1) The emergency manager shall issue to the
26 appropriate officials or employees of the local government the
27 orders the manager considers necessary to accomplish the purposes

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

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

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

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

27 (b) The payment in full of the scheduled debt service

1 requirements on all bonds, notes, and municipal securities of the
2 local government and all other uncontested legal obligations.

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

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

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

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

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

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

1 financial authority, specifies. The financial and operating plan
2 may serve as a deficit elimination plan otherwise required by law
3 if so approved by the state financial authority.

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

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

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

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

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

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

27 (e) Require and prescribe the form of special reports to be

1 made by the finance officer of the local government to its
2 governing body, the creditors of the local government, the
3 emergency manager, or the public.

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

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

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

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

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

1 legitimate exercise of the state's sovereign powers if the
2 emergency manager and state financial authority determine that all
3 of the following conditions are satisfied:

4 (i) The financial emergency in the local government has created
5 a circumstance in which it is reasonable and necessary for the
6 state to intercede to serve a significant and legitimate public
7 purpose.

8 (ii) Any plan involving the rejection, modification, or
9 termination of 1 or more terms and conditions of an existing
10 collective bargaining agreement is reasonable and necessary to deal
11 with a broad, generalized economic problem.

12 (iii) Any plan involving the rejection, modification, or
13 termination of 1 or more terms and conditions of an existing
14 collective bargaining agreement is directly related to and designed
15 to address the financial emergency for the benefit of the public as
16 a whole.

17 (iv) Any plan involving the rejection, modification, or
18 termination of 1 or more terms and conditions of an existing
19 collective bargaining agreement is temporary and does not target
20 specific classes of employees.

21 (k) Act as sole agent of the local government in collective
22 bargaining with employees or representatives and
23 approve any contract or agreement.

24 (l) For municipal governments, elect to have the municipal
25 government participate in the municipal employees retirement system
26 under the municipal employees retirement act of 1984, 1984 PA 427,
27 MCL 38.1501 to 38.1555.

1 (m) Consolidate or eliminate departments of the local
2 government or transfer functions from 1 department to another and
3 appoint, supervise, and, at his or her discretion, remove
4 administrators, including heads of departments other than elected
5 officials.

6 (n) Employ or contract for, at the expense of the local
7 government and with the approval of the state financial authority,
8 auditors and other technical personnel considered necessary to
9 implement this act.

10 (o) Retain 1 or more persons or firms, which may be an
11 individual or firm selected from a list approved by the state
12 financial authority, to perform the duties of a local inspector or
13 a local auditor as described in this subdivision. The duties of a
14 local inspector are to ensure integrity, economy, efficiency, and
15 effectiveness in the operations of the local government by
16 conducting meaningful and accurate investigations and forensic
17 audits, and to detect and deter waste, fraud, and abuse. At least
18 annually, a report of the local inspector shall be submitted to the
19 emergency manager, the state treasurer, and the superintendent of
20 public instruction if the local government is a school district.
21 The duties of a local auditor are to ensure that internal controls
22 over local government operations are designed and operating
23 effectively to mitigate risks that hamper the achievement of the
24 emergency manager's financial plan, ensure that local government
25 operations are effective and efficient, ensure that financial
26 information is accurate, reliable, and timely, comply with
27 policies, regulations, and applicable laws, and ensure assets are

1 properly safeguarded. At least annually, a report of the local
2 auditor shall be submitted to the emergency manager, the state
3 treasurer, and the superintendent of public instruction if the
4 local government is a school district.

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

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

15 (r) Apply for a loan from the state on behalf of the local
16 government, subject to the conditions of the emergency municipal
17 loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient
18 amount to pay the expenses of the emergency manager and for other
19 lawful purposes.

20 (s) Order, as necessary, 1 or more millage elections for the
21 local government consistent with the Michigan election law, 1954 PA
22 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of article
23 IX of the state constitution of 1963, and any other applicable
24 state law.

25 (t) Authorize the borrowing of money by the local government
26 as provided by law.

27 (u) Approve or disapprove of the issuance of obligations of

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

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

1 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. As
2 used in this subdivision, "third-party tax collector" means a party
3 that is not the treasurer for the local government or other elected
4 or appointed local government official with whom the local
5 government has entered into a contractual agreement pursuant to
6 which the third-party tax collector agrees to collect taxes that
7 otherwise would be collected by the treasurer for the local
8 government.

9 (v) Enter into agreements with creditors for the payment of
10 existing debts, including the settlement of claims by the
11 creditors.

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

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

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

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

26 (aa) Enter into agreements with 1 or more other municipal
27 governments for the consolidation of services. For a city, village,

1 or township, the emergency manager may recommend to the state
2 boundary commission that the municipal government consolidate with
3 1 or more other municipal governments, if the emergency manager
4 determines that consolidation would materially alleviate the
5 financial emergency of the municipal government and would not
6 materially and adversely affect the financial situation of the
7 government or governments with which the municipal government in
8 receivership is consolidated. Any consolidation under this
9 subdivision is not subject to sections 7 to 14 of 1968 PA 191, MCL
10 123.1007 to 123.1014, or other relevant law.

11 (bb) For municipal governments, disincorporate or dissolve the
12 municipal government and assign its assets, debts, and liabilities
13 as provided by law.

14 (cc) Exercise solely, for and on behalf of the local
15 government, all other authority and responsibilities of the chief
16 administrative officer and governing body concerning the adoption,
17 amendment, and enforcement of ordinances or resolutions of the
18 local government as provided in the following acts:

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

20 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
21 113.20.

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

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

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

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

26 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
27 78.28.

1 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
2 380.1852.

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

7 (ee) Take any other action or exercise any power or authority
8 of any officer, employee, department, board, commission, or other
9 similar entity of the local government, whether elected or
10 appointed, relating to the operation of the local government. The
11 power of the emergency manager shall be superior to and supersede
12 the power of any of the foregoing entities.

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

16 (2) Except as otherwise provided in this act, during the
17 pendency of the receivership, the authority of the chief
18 administrative officer and governing body to exercise power for and
19 on behalf of the local government under law and charter shall be
20 suspended.

21 Sec. 19a. Immediately upon the local government being placed
22 in receivership under section 15 and during the pendency of the
23 receivership, the salary or other compensation, including the
24 accrual of postemployment benefits, and other benefits of the chief
25 administrative officer and members of the governing body of the
26 local government shall be eliminated. This section does not
27 authorize the impairment of vested retirement benefits. If an

1 emergency manager has reduced, suspended, or eliminated the salary
2 or other compensation of the chief administrative officer and
3 members of the governing body of a local government before the
4 effective date of this act, the reduction, suspension, or
5 elimination is valid to the same extent had it occurred after the
6 effective date of this act. The emergency manager may restore, in
7 whole or in part, any of the salary, other compensation, or
8 benefits of the chief administrative officer and members of the
9 governing body during the pendency of the receivership, for such
10 time and on such terms as the emergency manager considers
11 appropriate, to the extent that the manager finds that the
12 restoration of salary, compensation, or benefits is consistent with
13 the financial and operating plan.

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

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

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

24 (c) Seek approval from the superintendent of public
25 instruction for a reduced class schedule in accordance with
26 administrative rules governing the distribution of state school
27 aid.

1 (d) Sell or otherwise use the assets of the school district to
2 meet past or current obligations, provided the use of assets for
3 this purpose does not impair the education of the pupils of the
4 school district.

5 (e) Approve or disapprove of the issuance of obligations of
6 the school district.

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

10 (g) Exercise solely, for and on behalf of the school district,
11 all other authority and responsibilities affecting the school
12 district that are prescribed by law to the school board and
13 superintendent of the school district.

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

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

27 (a) A description of each expenditure made, approved, or

1 disapproved during the reporting period that has a cumulative value
2 of \$10,000.00 or more and the source of the funds.

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

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

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

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

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

16 Sec. 23. (1) If, in the judgment of the emergency manager, no
17 reasonable alternative to rectifying the financial emergency of the
18 local government which is in receivership exists, then the
19 emergency manager may recommend to the governor and the state
20 treasurer that the local government be authorized to proceed under
21 title 11 of the United States Code, 11 USC 101 to 1532. If the
22 governor approves of the recommendation, the governor shall inform
23 the state treasurer and the emergency manager in writing of the
24 decision, with a copy to the superintendent of public instruction
25 if the local government is a school district. Upon receipt of the
26 written approval, the emergency manager is authorized to proceed
27 under title 11 of the United States Code, 11 USC 101 to 1532. This

1 section empowers the local government for which an emergency
2 manager has been appointed to become a debtor under title 11 of the
3 United States Code, 11 USC 101 to 1532, as required by section 109
4 of title 11 of the United States Code, 11 USC 109, and empowers the
5 emergency manager to act exclusively on the local government's
6 behalf in any such case under title 11 of the United States Code,
7 11 USC 101 to 1532.

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

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

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

17 (3) The emergency manager shall provide a copy of the
18 recommendation as provided under subsection (1) to the
19 superintendent of public instruction if the local government is a
20 school district.

21 Sec. 24. A local government that is in receivership is
22 considered to be in a condition of financial emergency until the
23 emergency manager declares the financial emergency to be rectified
24 in his or her quarterly report to the state treasurer required
25 under section 15, and is subject to the written concurrence of the
26 state treasurer, and the concurrence of the superintendent of
27 public instruction if the local government is a school district.

1 The declaration shall not be made until the financial conditions
2 have been addressed and rectified.

3 Sec. 25. (1) An emergency manager is immune from liability as
4 provided in section 7(5) of 1964 PA 170, MCL 691.1407. A person
5 employed by an emergency manager is immune from liability as
6 provided in section 7(2) of 1964 PA 170, MCL 691.1407.

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

9 (a) The validity of this act.

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

12 (c) The authority of an emergency manager if the emergency
13 manager is or was acting within the scope of authority for an
14 emergency manager under this act.

15 (3) With respect to any aspect of a receivership under this
16 act, the costs incurred by the attorney general in carrying out the
17 responsibilities of subsection (2) for attorneys, experts, court
18 filing fees, and other reasonable and necessary expenses shall be
19 at the expense of the local government that is subject to that
20 receivership and shall be reimbursed to the attorney general by the
21 local government. The failure of the local government that is or
22 was in receivership to remit to the attorney general the costs
23 incurred by the attorney general within 30 days after written
24 notice to the local government from the attorney general of the
25 costs is a debt owed to this state and shall be recovered by the
26 state treasurer as provided in section 17a(5) of the Glenn Steil
27 state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a.

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

19 (5) If, after the date that the service of an emergency
20 manager is concluded, the emergency manager or any employee, agent,
21 appointee, or contractor of the emergency manager is subject to a
22 claim, demand, or lawsuit arising from an action taken during the
23 service of that emergency manager, and not covered by a procured
24 worker's compensation, general liability, professional liability,
25 or motor vehicle insurance, litigation expenses of the emergency
26 manager or any employee, agent, appointee, or contractor of the
27 emergency manager, including attorney fees for civil and criminal

1 proceedings and preparation for reasonably anticipated proceedings,
2 and payments made in settlement of civil proceedings both filed and
3 anticipated, shall be paid out of the funds of the local government
4 that is or was subject to the receivership administered by that
5 emergency manager, provided that the litigation expenses are
6 approved by the state treasurer and that the state treasurer
7 determines that the conduct resulting in actual or threatened legal
8 proceedings that is the basis for the payment is based upon both of
9 the following:

10 (a) The scope of authority of the person or entity seeking the
11 payment.

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

14 (6) The failure of the local government to honor and remit the
15 legal expenses of a former emergency manager or any employee,
16 agent, appointee, or contractor of the emergency manager as
17 required by this section is a debt owed to this state and shall be
18 recovered by the state treasurer as provided in section 17a(5) of
19 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL
20 141.917a.

21 Sec. 26. (1) Elected and appointed officials of a local
22 government shall promptly and fully provide the assistance and
23 information necessary and properly requested by the state financial
24 authority, a review team, or the emergency manager in the
25 effectuation of their duties and powers and of the purposes of this
26 act. If the review team or emergency manager believes that an
27 official or employee of the local government is not answering

1 questions accurately or completely or is not furnishing information
2 requested, the review team or emergency manager may issue subpoenas
3 and administer oaths to the official or employee to furnish answers
4 to questions or to furnish documents or records, or both. If the
5 official or employee refuses, the review team or emergency manager
6 may bring an action in the circuit court in which the local
7 government is located or Ingham county circuit court, as determined
8 by the emergency manager, to compel testimony and furnish records
9 and documents. An action in mandamus may be used to enforce this
10 section.

11 (2) Failure of a local government official to abide by this
12 act shall be considered gross neglect of duty, which the review
13 team or emergency manager may report to the state financial
14 authority and the attorney general. Following review and a hearing
15 with a local government elected official, the state financial
16 authority may recommend to the governor that the governor remove
17 the elected official from office. If the governor removes the
18 elected official from office, the resulting vacancy in office shall
19 be filled as prescribed by law.

20 (3) An elected chief administrative officer or member of the
21 governing body of a local government serving and in office at the
22 time the local government is placed in receivership is not eligible
23 to be a candidate for election to public office for that local
24 government for a period of 10 years from the date the local
25 government is placed in receivership.

26 (4) Subject to section 30(2), a local government placed in
27 receivership under this act is not subject to section 15 of 1947 PA

1 336, MCL 423.215, for a period of 5 years from the date the local
2 government is placed in receivership or until the time the
3 receivership is terminated, whichever occurs first.

4 Sec. 27. (1) Before the termination of receivership and the
5 completion of the emergency manager's term, the manager shall
6 approve collective bargaining agreements and adopt and implement a
7 2-year budget for the local government commencing with the
8 termination of receivership.

9 (2) After the completion of the emergency manager's term and
10 the termination of receivership, the governing body of the local
11 government shall not amend the collective bargaining agreement
12 approved under subsection (1) or the 2-year budget adopted under
13 subsection (1) without the approval of the state financial
14 authority, and shall not revise any ordinance implemented by the
15 emergency manager during his or her term prior to 1 year after the
16 termination of receivership.

17 Sec. 28. This act is not construed to give the emergency
18 manager or the state financial authority the power to impose taxes,
19 over and above those already authorized by law, without the
20 approval at an election of a majority of the qualified electors
21 voting on the question.

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

27 Sec. 30. (1) An emergency financial manager appointed and

1 serving under state law prior to the effective date of this act
2 shall continue under this act as an emergency manager for the local
3 government and shall fulfill his or her duties and responsibilities
4 and exercise all of the powers granted under former 1988 PA 101 or
5 former 1990 PA 72. Except as provided in subsection (2), the
6 provisions of this act shall apply to any local government for
7 which an emergency financial manager is appointed and serving as of
8 the effective date of this act.

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

13 Sec. 31. If any portion of this act or the application of this
14 act to any person or circumstances is found to be invalid by a
15 court, the invalidity shall not affect the remaining portions or
16 applications of the act which can be given effect without the
17 invalid portion or application. The provisions of this act are
18 severable.

19 Enacting section 1. The local government fiscal responsibility
20 act, 1990 PA 72, MCL 141.1201 to 141.1291, is repealed.

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

24 (a) Senate Bill No. 154.

25

26 (b) Senate Bill No. 155.

27

1 (c) Senate Bill No. 156.

2

3 (d) Senate Bill No. 157.

4

5 (e) Senate Bill No. 158.

6