The People of the State of Michigan enact:

400.115b Responsibility for children committed by juvenile division of probate court or court of general criminal jurisdiction; children and youth services and programs; services, actions, and rules as to neglect, exploitation, abuse, cruelty to, or abandonment of children; adoption of nonresident children; investigation; parent fees; policy regarding investigations and foster care service; foster care maintenance payments.

Sec. 115b. (1) The department shall assume responsibility for all children committed to it by the juvenile division of the probate court, the family division of circuit court, or the court of general criminal jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and 1935 PA 220, MCL 400.201 to 400.214. The department may provide institutional care, supervision in the community, boarding care, halfway house care, and other children and youth services and programs necessary to meet the needs of those children or may obtain appropriate services from other state agencies, local public agencies, or private agencies, subject to section 115o. If the program of another state agency is considered to best serve the needs of the child, the other state agency shall give priority to the child.

(2) The department shall study and act upon a request for service as to, or a report received of, neglect, exploitation, abuse, cruelty, or abandonment of a child by a parent, guardian, custodian, or person serving in loco parentis, or a report concerning a child in need of protection. On the basis of the findings of the study, the department shall assure, if necessary, the provision of appropriate social services to the child, parent, guardian, custodian, or person serving in loco parentis, to reinforce and supplement the parental capabilities, so that the behavior or situation causing the problem is corrected or the child is otherwise protected. In assuring the provision of services and providing the services, the department shall encourage participation by other existing governmental units or licensed agencies and may contract with those agencies for the purchase of any service within the scope of this subsection. The department shall initiate action in an appropriate court if the conduct of a parent, guardian, or custodian requires. The department shall promulgate rules necessary for implementing the services authorized in this subsection. The rules shall include provision for local citizen participation in the program to assure local understanding, coordination, and cooperative action with other community resources. In the provision of services, there shall be maximum utilization of other public, private, and voluntary resources available within a community.

(3) If an agency or organization proposes to place for adoption, with a person domiciled in this state, a child who is a citizen of or resides in a country other than the United States or Canada, the department shall conduct, within 180 days after receipt of the request from the agency or organization, the investigation prescribed by section 46 of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.46. In a county in which the department determines it to be more feasible both geographically and economically, the department may purchase the adoption services up to the actual cost of providing those services. The department shall charge parent fees prescribed by the legislature.

(4) The office is responsible for the development, interpretation, and dissemination of policy regarding departmental investigations requested or ordered by the probate court or the family division of circuit court under section 55(h) and the provision of foster care services authorized by this act. Foster care services shall include foster care of state wards, aid to dependent children foster care, foster care of wards of the family division of circuit court placed under the care and supervision of the department by order of the court, and voluntary parental placement of children in foster care.

(5) All rights to current, past due, and future support payable on behalf of a child committed to or under the supervision of the department and for whom the department is making state or federally funded foster care maintenance payments are assigned to the department while the child is receiving or benefiting from those payments. When the department ceases making foster care maintenance payments for the child, both of the following apply:

(a) Past due support that accrued under the assignment remains assigned to the department.

(b) The assignment of current and future support rights to the department ceases.

(6) The maximum amount of support the department may retain to reimburse the state, the federal government, or both for the cost of care shall not exceed the amount of foster care maintenance payments made from state or federal money, or both.

400.115f Definitions.

Sec. 115f. As used in this section and sections 115g to 115s:

(a) "Adoptee" means the child who is to be adopted or who is adopted.

(b) "Adoption assistance" means a support subsidy or medical assistance, or both.

(c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.

(d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.

(f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy or both.

(g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:

(*i*) There is a specific judicial finding that the child cannot or should not be returned to the home of the child's parents.

(*ii*) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.

(*iii*) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.

(i) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.

(j) "Court" means the family division of circuit court.

(k) "Department" means the family independence agency.

(*l*) "Foster care" means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the department, or the department of community health.

(m) "Medical assistance" means the federally aided medical assistance program under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(n) "Medical subsidy" means payment for medical, surgical, hospital, and related expenses necessitated by a specified physical, mental, or emotional condition of a child who has been placed for adoption.

(o) "Medical subsidy agreement" means an agreement between the department and an adoptive parent regarding a medical subsidy.

(p) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs. Nonrecurring adoption expenses do not include costs or expenses incurred in violation of state or federal law or that have been reimbursed from other sources or funds.

(q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.

(r) "Party state" means a state that becomes a party to the interstate compact on adoption and medical assistance.

(s) "Placement" means a placement or commitment, including the necessity of removing the child from his or her parental home, as approved by the court under an order of disposition issued under section 18(1)(c) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(t) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.

(u) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(v) "Support subsidy" means payment for support of a child who has been placed for adoption.

400.115g Support subsidy; payment; requirements; determination of amount; completion of certification process.

Sec. 115g. (1) The department may pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the adoption code or under the adoption laws of another state or a tribal government, if all of the following requirements are met:

(a) The department has certified that the adoptee is a child with special needs.

(b) Certification is made before the adoptee's eighteenth birthday.

(c) Certification is made before the petition for adoption is filed.

(d) The adoptive parent requests the support subsidy not later than the date of confirmation of the adoption.

(2) The department shall determine eligibility for the support subsidy without regard to the income of the adoptive parent or parents. The amount shall be equal to the family foster care rate, including the difficulty of care rate, that was paid for the adoptee while

the adoptee was in family foster care, except that the amount shall be increased to reflect increases made in the standard age appropriate foster care rate paid by the department.

(3) The department shall complete the certification process within 30 days after it receives a request for a support subsidy.

400.117e Annual basic grant of state money; eligibility; use of basic grant; criteria and conditions for basic grant; money for early intervention to treat problems of delinquency and neglect.

Sec. 117e. (1) A county having a population of less than 75,000 is eligible to receive an annual basic grant of state money of $15,000.00.

(2) To be eligible to receive state financial support under subsection (1), a county shall meet the requirements of this act. A county shall not be required to contribute matching funds to receive state financial support under subsection (1).

(3) A basic grant may be used only to supplement added juvenile justice service costs and shall not be used to replace county money currently being expended on juvenile justice services.

(4) The office shall establish qualifying criteria for awarding the basic grants and may specify conditions for each grant.

(5) To provide for early intervention to treat problems of delinquency and neglect within the child's home and to expedite a child's return to his or her home, the office may expend money from the child care fund or from other sources authorized in legislative appropriations for new or expanded programs, if the office determines that the programs are alternatives to out-of-home institutional or foster care. The office shall establish criteria for the approval of expenditures made under this subsection. The office shall submit to the legislature and the governor a report summarizing and evaluating the implementation of this subsection and containing recommendations for its future use.

This act is ordered to take immediate effect.
Approved July 8, 2004.
Filed with Secretary of State July 8, 2004.

[No. 194]

(HB 5492)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of

property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," (MCL 436.1101 to 436.2303) by adding section 514a.

The People of the State of Michigan enact:

436.1514a Hotel and conference center owned and operated by university; issuance of class B hotel license; conditions; limitation; "hospitality program" defined.

Sec. 514a. (1) Notwithstanding section 501 and subject to the quota system under this act, the commission may issue a class B hotel license to a hotel and conference center owned and operated by a university that holds a class B hotel license issued under section 514 and meets at least all of the following:

(a) Contains a hotel with at least 45 guest rooms.

(b) Has a restaurant seating at least 90 guests that serves a full-menu breakfast, lunch, and dinner.

(c) Has over 13,000 square feet of flexible meeting space.

(d) Is open year-round to provide services to the public and to serve the mission of the hospitality program.

(e) Has a hospitality program providing at least 2 of the following at the site of the hotel and conference center as part of that program:

(*i*) Student education classrooms.

(*ii*) A working hospitality laboratory setting.

(*iii*) Utilization of rotational interns each semester or during the summer.

(2) In public areas of the hotel and conference center, the sale and consumption of alcoholic liquor is limited to table service only unless the public areas are reserved for private functions.

(3) As used in this section, "hospitality program" means a course of academic study that, at a minimum, is a nationally accredited program at baccalaureate and graduate levels in the hospitality business that requires at least 120 semester credits or the equivalent for completion of the baccalaureate degree and that has a teaching and research staff predominated by individuals with at least doctoral degrees.

This act is ordered to take immediate effect.
Approved July 8, 2004.
Filed with Secretary of State July 8, 2004.

[No. 195]

(HB 5589)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for

the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 8 (MCL 722.628), as amended by 2002 PA 690.

The People of the State of Michigan enact:

722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; proceedings by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement; surrender of newborn; training of employees on rights of children and families.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney if the report meets the requirements of section 3(6) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under section 3(6), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected. If the child suspected of being abused is not in the physical custody of the parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible. In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator shall advise that individual of the department investigator's name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Abuse or neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical

injury" means brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent abuse or neglect of the child. However, the department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or neglect and is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

(17) All department employees involved in investigating child abuse or child neglect cases shall be trained in the legal duties to protect the state and federal constitutional and

statutory rights of children and families from the initial contact of an investigation through the time services are provided.

This act is ordered to take immediate effect.
Approved July 8, 2004.
Filed with Secretary of State July 8, 2004.

[No. 196]

(SB 1240)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending sections 1 and 7 (MCL 125.1651 and 125.1657), section 1 as amended by 2004 PA 158 and section 7 as amended by 1985 PA 221.

The People of the State of Michigan enact:

125.1651 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a downtown development authority created pursuant to this act.

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

(e) "Business district" means an area in the downtown of a municipality zoned and used principally for business.

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

(g) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development plan set forth in section 17.

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

(k) "Downtown district" means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act. A downtown district may include 1 or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality is a city that surrounds another city and that other city lies between the 2 separate and distinct geographic areas. If the downtown district contains more than 1 separate and distinct geographic area in the downtown district, the separate and distinct geographic areas shall be considered 1 downtown district.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(n) "Fire alarm system" means a system designed to detect and annunciate the presence of fire, or by-products of fire. Fire alarm system includes smoke detectors.

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

(p) "Governing body of a municipality" means the elected body of a municipality having legislative powers.

(q) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (y). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current

assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(r) "Municipality" means a city, village, or township.

(s) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(t) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by the municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(u) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(v) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*), (*iii*), or (*iv*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by

or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area, or both, if all of the following requirements are met:

(A) The authority purchased the real property in 1993.

(B) Before June 30, 1995, the authority enters a contract for the development of the real property located within the development area.

(C) In 1993, the authority or municipality on behalf of the authority received approval for a grant from both of the following:

(I) The department of natural resources for site reclamation of the real property.

(II) The department of consumer and industry services for development of the real property.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) A loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

(*vii*) Funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Michigan department of transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

(*viii*) For taxes captured in 1994, an obligation described in this subparagraph issued or incurred to finance a project. An obligation is considered issued or incurred to finance a project described in this subparagraph only if all of the following are met:

(A) The obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved.

(B) The obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991.

(C) The obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994.

(D) The authority or municipality captured school taxes during 1994.

(w) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under

the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(x) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(y) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

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

(aa) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of subsubparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

125.1657 Powers of board.

Sec. 7. The board may:

(a) Prepare an analysis of economic changes taking place in the downtown district.

(b) Study and analyze the impact of metropolitan growth upon the downtown district.

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

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

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

(f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

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

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

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

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

(k) Lease any building or property under its control, or any part of a building or property.

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

(m) Acquire and construct public facilities.

(n) Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.

(o) Contract for broadband service and wireless technology service in the downtown district.

This act is ordered to take immediate effect.
Approved July 8, 2004.
Filed with Secretary of State July 8, 2004.

[No. 197]

(HB 5807)

AN ACT to amend 1923 PA 238, entitled "An act authorizing the formation of corporations for the purpose of generating, manufacturing, producing, gathering, storing, transmitting, distributing, transforming, selling and supplying electric energy or gas, either artificial or natural, or both electric energy and gas, to the public generally, or to public utilities or natural gas companies, and providing for and giving to such corporations and also to corporations heretofore lawfully organized, among other things, for such purposes; to corporations heretofore lawfully organized, or that may hereafter be lawfully organized and duly authorized to carry on the electric or gas business as a public utility in the state of Michigan; and to foreign corporations heretofore lawfully organized or that may hereafter be lawfully organized, among other things, for such purposes, and duly authorized to carry on business in the state of Michigan, the right to condemn private property for the uses provided for herein," by amending section 3 (MCL 486.253) and by adding section 5.

The People of the State of Michigan enact:

486.253 Electricity or gas sold to public; rates, terms, and conditions; examination of books and records; order of commission; review; certificate of necessity.

Sec. 3. (1) A corporation formed under this act shall sell to the public the electric energy it generates or transmits and the gas it manufactures, produces, stores, or transmits, upon such reasonable terms, rates, and conditions as determined by the Michigan public

service commission. The Michigan public service commission may examine all books and records of the corporation and audit the corporation. Any order of the commission may be reviewed, set aside, modified, or affirmed in the manner provided by law.

(2) If 1929 PA 9, MCL 483.101 to 483.120, 1929 PA 69, MCL 460.501 to 460.506, or the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, requires a certificate of necessity to be obtained from the Michigan public service commission, then the corporation shall, before commencing any condemnation proceedings, first make application to, and obtain from the commission a certificate as required under those acts.

486.255 Independent transmission company or affiliated company; power to condemn property; limitation; procedures and requirements; definitions.

Sec. 5. (1) Subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, and the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, an independent transmission company or an affiliated transmission company shall have the power to condemn property that is necessary to transmit electric energy for public use except for both of the following:

(a) An independent transmission company or affiliated transmission company shall not circumvent a private agreement that existed on the effective date of the amendatory act that added this subsection under which the independent transmission company or affiliated transmission company leases rights-of-way for its electric transmission facilities from the utility.

(b) An independent transmission company or affiliated transmission company shall not condemn property owned by an electric or gas utility or municipally owned utility in a manner which unreasonably disrupts the ability of the electric or gas utility or municipally owned utility to continue to provide service to its customers. If a dispute exists under this subdivision, the condemnation shall not proceed until the Michigan public service commission determines that no unreasonable disruption is involved. The commission shall make its determination under this subdivision pursuant to a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 180 days of the date an application or petition requesting a determination is filed with the commission. If the principal parties of record agree that the complexity of dispute involved requires additional time, the commission may have up to 210 days from the date the application or petition was filed.

(2) Except as otherwise provided under this section, in condemning property under subsection (1), an independent transmission company or affiliated transmission company is subject to the same procedures and requirements under this act as a corporation formed under this act.

(3) Section 3(1) and any procedure or requirement under this act that is inconsistent with the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, or the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, do not apply to an independent transmission company or affiliated transmission company.

(4) As used in this act:

(a) "Affiliated transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on

December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) "Independent transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5808 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 12, 2004.
Filed with Secretary of State July 12, 2004.

Compiler's note: House Bill No. 5808, referred to in enacting section 1, was filed with the Secretary of State July 12, 2004, and became P.A. 2004, No. 198, Imd. Eff. July 12, 2004.

[No. 198]

(HB 5808)

AN ACT to amend 1995 PA 30, entitled "An act to regulate the location and construction of certain electric transmission lines; to prescribe powers and duties of the Michigan public service commission and to give precedence to its determinations in certain circumstances; and to prescribe the powers and duties of certain local units of government and officials of those local units of government," by amending sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 15 (MCL 460.562, 460.563, 460.564, 460.565, 460.566, 460.567, 460.568, 460.569, 460.570, 460.571, 460.573, and 460.575).

The People of the State of Michigan enact:

460.562 Definitions.

Sec. 2. As used in this act:

(a) "Affiliated transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) "Certificate" means a certificate of public convenience and necessity issued for a major transmission line under this act or issued for a transmission line under section 9.

(c) "Commission" means the Michigan public service commission.

(d) "Construction" means any substantial action taken on a route constituting placement or erection of the foundations or structures supporting a transmission line. Construction does not include preconstruction activity or the addition of circuits to an existing transmission line.

(e) "Electric utility" means a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity the commission regulates under 1909 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 460.10cc. Electric utility does not include a municipal utility, affiliated transmission company, or independent transmission company.

(f) "Independent transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(g) "Major transmission line" means a transmission line of 5 miles or more in length wholly or partially owned by an electric utility, affiliated transmission company, or independent transmission company through which electricity is transferred at system bulk supply voltage of 345 kilovolts or more.

(h) "Municipality" means a city, township, or village.

(i) "Preconstruction activity" means any activity on a proposed route conducted before construction of a transmission line begins. Preconstruction activity includes surveys, measurements, examinations, soundings, borings, sample-taking, or other testing procedures, photography, appraisal, or tests of soil, groundwater, structures, or other materials in or on the real property for contamination. Preconstruction activity does not include an action that permanently or irreparably alters the real property on or across the proposed route.

(j) "Route" means real property on or across which a transmission line is constructed or proposed to be constructed.

(k) "Transmission line" means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more.

460.563 Transmission as essential service; act as controlling.

Sec. 3. (1) Transmission of electricity is an essential service.

(2) This act shall control in any conflict between this act and any other law of this state.

460.564 Construction plan.

Sec. 4. (1) If an electric utility that has 50,000 or more residential customers in this state, affiliated transmission company, or an independent transmission company plans to construct a major transmission line in this state in the 5 years after planning commences, the electric utility, affiliated transmission company, or independent transmission company shall submit a construction plan to the commission. An electric utility with fewer than 50,000 residential customers in this state may submit a plan under this section. A plan shall include all of the following:

(a) The general location and size of all major transmission lines to be constructed in the 5 years after planning commences.

(b) Copies of relevant bulk power transmission information filed by the electric utility, affiliated transmission company, or independent transmission company with any state or

federal agency, national electric reliability coalition, or regional electric reliability coalition.

(c) Additional information required by commission rule or order that directly relates to the construction plan.

(2) At the same time the electric utility, affiliated transmission company, or independent transmission company submits a construction plan to the commission under subsection (1), the electric utility, affiliated transmission company, or independent transmission company shall provide a copy of the construction plan to each municipality in which construction of the planned major transmission line is intended.

460.565 Transmission line; certificate required.

Sec. 5. An electric utility, affiliated transmission company, or independent transmission company shall not begin construction of a major transmission line for which a plan has been submitted under section 4 until the commission issues a certificate for that transmission line. Except as otherwise provided in section 9, a certificate of public convenience and necessity under this act is not required for constructing a new transmission line other than a major transmission line or for reconstructing, repairing, replacing, or improving an existing transmission line, including the addition of circuits to an existing transmission line.

460.566 Public meeting as condition for certificate application.

Sec. 6. (1) Before applying for a certificate under section 5, an electric utility, affiliated transmission company, or independent transmission company shall schedule and hold a public meeting in each municipality through which a proposed major transmission line for which a plan has been submitted under section 4 would pass. A public meeting held in a township satisfies the requirement that a public meeting be held in each affected village located within the township.

(2) In the 60 days before a public meeting held under subsection (1), the electric utility, affiliated transmission company, or independent transmission company shall offer in writing to meet with the chief elected official of each affected municipality or his or her designee to discuss the utility's, affiliated transmission company's, or independent transmission company's desire to build the major transmission line and to explore the routes to be considered.

460.567 Application for certificate for proposed major transmission line; withdrawal; contents.

Sec. 7. (1) An electric utility that has 50,000 or more residential customers in this state, an affiliated transmission company, or an independent transmission company shall apply to the commission for a certificate for a proposed major transmission line. An applicant may withdraw an application at any time.

(2) An application for a certificate shall contain all of the following:

(a) The planned date for beginning construction.

(b) A detailed description of the proposed major transmission line, its route, and its expected configuration and use.

(c) A description and evaluation of 1 or more alternate major transmission line routes and a statement of why the proposed route was selected.

(d) If a zoning ordinance prohibits or regulates the location or development of any portion of a proposed route, a description of the location and manner in which that zoning ordinance prohibits or regulates the location or construction of the proposed route.

(e) The estimated overall cost of the proposed major transmission line.

(f) Information supporting the need for the proposed major transmission line, including identification of known future wholesale users of the proposed major transmission line.

(g) Estimated quantifiable and nonquantifiable public benefits of the proposed major transmission line.

(h) Estimated private benefits of the proposed major transmission line to the applicant or any legal entity that is affiliated with the applicant.

(i) Information addressing potential effects of the proposed major transmission line on public health and safety.

(j) A summary of all comments received at each public meeting and the applicant's response to those comments.

(k) Information indicating that the proposed major transmission line will comply with all applicable state and federal environmental standards, laws, and rules.

(*l*) Other information reasonably required by the commission pursuant to rule.

460.568 Public notice; publication; conduct of proceeding; fees; consultants; granting or denying application; criteria; identification of route and estimated cost; validity and duration of certificate.

Sec. 8. (1) Upon applying for a certificate, the electric utility, affiliated transmission company, or independent transmission company shall give public notice in the manner and form the commission prescribes of an opportunity to comment on the application. Notice shall be published in a newspaper of general circulation in the area to be affected within a reasonable time period after an application is provided to the commission and shall be sent to each affected municipality and each affected landowner on whose property a portion of the proposed major transmission line will be constructed. The notice shall be written in plain, nontechnical, and easily understood terms and shall contain a title that includes the name of the electric utility, affiliated transmission company, or independent transmission company and the words "NOTICE OF INTENT TO CONSTRUCT A MAJOR TRANSMISSION LINE".

(2) The commission shall conduct a proceeding on the application as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon receiving an application for a certificate, each affected municipality and each affected landowner shall be granted full intervenor status as of right in commission proceedings concerning the proposed major transmission lines.

(3) The commission may assess certificate application fees from the electric utility, affiliated transmission company, or independent transmission company to cover the commission's administrative costs in processing the application and may require the electric utility, affiliated transmission company, or independent transmission company to hire consultants chosen by the commission to assist the commission in evaluating those issues the application raises.

(4) The commission shall grant or deny the application for a certificate not later than 1 year after the application's filing date. If a party submits an alternative route for the proposed major transmission line, the commission shall grant the application for either the electric utility's, affiliated transmission company's, or independent transmission company's proposed route or 1 alternative route or shall deny the application. The commission may condition its approval upon the applicant taking additional action to assure the public convenience, health, and safety and reliability of the proposed major transmission line.

(5) The commission shall grant the application and issue a certificate if it determines all of the following:

(a) The quantifiable and nonquantifiable public benefits of the proposed major transmission line justify its construction.

(b) The proposed or alternative route is feasible and reasonable.

(c) The proposed major transmission line does not present an unreasonable threat to public health or safety.

(d) The applicant has accepted the conditions contained in a conditional grant.

(6) A certificate issued under this section shall identify the major transmission line's route and shall contain an estimated cost for the transmission line.

(7) If construction of a proposed major transmission line is not begun within 5 years of the date that a certificate is granted, the certificate is invalid and a new certificate shall be required for the proposed major transmission line.

460.569 Certificate other than for major transmission line; provisions applicable to issuance; applicability of MCL 460.564.

Sec. 9. (1) An electric utility, affiliated transmission company, or independent transmission company may file an application with the commission for a certificate for a proposed transmission line other than a major transmission line. If an electric utility, affiliated transmission company, or independent transmission company applies for a certificate under this section, the electric utility, affiliated transmission company, or independent transmission company shall not begin construction of the proposed transmission line until the commission issues a certificate for that transmission line.

(2) The commission shall proceed on an application in the same manner as provided in section 8. Except as otherwise provided in subsection (3), the provisions of this act that apply to applications and certificates for major transmission lines apply in the same manner to applications and certificates issued under this section.

(3) Section 4 does not apply to a transmission line for which a certificate is sought under this section.

460.570 Local ordinances or limitations in conflict with certificate; effect.

Sec. 10. (1) If the commission grants a certificate under this act, that certificate shall take precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of a transmission line for which the commission has issued a certificate.

(2) A zoning ordinance or limitation imposed after an electric utility, affiliated transmission company, or independent transmission company files for a certificate shall not limit or impair the transmission line's construction, operation, or maintenance.

(3) In an eminent domain or other related proceeding arising out of or related to a transmission line for which a certificate is issued, a certificate issued under this act is conclusive and binding as to the public convenience and necessity for that transmission line and its compatibility with the public health and safety or any zoning or land use requirements in effect when the application was filed.

460.571 Limited license.

Sec. 11. In a civil action in the circuit court under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, the court may grant a limited license to

an electric utility, affiliated transmission company, or independent transmission company for entry on land to conduct preconstruction activity related to a proposed major transmission line or a transmission line if the electric utility, affiliated transmission company, or independent transmission company has scheduled or held a public meeting in connection with a certificate sought under section 7 or 9 and if written notice of the intent to enter the land has been given to each affected landowner on whose property the electric utility, affiliated transmission company, or independent transmission company wishes to enter. The limited license may be granted upon such terms as justice and equity require. An electric utility, affiliated transmission company, or independent transmission company that obtains a limited license shall provide each affected land owner with a copy of the limited license. A limited license shall include a description of the purpose of entry, the scope of activities permitted, and the terms and conditions of entry with respect to the time, place, and manner of entry. The court shall not deny a limited license for entry to conduct preconstruction activity for any of the following reasons:

(a) A disagreement exists over the proposed route.

(b) The electric utility, affiliated transmission company, or independent transmission company has not yet applied for a certificate.

(c) The commission has not yet granted or denied the application.

(d) An alleged lack of public convenience or necessity.

460.573 Information as public record; disclosure of confidential information; waiver.

Sec. 13. (1) Except as otherwise provided in this section, information obtained by the commission under this act is a public record as provided in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) An electric utility, affiliated transmission company, or independent transmission company may designate information received from a third party that the electric utility, affiliated transmission company, or independent transmission company submits to the commission in an application for a certificate or in other documents required by the commission for purposes of certification submitted to the commission as being only for the confidential use of the commission. The commission shall notify the electric utility, affiliated transmission company, or independent transmission company of a request for public records under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, if the scope of the request includes information designated as confidential. The electric utility, affiliated transmission company, or independent transmission company has 10 days after the receipt of the notice to demonstrate to the commission that the information designated as confidential should not be disclosed because the information is a trade secret or secret process or is production, commercial, or financial information the disclosure of which would jeopardize the competitive position of the electric utility, affiliated transmission company, or independent transmission company or the person from whom the information was obtained. The commission shall not grant the request for the information if the electric utility, affiliated transmission company, or independent transmission company demonstrates to the satisfaction of the commission that the information should not be disclosed for a reason authorized in this section. If the commission makes a decision to grant a request, the information requested shall not be released until 3 days have elapsed after notice of the decision is provided to the electric utility, affiliated transmission company, or independent transmission company.

(3) If any person uses information described in subsection (1) to forecast electrical demand, the person shall structure the forecast so the third party is not identified unless the third party waives confidentiality.

460.575 Commission order; review; powers and duties.

Sec. 15. (1) A commission order relating to a certificate or other matter provided for under this act is subject to review as provided in section 26 of 1909 PA 300, MCL 462.26.

(2) In administering this act, the commission shall have only those powers and duties granted to the commission under this act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5807 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 12, 2004.
Filed with Secretary of State July 12, 2004.

Compiler's note: House Bill No. 5807, referred to in enacting section 1, was filed with the Secretary of State July 12, 2004, and became P.A. 2004, No. 197, Imd. Eff. July 12, 2004.

[No. 199]

(HB 4710)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 311 (MCL 206.311), as amended by 1987 PA 254.

The People of the State of Michigan enact:

206.311 Tax return; form; content; verification; transmittal; remittance; extension, computation, and remittance of estimated tax due; interest; penalties; tentative return; payment of estimated tax; joint return; effect of filing copy of federal extension; automatic extension based on service in combat zone.

Sec. 311. (1) The taxpayer on or before the due date set for the filing of a return or the payment of the tax, except as otherwise provided in this act, shall make out a return in the form and content as prescribed by the commissioner, verify the return, and transmit it, together with a remittance of the amount of the tax, to the department.

(2) Except as otherwise provided in subsection (5), the department, upon application of the taxpayer and for good cause shown, may extend under prescribed conditions the time for filing the annual or final return required by this act. Before the original due date, the taxpayer shall remit with an application for extension the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension. The department may require a tentative return and payment of an estimated tax.

(3) Taxpayers who are husband and wife and who file a joint federal income tax return pursuant to the internal revenue code shall file a joint return.

(4) Except as provided in subsection (5), if the taxpayer has been granted an extension or extensions of time within which to file a final federal return for a taxable year, the filing of a copy of the extension or extensions automatically extends the due date of the final return under this act for an equivalent period. The taxpayer shall remit with the copy of the extension or extensions the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension.

(5) If the taxpayer is eligible for an automatic extension of time within which to file a federal return based on service in a combat zone, the due date for filing an annual or final return or a return and payment of an estimated tax under this act is automatically extended for an equivalent period of time. The taxpayer is not required to file a copy of any federal extension, but shall print "COMBAT ZONE" in red ink at the top of his or her return when the return is filed. The taxpayer is not required to pay the amount of tax due at the time the return is originally due, and the department shall not impose any interest or penalties for the amount of tax unpaid for the period of the extension.

This act is ordered to take immediate effect.
Approved July 12, 2004.
Filed with Secretary of State July 12, 2004.

[No. 200]

(HB 5232)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16181, 20910, 20920, 20921, and 20923 (MCL 333.16181, 333.20910, 333.20920, 333.20921, and 333.20923), section 16181 as amended by 2000 PA 256 and sections 20910, 20920, 20921, and 20923 as amended by 2000 PA 375.

The People of the State of Michigan enact:

333.16181 Temporary license; nonrenewable; exception; eligibility; duration; automatically voiding; supervision; issuance.

Sec. 16181. (1) Except as otherwise provided in subsection (2), a board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A board shall not grant a temporary license to an individual who has previously failed the examination or other required evaluation procedure or whose license has been suspended or revoked. A temporary license issued pursuant to this section is valid for 18 months, but a board shall automatically void the temporary license if the applicant fails the examination or other required evaluation procedure.

(2) Until January 1, 2007, the Michigan board of nursing may grant a nonrenewable, temporary license to an applicant for a license under this article to engage in the practice of nursing as a registered professional nurse if the applicant is licensed as a registered professional nurse by an equivalent licensing board or authority in Canada. A temporary license issued under this subsection expires on the earliest of the following:

(a) One year after the date of issuance.

(b) The date the applicant is notified that he or she failed the commission on graduates of foreign nursing schools qualifying examination, as approved by the department.

(c) The date the applicant is notified that he or she failed the national council licensure examination, as approved by the department.

(d) The date the applicant is issued a license under this article to engage in the practice of nursing as a registered professional nurse.

(3) The holder of a temporary license issued under subsection (1) shall practice only under the supervision of a licensee who holds a license, other than a health profession subfield license, in the same health profession. The holder of a temporary license issued under subsection (1) shall not be supervised by a licensee who holds a limited license or temporary license.

(4) The department shall promptly issue a temporary license.

333.20910 Powers and duties of department generally.

Sec. 20910. (1) The department shall do all of the following:

(a) Be responsible for the development, coordination, and administration of a statewide emergency medical services system.

(b) Facilitate and promote programs of public information and education concerning emergency medical services.

(c) In case of actual disasters and disaster training drills and exercises, provide emergency medical services resources pursuant to applicable provisions of the Michigan emergency preparedness plan, or as prescribed by the director of emergency services pursuant to the emergency management act, 1976 PA 390, MCL 30.401 to 30.420.

(d) Consistent with the rules of the federal communications commission, plan, develop, coordinate, and administer a statewide emergency medical services communications system.

(e) Develop and maintain standards of emergency medical services and personnel as follows:

(*i*) License emergency medical services personnel in accordance with this part.

(*ii*) License ambulance operations, nontransport prehospital life support operations, and medical first response services in accordance with this part.

(*iii*) At least annually, inspect or provide for the inspection of each life support agency, except medical first response services. As part of that inspection, the department shall conduct random inspections of life support vehicles. If a life support vehicle is determined by the department to be out of compliance, the department shall give the life support agency 24 hours to bring the life support vehicle into compliance. If the life support vehicle is not brought into compliance in that time period, the department shall order the life support vehicle taken out of service until the life support agency demonstrates to the department, in writing, that the life support vehicle has been brought into compliance.

(*iv*) Promulgate rules to establish the requirements for licensure of life support agencies, vehicles, and individuals licensed under this part to provide emergency medical services and other rules necessary to implement this part. The department shall submit all proposed rules and changes to the state emergency medical services coordination committee and provide a reasonable time for the committee's review and recommendations before submitting the rules for public hearing under the administrative procedures act of 1969.

(f) Promulgate rules to establish and maintain standards for and regulate the use of descriptive words, phrases, symbols, or emblems that represent or denote that an ambulance operation, nontransport prehospital life support operation, or medical first response service is or may be provided. The department's authority to regulate use of the descriptive devices includes use for the purposes of advertising, promoting, or selling the services rendered by an ambulance operation, nontransport prehospital life support operation, or medical first response service, or by emergency medical services personnel.

(g) Designate a medical control authority as the medical control for emergency medical services for a particular geographic region as provided for under this part.

(h) Develop and implement field studies involving the use of skills, techniques, procedures, or equipment that are not included as part of the standard education for medical first responders, emergency medical technicians, emergency medical technician specialists, or paramedics, if all of the following conditions are met:

(*i*) The state emergency medical services coordination committee reviews the field study prior to implementation.

(*ii*) The field study is conducted in an area for which a medical control authority has been approved pursuant to subdivision (g).

(*iii*) The medical first responders, emergency medical technicians, emergency medical technician specialists, and paramedics participating in the field study receive training for the new skill, technique, procedure, or equipment.

(i) Collect data as necessary to assess the need for and quality of emergency medical services throughout the state pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(j) Develop, with the advice of the emergency medical services coordination committee, an emergency medical services plan that includes rural issues.

(k) Develop recommendations for territorial boundaries of medical control authorities that are designed to assure that there exists reasonable emergency medical services capacity within the boundaries for the estimated demand for emergency medical services.

(*l*) Within 180 days after the effective date of the amendatory act that added this subdivision, in consultation with the emergency medical services coordination committee, conduct a study on the potential medical benefits, costs, and impact on life support agencies if each ambulance is required to be equipped with an automated external defibrillator and

submit its recommendation to the standing committees in the senate and the house of representatives with jurisdiction over health policy issues.

(m) Promulgate other rules to implement this part.

(n) Perform other duties as set forth in this part.

(2) The department may do all of the following:

(a) In consultation with the emergency medical services coordination committee, promulgate rules to require an ambulance operation, nontransport prehospital life support operation, or medical first response service to periodically submit designated records and data for evaluation by the department.

(b) Establish a grant program or contract with a public or private agency, emergency medical services professional association, or emergency medical services coalition to provide training, public information, and assistance to medical control authorities and emergency medical services systems or to conduct other activities as specified in this part.

333.20920 Ambulance operation; license required; contents of application; fee; contents of license; operation of ambulance operation; renewal of license; compliance; ambulance operation upgrade license; statewide emergency medical coordination committee; report to legislature.

Sec. 20920. (1) A person shall not establish, operate, or cause to be operated an ambulance operation unless the ambulance operation is licensed under this section.

(2) Upon proper application and payment of a $100.00 fee, the department shall issue a license as an ambulance operation to a person who meets the requirements of this part and the rules promulgated under this part.

(3) An applicant shall specify in the application each ambulance to be operated.

(4) An ambulance operation license shall specify the ambulances licensed to be operated.

(5) An ambulance operation license shall state the highest level of life support the ambulance operation is licensed to provide. An ambulance operation shall operate in accordance with this part, rules promulgated under this part, and approved medical control authority protocols and shall not provide life support at a level that exceeds its license and available licensed personnel or violates approved medical control authority protocols.

(6) An ambulance operation license may be renewed annually upon application to the department and payment of a $100.00 renewal fee. Before issuing a renewal license, the department shall determine that the ambulance operation is in compliance with this part, the rules promulgated under this part, and medical control authority protocols.

(7) Beginning on July 22, 1997, an ambulance operation that meets all of the following requirements may apply for an ambulance operation upgrade license under subsection (8):

(a) On or before July 22, 1997, holds an ambulance operation license that designates the ambulance operation either as a transporting basic life support service or as a transporting limited advanced life support service.

(b) Is a transporting basic life support service, that is able to staff and equip 1 or more ambulances for the transport of emergency patients at a life support level higher than basic life support, or is a transporting limited advanced life support service, that is able to staff and equip 1 or more ambulances for the transport of emergency patients at the life support level of advanced life support.

(c) Is owned or operated by or under contract to a local unit of government and providing first-line emergency medical response to that local unit of government on or before July 22, 1997.

(d) Will provide the services described in subdivision (b) only to the local unit of government described in subdivision (c), and only in response to a 911 call or other call for emergency transport.

(8) An ambulance operation meeting the requirements of subsection (7) that applies for an ambulance operation upgrade license shall include all of the following information in the application provided by the department:

(a) Verification of all of the requirements of subsection (7) including, but not limited to, a description of the staffing and equipment to be used in providing the higher level of life support services.

(b) If the applicant is a transporting basic life support service, a plan of action to upgrade from providing basic life support to providing limited advanced life support or advanced life support to take place over a period of not more than 2 years. If the applicant is a transporting limited advanced life support service, a plan of action to upgrade from providing limited advanced life support to providing advanced life support to take place over a period of not more than 2 years.

(c) The medical control authority protocols for the ambulance operation upgrade license, along with a recommendation from the medical control authority under which the ambulance operation operates that the ambulance operation upgrade license be issued by the department.

(d) Other information required by the department.

(9) The statewide emergency medical services coordination committee shall review the information described in subsection (8) (c) and make a recommendation to the department as to whether or not an ambulance operation upgrade license should be granted to the applicant.

(10) Upon receipt of a completed application as required under subsection (8), a positive recommendation under subsection (9), and payment of a $100.00 fee, the department shall issue to the applicant an ambulance operation upgrade license. Subject to subsection (12), the license is valid for 2 years from the date of issuance and is renewable for 1 additional 2-year period. An application for renewal of an ambulance operation upgrade license shall contain documentation of the progress made on the plan of action described in subsection (8) (b). In addition, the medical control authority under which the ambulance operation operates shall annually file with the statewide emergency medical services coordination committee a written report on the progress made by the ambulance operation on the plan of action described in subsection (8) (b), including, but not limited to, information on training, equipment, and personnel.

(11) If an ambulance operation is designated by its regular license as providing basic life support services, then an ambulance operation upgrade license issued under this section allows the ambulance operation to provide limited advanced life support services or advanced life support services when the ambulance operation is able to staff and equip 1 or more ambulances to provide services at the higher levels. If an ambulance operation is designated by its regular license as providing limited advanced life support services, then an ambulance operation upgrade license issued under this section allows the ambulance operation to provide advanced life support services when the ambulance operation is able to staff and equip 1 or more ambulances to provide services at the higher level. An ambulance operation shall not provide services under an ambulance operation upgrade license unless the medical control authority under which the ambulance operation

operates has adopted protocols for the ambulance operation upgrade license regarding quality monitoring procedures, use and protection of equipment, and patient care.

(12) The department may revoke or fail to renew an ambulance operation upgrade license for a violation of this part or a rule promulgated under this part or for failure to comply with the plan of action filed under subsection (8) (b). An ambulance operation that obtains an ambulance operation upgrade license must annually renew its regular license under subsections (2) to (6). An ambulance operation's regular license is not affected by the following:

(a) The fact that the ambulance operation has obtained or renewed an ambulance operation upgrade license.

(b) The fact that an ambulance operation's ambulance operation upgrade license is revoked or is not renewed under this subsection.

(c) The fact that the ambulance operation's ambulance operation upgrade license expires at the end of the second 2-year period prescribed by subsection (10).

(13) By July 22, 2000, the department shall file a written report to the legislature. The department shall include all of the following information in the report:

(a) The number of ambulance operations that were qualified under subsection (7) to apply for an ambulance operation upgrade license under subsection (8) during the 3-year period.

(b) The number of ambulance operations that in fact applied for an ambulance operation upgrade license during the 3-year period.

(c) The number of ambulance operations that successfully upgraded from being a transporting basic life support service to a transporting limited advanced service or a transporting advanced life support service or that successfully upgraded from being a transporting limited advanced life support service to a transporting advanced life support service under an ambulance operation upgrade license.

(d) The number of ambulance operations that failed to successfully upgrade, as described in subdivision (c), under an ambulance operation upgrade license, but that improved their services during the 3-year period.

(e) The number of ambulance operations that failed to successfully upgrade, as described in subdivision (c), under an ambulance operation upgrade license, and that showed no improvement or a decline in their services.

(f) The effect of the amendatory act that added this subsection on the delivery of emergency medical services in this state.

333.20921 Ambulance operation; duties; prohibitions; occupants of patient compartment; operation at higher level of life support; applicability of subsection (5).

Sec. 20921. (1) An ambulance operation shall do all of the following:

(a) Provide at least 1 ambulance available for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with local medical control authority protocols.

(b) Respond or ensure that a response is provided to each request for emergency assistance originating from within the bounds of its service area.

(c) Operate under the direction of a medical control authority or the medical control authorities with jurisdiction over the ambulance operation.

(d) Notify the department immediately of a change that would alter the information contained on its application for an ambulance operation license or renewal.

(e) Subject to section 20920(7) to (12), provide life support consistent with its license and approved local medical control authority protocols to each emergency patient without prior inquiry into ability to pay or source of payment.

(2) An ambulance operation shall not do 1 or more of the following:

(a) Knowingly provide a person with false or misleading information concerning the time at which an emergency response will be initiated or the location from which the response is being initiated.

(b) Induce or seek to induce any person engaging an ambulance to patronize a long-term care facility, mortuary, or hospital.

(c) Advertise, or permit advertising of, within or on the premises of the ambulance operation or within or on an ambulance, the name or the services of an attorney, accident investigator, nurse, physician, long-term care facility, mortuary, or hospital. If 1 of those persons or facilities owns or operates an ambulance operation, the person or facility may use its business name in the name of the ambulance operation and may display the name of the ambulance operation within or on the premises of the ambulance operation or within or on an ambulance.

(d) Advertise or disseminate information for the purpose of obtaining contracts under a name other than the name of the person holding an ambulance operation license or the trade or assumed name of the ambulance operation.

(e) If the ambulance operation is operating under an ambulance operation upgrade license issued under section 20920(7) to (12), advertise or otherwise hold itself out as a full-time transporting limited advanced life support service or a full-time transporting advanced life support service unless the ambulance operation actually provides those services on a 24-hour-per-day, 7-day-a-week basis.

(3) Except as provided in subsection (4), an ambulance operation shall not operate, attend, or permit an ambulance to be operated while transporting a patient unless the ambulance is, at a minimum, staffed as follows:

(a) If designated as providing basic life support, with at least 1 emergency medical technician and 1 medical first responder.

(b) If designated as providing limited advanced life support, with at least 1 emergency medical technician specialist and 1 emergency medical technician.

(c) If designated as providing advanced life support, with at least 1 paramedic and 1 emergency medical technician.

(4) An ambulance operation that is licensed to provide advanced life support and has more than 1 ambulance licensed under its operation may operate an ambulance licensed to provide basic life support or limited advanced life support at a higher level of life support if all of the following are met:

(a) The ambulance operation has at least 1 ambulance under its operation that is properly staffed and available to provide advanced life support on a 24-hour-a-day, 7-day-a-week basis.

(b) The licensed personnel required to operate at that higher level of life support are available at the scene and in the ambulance during the patient transport to provide life support to that patient at that higher level.

(c) The ambulance meets all equipment and communication requirements to operate at that higher level of life support.

(d) The ambulance operation that is unable to respond to a request for emergency assistance immediately requests assistance pursuant to protocols established by the local medical control authority and approved by the department under this part.

(5) Except as provided in subsection (6), an ambulance operation shall ensure that an emergency medical technician, an emergency medical technician specialist, or a paramedic is in the patient compartment of an ambulance while transporting an emergency patient.

(6) Subsection (5) does not apply to the transportation of a patient by an ambulance if the patient is accompanied in the patient compartment of the ambulance by an appropriate licensed health professional designated by a physician and after a physician-patient relationship has been established as prescribed in this part or the rules promulgated by the department under this part.

333.20923 Operation of ambulance; conditions; application for and issuance of ambulance license or annual renewal; fee; certificate of insurance; vehicle standards; minimum requirements for equipment; use of equipment or medications by licensed personnel; communications system; ambulance license nontransferable to ambulance operation.

Sec. 20923. (1) Except as provided in section 20924 (2), a person shall not operate an ambulance unless the ambulance is licensed under this section and is operated as part of a licensed ambulance operation.

(2) Upon proper application and payment of a $25.00 fee, the department shall issue an ambulance license, or annual renewal of an ambulance license, to the ambulance operation. Receipt of the application by the department serves as attestation to the department by the ambulance operation that the ambulance being licensed or renewed is in compliance with the minimum standards required by the department. The inspection of an ambulance by the department is not required as a basis for licensure renewal, unless otherwise determined by the department.

(3) An ambulance operation shall submit an application and fee to the department for each ambulance in service. Each application shall include a certificate of insurance for the ambulance in the amount and coverage required by the department.

(4) Upon purchase by an ambulance operation, an ambulance shall meet all vehicle standards established by the department under section 20910(e)(*iv*).

(5) Once licensed for service, an ambulance is not required to meet subsequently modified state vehicle standards during its use by the ambulance operation that obtained the license.

(6) Patient care equipment and safety equipment carried on an ambulance shall meet the minimum requirements prescribed by the department and the approved local medical control authority protocols.

(7) An ambulance operation that maintains patient care equipment and medications necessary to upgrade from providing basic or limited advanced life support to providing a higher level of life support in accordance with section 20921(4) shall secure the necessary patient care equipment and medications in a way such that the equipment or medications can only be used by the appropriately licensed personnel.

(8) An ambulance shall be equipped with a communications system utilizing frequencies and procedures consistent with the statewide emergency medical services communications system developed by the department.

(9) An ambulance license is not transferable to another ambulance operation.

This act is ordered to take immediate effect.
Approved July 12, 2004.
Filed with Secretary of State July 12, 2004.

[No. 201]

(HB 5094)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 613a (MCL 257.613a).

The People of the State of Michigan enact:

257.613a School crossings; establishment; basis; determination; notice; erection of school crossing signs.

Sec. 613a. (1) Except as provided in subsections (2) and (3), the state transportation department, a county road commission, or a local authority shall establish school crossings considered necessary for the safety of schoolchildren on streets and highways under its jurisdiction. The establishment of a school crossing shall be based upon a traffic and engineering study conducted by the authority having jurisdiction, in consultation with the superintendent of the school district.

(2) If considered necessary under subsection (1) or pursuant to a traffic and engineering study conducted under subsection (4), a school crossing shall be established within a safe distance from a school located on a street or highway on which the speed limit is 25 miles or more per hour.

(3) Upon request of the superintendent of the school district, the following individuals shall meet at not less than 5-year intervals to consider whether a traffic and engineering study should be conducted to determine whether a school crossing is required under subsection (2):

(a) The superintendent of the school district in which the school is located or his or her designee.

(b) The head of the local authority having jurisdiction to maintain the road or his or her designee or, if there is no local authority, an individual designated by the director of the state transportation department.

(c) The chief of police of the local unit of government in which the road is located or his or her designee or, if the local unit of government does not have a police department, the county sheriff or his or her designee.

(4) If the individuals described in subsection (3) determine by unanimous vote that a traffic and engineering study should be conducted, the individuals shall notify the authority having jurisdiction to maintain the road in writing of that determination. If the authority is notified under this subsection that a traffic and engineering study should be conducted, the authority shall conduct the study.

(5) Having established a school crossing, the state transportation department, county road commission, or local authority shall erect school crossing signs, in conformance with the manual of uniform traffic control devices provided for in section 608, on streets or highways under its jurisdiction.

Act known and cited as "the Jasmine Miles schoolchildren safety act".

Enacting section 1. This amendatory act shall be known and may be cited as "the Jasmine Miles schoolchildren safety act".

This act is ordered to take immediate effect.
Approved July 13, 2004.
Filed with Secretary of State July 13, 2004.

[No. 202]

(HB 5243)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 8d (MCL 125.2688d), as added by 2003 PA 266.

The People of the State of Michigan enact:

125.2688d Designation of tool and die renaissance recovery zones; definitions.

Sec. 8d. (1) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 20 tool and die renaissance recovery zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a recovery zone within their boundaries. A recovery zone shall have a duration of renaissance zone status for a period not to exceed 15 years as determined by the board of the Michigan strategic fund.

(2) The board of the Michigan strategic fund may designate a recovery zone within this state if the recovery zone consists only of 1 or more parcels of qualified tool and die business property.

(3) The board of the Michigan strategic fund may revoke the designation of all or a portion of a recovery zone with respect to 1 or more qualified tool and die businesses if those qualified tool and die businesses fail or cease to participate in or comply with a qualified collaborative agreement.

(4) As used in this section:

(a) "Qualified collaborative agreement" means an agreement that demonstrates synergistic opportunities, including, but not limited to, all of the following:

(*i*) Sales and marketing efforts.

(*ii*) Development of standardized processes.

(*iii*) Development of tooling standards.

(*iv*) Standardized project management methods.

(*v*) Improved ability for specialized or small niche shops to develop expertise and compete successfully on larger programs.

(b) "Qualified tool and die business" means a business entity that meets all of the following:

(*i*) Has a North American industrial classification system (NAICS) of 333511, 333512, 333513, 333514, or 333515; or has a North American industrial classification system (NAICS) of 337215 and operates a facility within an existing renaissance zone, which facility is adjacent to real property not located in a renaissance zone and is located within 1/4 mile of a Michigan technical education center.

(*ii*) Has entered into a qualified collaboration agreement as approved by the Michigan strategic fund with other business entities that have a North American industrial classification system (NAICS) of 333511, 333512, 333513, 333514, or 333515.

(*iii*) Has less than 50 full-time employees.

(c) "Qualified tool and die business property" means 1 or more of the following:

(*i*) Property owned by 1 or more qualified tool and die businesses and used by those qualified tool and die businesses primarily for tool and die business operations.

(*ii*) Property leased by 1 or more qualified tool and die business for which the qualified tool and die business is liable for ad valorem property taxes and which is used by those qualified tool and die businesses primarily for tool and die business operations. The qualified tool and die business shall furnish proof of its ad valorem property tax liability to the department of treasury.

(d) "Recovery zone" means a tool and die renaissance recovery zone created in this section.

This act is ordered to take immediate effect.
Approved July 13, 2004.
Filed with Secretary of State July 13, 2004.

[No. 203]

(HB 4770)

AN ACT to amend 1971 PA 174, entitled "An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers," (MCL 400.231 to 400.240) by adding section 6a.

The People of the State of Michigan enact:

400.236a Child support bench warrant enforcement fund; creation; deposit of fees, money, or other assets; investment; credit of interest and earnings; money remaining in fund; enforcement of civil warrants; report; limitation on use of money.

Sec. 6a. (1) The child support bench warrant enforcement fund is created in the state treasury. The fund shall be expended only as provided under this section.

(2) The fees collected under section 2529(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2529, shall be deposited in the fund created under subsection (1).

(3) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The office shall contract with law enforcement agencies to use the fund to enforce civil warrants related to child support. Money transmitted to the state treasurer under this section shall not supplant other money appropriated by the state for office of child support functions.

(6) The office shall make an annual report to the standing house and senate committees that consider child support issues and to the house and senate appropriations subcommittees that consider the family independence agency appropriation. The office shall report about the child support bench warrant enforcement fund all of the following:

(a) A listing of contracts entered into, including the amounts and agencies involved.

(b) The number of bench warrants served by personnel funded by each contract.

(c) The number of unserved, pending bench warrants as of the start date of the contract for each affected jurisdiction.

(7) Money used to administer the fund shall not exceed 10% of the annual money deposited to the fund.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4771 of the 92nd Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect October 1, 2004.

This act is ordered to take immediate effect.
Approved July 14, 2004.
Filed with Secretary of State July 14, 2004.

Compiler's note: House Bill No. 4771, referred to in enacting section 1, was filed with the Secretary of State July 14, 2004, and became P.A. 2004, No. 205, Eff. Oct. 1, 2004.

[No. 204]

(HB 4768)

AN ACT to amend 1956 PA 205, entitled "An act to confer upon circuit courts jurisdiction over proceedings to compel and provide support of children born out of wedlock; to prescribe the procedure for determination of such liability; to authorize agreements providing for furnishing of such support and to provide for the enforcement thereof; and to prescribe penalties for the violation of certain provisions of this act," by amending section 2 (MCL 722.712), as amended by 1998 PA 113.

The People of the State of Michigan enact:

722.712 Child born out of wedlock; liability of parents; apportionment of expenses by court; admission of bill to court proceedings; effect of father's death; "medicaid" defined.

Sec. 2. (1) The parents of a child born out of wedlock are liable for the necessary support and education of the child. They are also liable for the child's funeral expenses. Subject to subsections (2) and (3), based on each parent's ability to pay and on any other relevant factor, the court may apportion, in the same manner as medical expenses of the child are divided under the child support formula, the reasonable and necessary expenses of the mother's confinement and expenses in connection with her pregnancy between the parents and require the parent who did not pay the expense to pay his or her share of the expense to the other parent. At the request of a person other than a parent who has paid the expenses of the mother's confinement or expenses in connection with her pregnancy, the court may order a parent against whom the request is made to pay to the person other than a parent the parent's share of the expenses.

(2) If a pregnancy or a complication of a pregnancy has been determined in another proceeding to have been the result of either a physical or sexual battery by a party to the case, the court shall apportion these expenses to the party who was the perpetrator of the battery.

(3) If medicaid has paid the confinement and pregnancy expenses of a mother under this section, the court shall not apportion confinement and pregnancy expenses to the mother. After the effective date of the amendatory act that added this subsection, based on the father's ability to pay and any other relevant factor, the court may apportion not more than 100% of the reasonable and necessary confinement and pregnancy costs to the father.

(4) The court shall admit in proceedings under this act a bill for funeral expenses, expenses of the mother's confinement, or expenses in connection with the mother's pregnancy, which bill constitutes prima facie evidence of the amount of those expenses, without third party foundation testimony.

(5) If the father dies, an order of filiation or a judicially approved settlement made before his death is enforceable against his estate in the same manner and way as a divorce decree.

(6) As used in this section, "medicaid" means the medical assistance program administered by the state under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2004.

This act is ordered to take immediate effect.
Approved July 14, 2004.
Filed with Secretary of State July 14, 2004.

[No. 205]

(HB 4771)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes

of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2529 (MCL 600.2529), as amended by 2003 PA 178.

The People of the State of Michigan enact:

600.2529 Fees paid to clerk of circuit court; sums held as payment in full; payment of fees to county treasurer; deposit to fund created under MCL 400.236a; waiving or suspending fees; affidavit of indigency or inability to pay.

Sec. 2529. (1) In the circuit court, the following fees shall be paid to the clerk of the court:

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950m is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the party bringing the action or filing the application shall pay the sum of $150.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month $31.00 to the county treasurer and the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(b) Before the filing of a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the sum of $150.00. For each fee collected under this subdivision, the clerk shall transmit $31.00 to the county treasurer and the balance of the fee to the state treasurer for deposit in the civil filing fee fund created in section 171.

(c) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit $25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) Before entry of a final judgment or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party submitting the judgment or order shall pay 1 of the following fees, which shall be deposited by the county treasurer as provided in section 2530:

(*i*) In an action in which the custody or parenting time of minor children is determined, $80.00.

(*ii*) In an action in which the support of minor children is determined or modified, $40.00. This fee does not apply when a fee is paid under subparagraph (*i*). The court may order a party to reimburse to the other party all or a portion of the fee paid by that other party.

(e) Except as otherwise provided in this section, upon the filing of a motion the sum of $20.00. In conjunction with an action brought under section 2950 or 2950a, a motion fee shall not be collected for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. A motion fee shall not be collected for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950m. A motion fee shall not be

collected for a request for a hearing to contest income withholding under section 7 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.607. For each fee collected under this subdivision, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(g) Upon appeal to the court of appeals or the supreme court, the sum of $25.00.

(h) The sum of $15.00 as a service fee for each writ of garnishment, attachment, execution, or judgment debtor discovery subpoena issued.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) At the end of each month, the clerk shall transmit for each fee collected under subsection (1)(d) $10.00 to the state treasurer for deposit in the fund created by section 6a of the office of child support act, 1971 PA 174, MCL 400.236a. The balance of the fee collected under subsection (1)(d)(*i*) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530 to be used to fund services that are not title IV-D services. The balance of the fee collected under subsection (1)(d)(*ii*) shall be paid to the county treasurer and deposited by the county treasurer as provided under section 2530.

(5) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(6) If the person filing an action under subsection (1)(d) is a public officer acting in his or her official capacity, if the order is submitted with the initial filing as a consent order, or other good cause is shown, the court shall order the fee under subsection (1)(d) waived or suspended. If a fee is waived or suspended and the action is contested, the court may require that 1 or more of the parties to the action pay the fee under subsection (1)(d).

Effective date.

Enacting section 1. This amendatory act shall take effect October 1, 2004.

This act is ordered to take immediate effect.
Approved July 14, 2004.
Filed with Secretary of State July 14, 2004.

[No. 206]

(HB 4772)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the

court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 7, 13, 27, 33, 35, and 42a (MCL 552.607, 552.613, 552.627, 552.633, 552.635, and 552.642a), section 7 as amended by 2002 PA 572, section 13 as amended by 1998 PA 334, section 27 as amended by 2001 PA 106, sections 33 and 35 as amended by 2002 PA 567, and section 42a as added by 2002 PA 568.

The People of the State of Michigan enact:

552.607 Notice of arrearage to payer; contents; sending copy of notice to recipient; request for hearing; time of hearing; de novo hearing; consolidation of hearings; completion of proceedings; review by friend of the court office.

Sec. 7. (1) For a friend of the court case, if income withholding is not immediately effective and the arrearage under a support order reaches the arrearage amount that requires the initiation of 1 or more support enforcement measures as provided in section 11 of the friend of the court act, MCL 552.511, or, if the amount of income withholding is administratively adjusted for arrears under section 17e of the friend of the court act, MCL 552.517e, the office of the friend of the court immediately shall send notice of the arrearage to the payer by ordinary mail to his or her last known address. The notice to the payer shall contain the following information:

(a) The amount of the arrearage.

(b) One or both of the following:

(*i*) That the payer's income is subject to income withholding and the amount to be withheld.

(*ii*) That the payer's income withholding is being administratively adjusted and the amount of the adjustment.

(c) That income withholding will be applied to current and subsequent employers and periods of employment and other sources of income.

(d) That the order of income withholding is effective and notice to withhold income will be sent to the payer's source of income.

(e) That the payer may request a hearing under subsection (4) in writing within 21 days after the date of the notice to contest the withholding, but only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, and if the notice includes an administrative adjustment of arrears, that the administrative adjustment will cause an unjust or inappropriate result.

(f) That if the hearing is held before a referee, the payer has a right to a de novo hearing before a circuit court judge. The place where a request for hearing under subsection (4) shall be filed.

(g) That if the payer believes that the amount of support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.

(3) A payer to whom notice is sent under subsection (1), within 21 days after the date on which the notice was sent, may request a hearing by filing a request for hearing as provided in the notice and serving a copy on the other party. A hearing concerning

implementation of income withholding that was not previously effective may be requested only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(4) If a payer requests a hearing under subsection (3), the notice and request shall be filed with the court clerk as a motion contesting the proposed action and a referee or circuit judge shall hold a hearing within 14 days after the date of the request. If at the hearing the payer establishes that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, or that periodic implementation of an administrative adjustment of the amount of the periodic payment of arrears to be withheld will cause an unjust or inappropriate result, the income withholding shall be modified or rescinded according to the guidelines established under section 19 of the friend of the court act, MCL 552.519.

(5) If the hearing provided under subsection (4) is held before a referee, either party may request a de novo hearing as provided in section 7 of the friend of the court act, MCL 552.507.

(6) If a petition for modification of the support order is filed by or on behalf of a payer and is pending at the date scheduled for a hearing under subsection (4), the court may consolidate the hearing under subsection (4) and a hearing on the petition for modification.

(7) All proceedings under this section shall be completed within 45 days after the date that notice was sent under subsection (1), unless otherwise permitted by the court upon a showing of good cause.

(8) The friend of the court office may review the objection administratively before a hearing is held before a referee or judge. If the friend of the court office reviews the objection administratively, either party may object and a hearing shall be held before a referee or judge.

552.613 Failure to comply with order; contempt; finding; initiation of proceedings; jurisdiction.

Sec. 13. The court may find a source of income in contempt, require the source of income to pay an amount according to section 11a(2) if the terms of that section have been satisfied, and fine the source of income if the source of income is served with a notice of income withholding and fails to comply with the notice or to pay withheld amounts to the friend of the court after the order becomes binding under section 11. The IV-D agency is responsible for initiating contempt proceedings under this section. Contempt proceedings under this section may be initiated in any county with jurisdiction over the source of income.

552.627 Other enforcement action.

Sec. 27. (1) Under the Michigan court rules, the circuit court may take other enforcement action under applicable laws, including, but not limited to, the following:

(a) 1846 RS 84, MCL 552.1 to 552.45.

(b) 1913 PA 379, MCL 552.151 to 552.156.

(c) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(d) Section 1701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1701.

(e) 1968 PA 293, MCL 722.1 to 722.6.

(f) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(g) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(2) Even if another act of this state provides that this act applies to support orders issued under the other act, if that other act contains a specific provision regarding the contents or enforcement of the support order that conflicts with this act, the other act controls in regard to that provision.

(3) Nothing in this section authorizes the IV-D agency to pursue enforcement action under applicable laws except as otherwise specifically authorized by statute or court rule.

552.633 Finding payer in contempt; presumption; proof of currently available resources; orders; noncompliance with arrearage payment schedule; suspension of license.

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

(a) Committing the payer to the county jail.

(b) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.

(c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.

(d) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(e) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(f) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(g) Except as provided by federal law and regulations, ordering the parent to pay a fine of not more than $100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (1)(d) was entered and shall proceed under section 30.

552.635 Finding payer in contempt; orders; release from county jail of unemployed payer who finds employment; noncompliance with arrearage payment schedule; suspension of license.

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and 1 of the following:

(a) The court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(b) The payer has failed to obtain a source of income and has failed to participate in a work activity after referral by the friend of the court.

(2) Upon finding a payer in contempt of court under this section, the court shall, absent good cause to the contrary, immediately order the payer to participate in a work activity and may also do 1 or more of the following:

(a) Commit the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to participate in a work activity.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, condition a suspension of the payer's license, or a combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(c) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(d) Except as provided by federal law and regulations, order the parent to pay a fine of not more than $100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(3) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed if committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

(b) The payer is employed and completes 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (2)(b) was entered and shall proceed under section 30.

552.642a Joint meeting.

Sec. 42a. (1) A joint meeting scheduled by the office of the friend of the court under section 41 of this act or section 17 of the friend of the court act, MCL 552.517, and procedures following a joint meeting are governed by this section.

(2) A joint meeting may take place in person or by means of telecommunications equipment.

(3) Only an individual who completes the training program described in section 19(3)(b) of the friend of the court act, MCL 552.519, shall conduct a joint meeting. At the beginning of a joint meeting, the individual conducting the joint meeting shall do the following:

(a) Advise the parties that the purpose of the meeting is for the parties to reach an accommodation.

(b) Advise the parties that the individual may recommend an order that the court may issue to resolve the dispute.

(4) At the conclusion of a joint meeting, the individual conducting the joint meeting shall do 1 of the following:

(a) If the parties reach an accommodation, record the accommodation in writing and provide a copy to each party.

(b) Submit an order to the court stating the individual's recommendation for resolving the dispute.

(5) If the individual conducting a joint meeting submits a recommended order to the court under subsection (4), the individual shall send a notice to each party who participated in the joint meeting that includes all of the following:

(a) A copy of the recommended order.

(b) Notice that the court may issue the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent.

(c) The place where and time when a written objection can be submitted.

(d) Notice that a party may waive the 21-day objection period by returning a signed copy of the recommendation.

(6) If a party files a written objection within the 21-day limit, the office shall set a court hearing, before a judge or referee, to resolve the dispute. If a party fails to file a written objection within the 21-day limit, the office shall submit the proposed order to the court for entry if the court approves it.

(7) If a hearing under subsection (6) is held before a referee, either party is entitled to a de novo hearing before a judge as provided in section 7 of the friend of the court act, MCL 552.507.

Effective date.

Enacting section 1. This amendatory act takes effect February 28, 2005.

This act is ordered to take immediate effect.
Approved July 14, 2004.
Filed with Secretary of State July 14, 2004.

[No. 207]

(HB 4773)

AN ACT to amend 1982 PA 294, entitled "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers,

and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts," by amending sections 17, 17b, and 19 (MCL 552.517, 552.517b, and 552.519), sections 17 and 17b as amended by 2002 PA 571 and section 19 as amended by 2002 PA 569.

The People of the State of Michigan enact:

552.517 Review of child support order after final judgment; notices and conduct of review; modification order; certain determinations requiring report; contents of report; petition for modification; scheduling of hearing; objection to determination of no change in order; petition to require dependent health care coverage; costs.

Sec. 17. (1) After a final judgment containing a child support order has been entered in a friend of the court case, the office shall periodically review the order, as follows:

(a) If a child is being supported in whole or in part by public assistance, not less than once each 36 months unless both of the following apply:

(*i*) The office receives notice from the department that good cause exists not to proceed with support action.

(*ii*) Neither party has requested a review.

(b) At the initiative of the office, if there are reasonable grounds to believe that the amount of child support awarded in the judgment should be modified or that dependent health care coverage is available and the support order should be modified to include an order for health care coverage. Reasonable grounds to review an order under this subdivision include temporary or permanent changes in the physical custody of a child that the court has not ordered, increased or decreased need of the child, probable access by an employed parent to dependent health care coverage, or changed financial conditions of a recipient of support or a payer including, but not limited to, application for or receipt of public assistance, unemployment compensation, or worker's compensation; or incarceration or release from incarceration after a criminal conviction and sentencing to a term of more than 1 year. Within 14 days after receiving information that a recipient of support or payer is incarcerated or released from incarceration as described in this subsection, the office shall initiate a review of the order. A review initiated by the office under this subdivision does not preclude the recipient of support or payer from requesting a review under subdivision (d).

(c) At the direction of the court.

(d) Upon receipt of a written request from either party. Within 14 days after receipt of the review request, the office shall determine whether the order is due for review. The office is not required to investigate more than 1 request received from a party each 36 months.

(e) If a child is receiving medical assistance, not less than once each 36 months unless either of the following applies:

(*i*) The order requires provision of health care coverage for the child and neither party has requested a review.

(*ii*) The office receives notice from the family independence agency that good cause exists not to proceed with support action and neither party has requested a review.

(f) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 36 months. Within 14 days after receipt of a review request, the office shall determine whether an order is due for review.

(2) Within 180 days after determining that a review is required under subsection (1), the office shall send notices as provided in section 17b, conduct a review, and obtain a modification of the order if appropriate.

(3) The office shall use the child support formula developed by the bureau under section 19 in calculating the child support award.

(4) The office shall petition the court if modification is determined to be necessary unless either of the following applies:

(a) The difference between the existing and projected child support award is within the minimum threshold for modification of a child support amount as established by the formula.

(b) The court previously determined that application of the formula was unjust or inappropriate and the office determines that the facts of the case and the reasons and amount of the prior deviation remain unchanged.

(5) The notice under section 17b(3) constitutes a petition for modification of the support order and shall be filed with the court.

(6) If the office determines there should be no change in the order and a party objects to the determination in writing to the office within 21 days after the date of the notice provided for in section 17b(3), the office shall schedule a hearing before the court.

(7) If a support order lacks provisions for health care coverage, the office shall petition the court for a modification to require that 1 or both parents obtain or maintain health care coverage for the benefit of each child who is subject to the support order if either of the following is true:

(a) Either parent has health care coverage available, as a benefit of employment, for the benefit of the child at a reasonable cost.

(b) Either parent is self-employed, maintains health care coverage for himself or herself, and can obtain health care coverage for the benefit of the child at a reasonable cost.

(8) The office shall determine the costs to each parent for dependent health care coverage and child care costs and shall disclose those costs in the recommendation under section 17b(3).

552.517b Review of order; notice of right to request; notice of review; calculation of support amount; objection; joint meeting expediting resolution of support issues; recommendation; modification; frequency of review.

Sec. 17b. (1) Child support orders entered after the effective date of the 2004 amendatory act that added subsection (8) shall be modified according to this section. For each support order entered before the effective date of the 2004 amendatory act that added subsection (8), the friend of the court office shall provide notice to the parties of their right to a review under this section as required by federal law. Notices under this subsection may be placed in court orders as allowed by federal law.

(2) The friend of the court office shall initiate proceedings to review support by sending a notice to the parties. The notice shall request information sufficient to allow the friend of the court to review support, state the date the information is due, and advise the parties concerning how the review will be conducted.

(3) After the information in subsection (2) is due, but not sooner than 21 days or later than 120 days after the date the notice is sent, the friend of the court office shall calculate the support amount in accordance with the child support formula and send a notice to each party and his or her attorney, which shall include all of the following:

(a) The amount calculated for support.

(b) The proposed effective date of the support amount.

(c) Substantially the following statement: "Either party may object to the recommended support amount. If no objection is filed within 21 days of the date this notice was mailed, an order will be submitted to the court incorporating the new support amount." The notice also shall inform the parties of how and where to file an objection.

(4) Twenty-one or more days from the date the notice required by subsection (3) is sent, the friend of the court office shall determine if an objection has been filed. If an objection has been filed, the friend of the court shall set the matter for a hearing before a judge or referee or, if the office receives additional information with the objection, it may recalculate the support amount and send out a revised notice in accordance with subsection (3). If no objection is filed, the friend of the court office shall prepare an order which the court shall enter if it approves of the order.

(5) The friend of the court may schedule a joint meeting between the parties to attempt to expedite resolution of support issues in accordance with the guidelines set forth in section 19(3)(m). The joint meeting and proceedings following the joint meeting are subject to the requirements of section 42a of the support and parenting time enforcement act, MCL 552.642a.

(6) The following provisions apply to support review proceedings under this section:

(a) A recommendation under subsection (3) shall state the calculations upon which the support amount is based. If the friend of the court office recommends a support amount based on imputed income, the recommendation shall also state the amount that would have been recommended based on the actual income of the parties if the actual income of the parties is known. If income is imputed, the recommendation shall recite all factual assumptions upon which the imputed income is based.

(b) The friend of the court office may impute income to a party who fails or refuses to provide information requested under subsection (2).

(c) At a hearing based on an objection to a friend of the court office recommendation, the trier of fact may consider the friend of the court office's recommendation as evidence to prove a fact relevant to the support calculation when no other evidence is presented concerning that fact, if the parties agree or no objection is made to its use for that purpose.

(7) The court shall not require proof of a substantial change in circumstances to modify a child support order when support is adjusted under section 17(1).

(8) A party may also file a motion to modify support. Upon motion of a party, the court may only modify a child support order upon finding a substantial change in circumstances, including, but not limited to, health care coverage becoming newly available to a party and a change in the support level under section 17(4)(a).

(9) Notwithstanding any other provisions of this section, the friend of the court office shall conduct a more frequent review of the support order upon presentation by a party of evidence of a substantial change in circumstances as set forth in the child support formula guidelines.

552.519 State friend of the court bureau; creation; supervision and direction; main office; duties; state advisory committee; report or recommendation; reimbursement for expenses; meetings; assistance.

Sec. 19. (1) The state friend of the court bureau is created within the state court administrative office, under the supervision and direction of the supreme court.

(2) The bureau shall have its main office in Lansing.

(3) The bureau shall do all of the following:

(a) Develop and recommend guidelines for conduct, operations, and procedures of the office and its employees, including, but not limited to, the following:

(*i*) Case load and staffing standards for employees who perform domestic relations mediation functions, investigation and recommendation functions, referee functions, enforcement functions, and clerical functions.

(*ii*) Orientation programs for clients of the office.

(*iii*) Public educational programs regarding domestic relations law and community resources, including financial and other counseling, and employment opportunities.

(*iv*) Procedural changes in response to the type of grievances received by an office.

(*v*) Model pamphlets and procedural forms, that shall be distributed to each office.

(*vi*) A formula to be used in establishing and modifying a child support amount and health care obligation. The formula shall be based upon the needs of the child and the actual resources of each parent. The formula shall establish a minimum threshold for modification of a child support amount. The formula shall consider the child care and dependent health care coverage costs of each parent. The formula shall include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support.

(b) Provide training programs for the friend of the court, domestic relations mediators, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules. After September 30, 2002, the training programs shall include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(c) Gather and monitor relevant statistics.

(d) Annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the legislature and to each office and shall be made available to the public. The annual report required by this subdivision shall include, but is not limited to, all of the following:

(*i*) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each citizen advisory committee during the preceding year.

(*ii*) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all citizen advisory committees in the state during the preceding year.

(*iii*) An identification of problems that impede the efficiency of the activities and functioning of the citizen advisory committees and the satisfaction of the users of the committees' services.

(e) Develop and recommend guidelines to be used by an office in determining whether or not parenting time has been wrongfully denied by the custodial parent.

(f) Develop standards and procedures for the transfer of part or all of the responsibilities for a case from one office to another in situations considered appropriate by the bureau.

(g) Certify domestic relations mediation training programs as provided in section 13.

(h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, giving preference to a member of a citizen advisory committee:

(*i*) Three public members who have had contact with an office of the friend of the court.

(*ii*) Three attorneys who are members of the state bar of Michigan and whose practices are primarily domestic relations law. Not more than 1 attorney may be a circuit court judge.

(*iii*) Three human service professionals who provide family counseling.

(i) Cooperate with the office of child support in developing and implementing a statewide information system as provided in the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(j) Develop and make available guidelines to assist the office of the friend of the court in determining the appropriateness in individual cases of the following:

(*i*) Imposing a lien or requiring the posting of a bond, security, or other guarantee to secure the payment of support.

(*ii*) Implementing the offset of a delinquent payer's state income tax refund.

(k) Develop and provide the office of the friend of the court with all of the following:

(*i*) Form motions, responses, and orders for use by an individual in requesting the court to modify his or her child support, custody, or parenting time order, or in responding to a motion for modification without the assistance of legal counsel.

(*ii*) Instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.

(*iii*) Guidelines for imputing income for the calculation of child support.

(*l*) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.

(m) In consultation with the domestic violence prevention and treatment board created in section 2 of 1978 PA 389, MCL 400.1502, develop guidelines for the implementation of section 41 of the support and parenting time enforcement act, MCL 552.641, that take into consideration at least all of the following regarding the parties and each child involved in a dispute governed by section 41 of the support and parenting time enforcement act, MCL 552.641:

(*i*) Domestic violence.

(*ii*) Safety of the parties and child.

(*iii*) Uneven bargaining positions of the parties.

(4) The state advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. The bureau shall make a state advisory committee report or recommendation available to the public. State advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, under the schedule for reimbursement established annually by the legislature. A state advisory committee meeting is open to the public. A member of the public

attending a state advisory committee meeting shall be given a reasonable opportunity to address the committee on any issue under consideration by the committee. If a vote is to be taken by the state advisory committee, the opportunity to address the committee shall be given before the vote is taken.

(5) The bureau may call upon each office of the friend of the court for assistance in performing the duties imposed in this section.

Effective date.

Enacting section 1. This amendatory act takes effect June 30, 2005.

This act is ordered to take immediate effect.
Approved July 14, 2004.
Filed with Secretary of State July 14, 2004.

[No. 208]

(HB 4774)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2 and 3a (MCL 552.602 and 552.603a), section 2 as amended by 2002 PA 572 and section 3a as amended by 2003 PA 276, and by adding section 3d.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state: