(d) If a county has multiple emergency telephone districts, money for that county shall be distributed as provided in the emergency telephone districts' final 9-1-1 service plans.

(8) If a county with a final 9-1-1 plan in place does not accept 9-1-1 calls through the direct dispatch method, relay method, or transfer method from a CMRS user, the revenues available to the county under this section shall be disbursed to the public agency or county responsible for accepting and responding to those calls.

(9) In addition to the requirements of this subsection, a county is not eligible to receive disbursements under subsection (6)(a) or (b) unless the county is compliant with the wireless emergency service order and this act. A county shall be compliant with phase 1 implementation by June 30, 2004 and phase 2 implementation by June 30, 2005. A county that is not compliant with phase 1 implementation by June 30, 2004 and phase 2 implementation by June 30, 2005 shall use the disbursements received under subsection (6)(a) and (b) only for purposes of becoming compliant. A county that is not compliant with phase 1 implementation by December 31, 2004 and phase 2 implementation by December 31, 2005 is not eligible to receive disbursements under subsection (6)(a) and (b). Once the committee determines that a county that is not eligible to receive disbursements is compliant, the county shall begin receiving disbursements again under subsection (6)(a) and (b). As used in this subsection, "compliant" means the county has installed equipment that is capable, and at a state of readiness, to deploy wireless service for all CMRS providers within a county's 9-1-1 service district or districts.

(10) From each service charge billed under subsection (1), each CMRS supplier or reseller who billed the customer shall retain 1/2 of 1 cent to cover the costs of billing and collection as the only reimbursement from this charge for billing and collection costs.

(11) Notwithstanding any other provision of this act, the commission, following a contested case, shall issue an order within 180 days of the effective date of the amendatory act that added this subsection establishing the costs that a local exchange provider may recover in terms of the costs related to the wireless emergency service order. Any cost reimbursement allowed under this subsection shall not include a cost that is not related to complying with the wireless emergency service order. After the commission has issued the order, a local exchange provider may submit an invoice to the commission for reimbursement from the CMRS emergency telephone fund for costs incurred that are allowed under the commission order. Within 45 days after the date an invoice is submitted to the commission, the commission shall make a recommendation to the committee for the approval, either in whole or in part, or the denial of the invoice. The committee shall authorize payment of an invoice in accordance with the commission's recommendation. As used in this subsection:

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

(b) "Local exchange provider" means a provider of regulated basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(12) A CMRS supplier or reseller is not liable for an uncollected service charge billed under subsection (1) for which the CMRS supplier or reseller has billed the CMRS user. If only a partial payment of a bill is received by a CMRS supplier or reseller, the CMRS supplier or reseller shall credit the amount received as follows in priority order:

(a) For services provided.

(b) For the reimbursement under subsection (10).

(c) For the balance of the service charge.

(13) Amounts received under subsection (12)(c) shall be forwarded to the CMRS emergency telephone fund created in section 407. Any uncollected portion of the service charge that is not received shall be billed on subsequent billings and, upon receipt, amounts in excess of the reimbursement under subsection (10) shall be forwarded to the CMRS emergency telephone fund created in section 407. The service charge paid by a CMRS user is not subject to a state or local tax.

(14) A CMRS supplier or reseller shall implement the billing provisions of this section not later than October 26, 1999.

(15) The department of state police shall annually prepare a list of projects in priority order that the department of state police recommends for funding from the funds collected under former section 409(e). The legislature shall annually review and approve projects by law. If a project provides infrastructure or equipment for use by CMRS suppliers, the department of state police shall charge a reasonable fee for use of the infrastructure or equipment. Fees collected under this subsection shall be deposited in the fund.

484.1411 Use of funds.

Sec. 411. (1) A CMRS supplier may use money received from the CMRS emergency telephone fund created in section 407 for monthly recurring costs, start-up costs, and nonrecurring costs associated with installation, service, software, and hardware necessary to comply with the wireless emergency service order and this act.

(2) If the total amount from the invoices approved for payment under section 410 exceeds the amount remaining in the CMRS emergency telephone fund created in section 407 in any quarter, all CMRS suppliers that have submitted invoices and that are approved by the committee to receive payment shall receive a pro rata share of the money in the fund that is available in that quarter.

484.1602 Hearing dispute as contested case.

Sec. 602. Except for commercial mobile radio service and a local exchange provider as defined under section 408, a dispute between or among 1 or more service suppliers, counties, public agencies, public service agencies, or any combination of those entities regarding their respective rights and duties under this act shall be heard as a contested case before the public service commission as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

484.1711 "Committee" defined.

Sec. 711. As used in this act, "committee" means the emergency telephone service committee created in section 712.

Repeal of enacting section 1 of 1999 PA 78; repeal of MCL 484.1409.

Enacting section 1. (1) Enacting section 1 of 1999 PA 78 is repealed.

(2) Section 409 of the emergency telephone service enabling act, 1986 PA 32, MCL 484.1409, is repealed.

Effective date.

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

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 245]

(SB 710)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 20 of chapter XII (MCL 712.20), as added by 2000 PA 235.

The People of the State of Michigan enact:

CHAPTER XII

712.20 Safe delivery program; establishment.

Sec. 20. The department of community health in conjunction with the department shall establish a safe delivery program. The safe delivery program shall include, but is not limited to, both of the following:

(a) A toll-free, 24-hour telephone line. The information provided with this telephone line shall include, but is not limited to, all of the following:

(*i*) Information on prenatal care and the delivery of a newborn.

(*ii*) Names of health agencies that can assist in obtaining services and supports that provide for the pregnancy-related health of the mother and the health of the baby.

(*iii*) Information on adoption options and the name and telephone number of a child placing agency that can assist a parent or expecting parent in obtaining adoption services.

(*iv*) Information that, in order to safely provide for the health of the mother and her newborn, the best place for the delivery of a child is in a hospital, hospital-based birthing center, or birthing center that is accredited by the commission for the accreditation of birth centers.

(*v*) An explanation that, to the extent of the law, prenatal care and delivery services are routinely confidential within the health care system, if requested by the mother.

(*vi*) Information that a hospital will take into protective custody a newborn that is surrendered as provided for in this chapter and, if needed, provide emergency medical assistance to the mother, the newborn, or both.

(*vii*) Information regarding legal and procedural requirements related to the voluntary surrender of a child as provided for in this chapter.

(*viii*) Information regarding the legal consequences for endangering a child, including child protective service investigations and potential criminal penalties.

(*ix*) Information that surrendering a newborn for adoption as provided in this chapter is an affirmative defense to charges of abandonment as provided in section 135 of the Michigan penal code, 1931 PA 328, MCL 750.135.

(*x*) Information about resources for counseling and assistance with crisis management.

(b) A pamphlet that provides information to the public concerning the safe delivery program. The department of community health and the department shall jointly publish and distribute the pamphlet. The pamphlet shall prominently display the toll-free telephone number prescribed by subdivision (a).

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 246]

(SB 700)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 89a (MCL 211.89a), as added by 1994 PA 189, and by adding section 89b.

The People of the State of Michigan enact:

211.89a City containing first class school district; return of uncollected delinquent taxes to city treasurer; personal liability; right of city to bring in personam action; remittance by county treasurer; "first class school district" defined.

Sec. 89a. (1) Notwithstanding the provisions of a charter of a county adopted pursuant to 1966 PA 293, MCL 45.501 to 45.521, or the provisions of the charter of a home rule city, to the contrary, the city treasurer of a city that contains a first class school district shall return all uncollected delinquent taxes levied on real property after December 31, 2002 on the March 1 immediately following the year in which the taxes are levied. For the purposes of this section, delinquent taxes include all interest and penalties that accrue after August 15 of the year in which all taxes billed by the city are levied if that interest and penalty remain unpaid on the date the delinquent taxes are returned to the county treasurer.

(2) The city treasurer of a city that contains a first class school district may return all uncollected delinquent taxes levied in 2001, 2002, or 2001 and 2002 to the county treasurer for collection under this section on March 1, 2004. A city treasurer shall provide the county treasurer written notice of his or her intent to return uncollected delinquent taxes levied in 2001 or 2002 under this subsection not later than February 1, 2004. If uncollected delinquent taxes levied in 2001 or 2002 are returned to the county treasurer for collection

under this subsection, the county treasurer shall collect those taxes with taxes returned as delinquent in 2004.

(3) After the delinquent taxes levied on real property are returned to the county treasurer for collection under this section, the provisions of this act apply for collection of those taxes and, except for taxes levied on or before December 31, 2002, for the issuance of notes in anticipation of the collection of those taxes.

(4) A judgment entered under section 78k that extinguishes any lien for unpaid taxes or special assessments does not extinguish the right of the city to bring an in personam action under this act or its charter to enforce personal liability for those unpaid taxes or special assessments. The city may bring an in personam action to enforce personal liability for unpaid delinquent taxes levied prior to January 1, 2003 or special assessments not returned as delinquent under this section within 15 years after the taxes or special assessments are levied.

(5) If a city treasurer returns uncollected delinquent taxes levied on real property on or before December 31, 2002 to the county treasurer for collection under this section, the county treasurer shall remit to the city treasurer after each month the taxes and interest collected during that month.

(6) As used in this section, "first class school district" means a school district organized as a school district of the first class under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

211.89b City containing first class school district; taxes levied after December 31, 2003; "first class school district" defined.

Sec. 89b. (1) For taxes levied after December 31, 2003, notwithstanding the provisions of a charter of a county adopted pursuant to 1966 PA 293, MCL 45.501 to 45.521, or the provisions of the charter of a home rule city, to the contrary, a city containing a first class school district shall do all of the following:

(a) Prepare and submit to each taxpayer a statement indicating the amount of tax levied on real and personal property by all taxing jurisdictions authorized to levy a general ad valorem property tax in that city.

(b) Collect the tax levied on real and personal property by all taxing jurisdictions authorized to levy a general ad valorem property tax in that city.

(2) As used in this section, "first class school district" means a school district organized as a school district of the first class under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 247]

(HB 5168)

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

forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending sections 7cc, 7ee, 24c, and 154 (MCL 211.7cc, 211.7ee, 211.24c, and 211.154), sections 7cc and 24c as amended by 2003 PA 140, section 7ee as amended by 2003 PA 105, and section 154 as amended by 2000 PA 281.

The People of the State of Michigan enact:

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

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

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

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

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

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

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

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

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

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

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

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

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill

shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

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

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and

penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

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

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee believes that the property for which an

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

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a

period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

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

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

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

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

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the

affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have

accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 70%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 70%.

(*iii*) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. 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. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative

housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

211.7ee Qualified agricultural property exemption from tax levied by local school district for school operating purposes; procedures.

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd. An owner is required to file a new claim for exemption on the same property as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) An owner of property that is qualified agricultural property on May 1 for which an exemption was not on the tax roll may file an appeal with the July or December board of review in the year the exemption was claimed or the immediately succeeding year. An owner of property that is qualified agricultural property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If an exemption under this section is erroneously granted, an owner may request in writing that the local tax collecting unit withdraw the exemption. If an owner requests that an exemption be withdrawn, the local assessor shall notify the owner that the exemption issued under this section has been denied based on that owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by the local assessor regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

211.24c Notice of increase in tentative state equalized valuation or tentative taxable value; contents; required information and forms; addressing and mailing assessment notice; effect of failure to send or receive assessment notice; calculation of tentative equalized valuation; model assessment notice form; statement; separate statement.

Sec. 24c. (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first-class mail of an increase in the tentative state equalized valuation or the tentative taxable value for the year. The notice shall specify each parcel of property, the tentative taxable value for the current year, and the taxable value for the immediately preceding year. The notice shall also specify the time and place of the meeting of the board of review. The notice shall also specify the difference between the property's tentative taxable value in the current year and the property's taxable value in the immediately preceding year.

(2) The notice shall include, in addition to the information required by subsection (1), all of the following:

(a) The state equalized valuation for the immediately preceding year.

(b) The tentative state equalized valuation for the current year.

(c) The net change between the tentative state equalized valuation for the current year and the state equalized valuation for the immediately preceding year.

(d) The classification of the property as defined by section 34c.

(e) The inflation rate for the immediately preceding year as defined in section 34d.

(f) A statement provided by the state tax commission explaining the relationship between state equalized valuation and taxable value. If the assessor believes that a transfer of ownership has occurred in the immediately preceding year, the statement shall state that the ownership was transferred and that the taxable value of that property is the same as the state equalized valuation of that property.

(3) When required by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the assessment notice shall include or be accompanied by information or forms prescribed by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) The assessment notice shall be addressed to the owner according to the records of the assessor and mailed not less than 10 days before the meeting of the board of review. The failure to send or receive an assessment notice does not invalidate an assessment roll or an assessment on that property.

(5) The tentative state equalized valuation shall be calculated by multiplying the assessment by the tentative equalized valuation multiplier. If the assessor has made assessment adjustments that would have changed the tentative multiplier, the assessor may recalculate the multiplier for use in the notice.

(6) The state tax commission shall prepare a model assessment notice form that shall be made available to local units of government.

(7) The assessment notice under subsection (1) shall include the following statement:

"If you purchased your principal residence after May 1 last year, to claim the principal residence exemption, if you have not already done so, you are required to file an affidavit before May 1.".

(8) For taxes levied after December 31, 2003, the assessment notice under subsection (1) shall separately state the state equalized valuation and taxable value for any leasehold improvements.

211.154 Incorrect reporting or omission of property liable to taxation; placement of corrected assessment value on assessment roll; certification of taxes due; change in assessment; collection of additional taxes; penalty and interest; refund of excess tax payments; appeal.

Sec. 154. (1) If the state tax commission determines that property subject to the collection of taxes under this act, including property subject to taxation under 1974 PA 198, MCL 207.551 to 207.572, 1905 PA 282, MCL 207.1 to 207.21, 1953 PA 189, MCL 211.181 to 211.182, and the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, has been incorrectly reported or omitted for any previous year, but not to exceed the current assessment year and 2 years immediately preceding the date the incorrect reporting or omission was discovered and disclosed to the state tax commission, the state tax commission shall place the corrected assessment value for the appropriate years on the appropriate assessment roll. The state tax commission shall issue an order certifying to the treasurer of the local tax collecting unit if the local tax collecting unit has possession of a tax roll for a year for which an assessment change is made or the county treasurer if the county has possession of a tax roll for a year for which an assessment change is made the amount of taxes due as computed by the correct annual rate of taxation for each year except the current year. Taxes computed under this section shall not be spread against the property for a period before the last change of ownership of the property.

(2) If an assessment change made under this section results in increased property taxes, the additional taxes shall be collected by the treasurer of the local tax collecting unit if the local tax collecting unit has possession of a tax roll for a year for which an

assessment change is made or by the county treasurer if the county has possession of a tax roll for a year for which an assessment change is made. Not later than 20 days after receiving the order certifying the amount of taxes due under subsection (1), the treasurer of the local tax collecting unit if the local tax collecting unit has possession of a tax roll for a year for which an assessment change is made or the county treasurer if the county has possession of a tax roll for a year for which an assessment change is made shall submit a corrected tax bill, itemized by taxing jurisdiction, to each person identified in the order and to the owner of the property on which the additional taxes are assessed, if different than a person named in the order, by first-class mail, address correction requested. Except for real property subject to taxation under 1974 PA 198, MCL 207.551 to 207.572, 1905 PA 282, MCL 207.1 to 207.21, 1953 PA 189, MCL 211.181 to 211.182, and the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, and for real property only, if the additional taxes remain unpaid on the March 1 in the year immediately succeeding the year in which the state tax commission issued the order certifying the additional taxes under subsection (1), the real property on which the additional taxes are due shall be returned as delinquent to the county treasurer. Real property returned for delinquent taxes under this section, and upon which taxes, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a.

(3) Except as otherwise provided in subsection (4), a corrected tax bill based on an assessment roll corrected for incorrectly reported or omitted personal property that is issued after the effective date of the amendatory act that added this subsection shall include penalty and interest at the rate of 1.25% per month or fraction of a month from the date the taxes originally could have been paid without interest or penalty. If the tax bill has not been paid within 60 days after the corrected tax bill is issued, interest shall again begin to accrue at the rate of 1.25% per month or fraction of a month.

(4) If a person requests that an increased assessment due to incorrectly reported or omitted personal property be added to the assessment roll under this section before March 1, 2004 with respect to statements filed or required to be filed under section 19 for taxes levied before January 1, 2004, and the corrected tax bill issued under this subsection is paid within 30 days after the corrected tax bill is issued, that person is not liable for any penalty or interest on that portion of the additional tax attributable to the increased assessment resulting from that request. However, a person who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest imposed under subsection (3).

(5) Except as otherwise provided in this section, the treasurer of the local tax collecting unit or the county treasurer shall disburse the payments of interest received to this state and to a city, township, village, school district, county, and authority, in the same proportion as required for the disbursement of taxes collected under this act. The amount to be disbursed to a local school district, except for that amount of interest attributable to mills levied under section 1211(2) or 1211c of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1211c, and mills that are not included as mills levied for school operating purposes under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963. For an intermediate school district receiving state aid under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the interest that would otherwise be disbursed to or retained by the intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of the state school aid, shall be paid

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

(6) If an assessment change made under this section results in a decreased tax liability, a refund of excess tax payments shall be made by the county treasurer and shall include interest at the rate of 1% per month or fraction of a month for taxes levied before January 1, 1997 and interest at the rate provided under section 37 of the tax tribunal act, 1973 PA 186, MCL 205.737, for taxes levied after December 31, 1996, from the date of the payment of the tax to the date of the payment of the refund. The county treasurer shall charge a refund of excess tax payments under this subsection to the various taxing jurisdictions in the same proportion as the taxes levied.

(7) A person to whom property is assessed under this section may appeal the state tax commission's order to the Michigan tax tribunal.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 248]

(HB 5255)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 3, 4, 5, 6, 8, and 10 (MCL 207.803, 207.804, 207.805, 207.806, 207.808, and 207.810), section 3 as amended by 2000 PA 428 and sections 6 and 8 as amended by 2000 PA 144, and by adding section 8a.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

(a) "Affiliated business" means a business that is 100% owned and controlled by an associated business.

(b) "Associated business" means a business which owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) "Authorized business" means 1 of the following:

(*i*) A single eligible business with a unique federal employer identification number which has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(*ii*) A single eligible business with a unique federal employer identification number which has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by an associated or affiliated business.

(d) "Authority" means the Michigan economic growth authority created under section 4.

(e) "Business" means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) "Distressed business" means a business that meets all of the following as verified by the Michigan economic growth authority:

(*i*) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(*ii*) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(*iii*) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) "Eligible business" means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, or office operations or a business that is a qualified high-technology business. An eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) "Facility" means a site within this state in which an authorized business maintains retained jobs or creates qualified new jobs. A facility does not include a site that was a vaccine laboratory owned by this state on April 1, 1995.

(i) "Full-time job" means a job performed by an individual who is employed by an authorized business or an employee leasing company or professional employer organization on behalf of the authorized business for consideration for 35 hours or more each week and for which the authorized business or an employee leasing company or professional employer organization on behalf of the authorized business withholds income and social security taxes.

(j) "Local governmental unit" means a county, city, village, or township in this state.

(k) "High-technology activity" means 1 or more of the following:

(*i*) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(*ii*) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(*iii*) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(*iv*) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(*v*) Engineering or laboratory testing related to the development of a product.

(*vi*) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(*vii*) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(*viii*) Product research and development.

(*ix*) Advanced vehicles technology that is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) "Electric vehicle" means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) "Hybrid vehicle" means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(*x*) Tool and die manufacturing.

(*l*) "New capital investment" means 1 or more of the following:

(*i*) New construction. As used in this subparagraph:

(A) "New construction" means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) "Replacement construction" means that term as defined in section 34d(1)(b)(*v*) of the general property tax act, 1893 PA 206, MCL 211.34d.

(*ii*) The purchase of new personal property. As used in this subparagraph, "new personal property" means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, on the date the authorized business enters into a written agreement with the authority.

(m) "Qualified high-technology business" means a business that is either of the following:

(*i*) A business with not less than 25% of the total operating expenses of the business used for research and development in the tax year in which the business files an application under this act as determined under generally accepted accounting principles and verified by the authority.

(*ii*) A business whose primary business activity is high-technology activity.

(n) "Qualified new job" means 1 of the following:

(*i*) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(*ii*) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state 120 days before the eligible business became an authorized business, as determined by the authority.

(*iii*) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(o) "Retained jobs" means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(p) "Rural business" means an eligible business located in a county with a population of 75,000 or less.

(q) "Written agreement" means a written agreement made pursuant to section 8.

207.804 Michigan economic growth authority; creation within Michigan strategic fund; duties; membership, appointment, and terms of members; vacancy; compensation; expenses.

Sec. 4. (1) The Michigan economic growth authority is created within the Michigan strategic fund. The Michigan strategic fund shall provide staff for the authority and shall carry out the administrative duties and functions as directed by the authority. The budgeting, procurement, and related functions as directed by the authority are under the supervision of the president of the Michigan strategic fund.

(2) The authority consists of the following 8 members:

(a) The director of the department of labor and economic growth, or his or her designee, as chairperson of the authority.

(b) The state treasurer or his or her designee.

(c) The chief executive officer of the Michigan economic development corporation, or his or her designee.

(d) The director of the state transportation department, or his or her designee.

(e) Four other members appointed by the governor by and with the advice and consent of the senate who are not employed by this state and who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

(3) A member shall be appointed for a term of 4 years, except that of the members first appointed by the governor, 2 shall be appointed for a term of 2 years and 2 for a term of 4 years from the dates of their appointments. A vacancy shall be filled for the balance of the unexpired term in the same manner as an original appointment by the governor and by and with the advice and consent of the senate.

(4) Except as otherwise provided by law, a member of the authority shall not receive compensation for services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his or her duties.

207.805 Michigan economic growth authority; powers; quorum; meetings; business conducted at public meeting; confidential information; written statement; disclosure; "financial or proprietary information" defined.

Sec. 5. (1) The powers of the authority are vested in the authority members in office. Regardless of the existence of a vacancy, a majority of the members of the authority

constitutes a quorum necessary for the transaction of business at a meeting or the exercise of a power or function of the authority. Action may be taken by the authority at a meeting upon a vote of the majority of the members present.

(2) The authority shall meet at the call of the chairperson or as may be provided by the authority. Meetings of the authority may be held anywhere within this state.

(3) The business of the authority shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given as provided by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A record or portion of a record, material, or other data received, prepared, used, or retained by the authority in connection with an application for a tax credit under section 9 that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the authority as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A designee of the authority shall make the determination as to whether the authority acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the authority shall not acknowledge routine financial information as confidential. If the designee of the authority determines that information submitted to the authority is financial or proprietary information and is confidential, the designee of the authority shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the designee of the authority to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

(4) The authority shall not disclose financial or proprietary information not subject to disclosure pursuant to subsection (3) without consent of the applicant submitting the information.

(5) As used in this section, "financial or proprietary information" means information that has not been publicly disseminated or is unavailable from other sources, the release of which might cause the applicant significant competitive harm. Financial or proprietary information does not include a written agreement under this act.

207.806 Michigan economic growth authority; powers.

Sec. 6. The authority shall have powers necessary or convenient to carry out and effectuate the purpose of this act, including, but not limited to, the following:

(a) To authorize eligible businesses to receive tax credits to foster job creation in this state.

(b) To determine which businesses qualify for tax credits under this act.

(c) To determine the amount and duration of tax credits authorized under this act.

(d) To issue certificates and enter into written agreements specifying the conditions under which tax credits are authorized and the circumstances under which those tax credits may be reduced or terminated.

(e) To charge and collect reasonable administrative fees.

(f) To delegate to the chairperson of the authority, staff, or others the functions and powers it considers necessary and appropriate to administer the programs under this act.

(g) To assist an eligible business to obtain the benefits of a tax credit, incentive, or inducement program provided by this act or by law.

(h) To determine the eligibility of and issue certificates to certain qualified taxpayers for credits allowed under section 38g(3) of the single business tax act, 1975 PA 228, MCL 208.38g, and to develop the application process and necessary forms to claim the credit under section 38g(3) of the single business tax act, 1975 PA 228, MCL 208.38g. The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under section 38g(3) of the single business tax act, 1975 PA 228, MCL 208.38g. The report shall include, but is not limited to, all of the following:

(*i*) A listing of the projects under section 38g(3) of the single business tax act, 1975 PA 228, MCL 208.38g, that were approved in the previous calendar year.

(*ii*) The total amount of eligible investment approved under section 38g(3) of the single business tax act, 1975 PA 228, MCL 208.38g, in the previous calendar year.

(i) To approve the capture of school operating taxes and work plans as provided in sections 13 and 15 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2663 and 125.2665.

(j) To approve relocation of public buildings or operations for economic development purposes under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

207.808 Agreement for tax credit; determination; requirements; amount and duration of tax credits; additional requirements; authorization of business; criteria; limitation on new agreements; execution.

Sec. 8. (1) After receipt of an application, the authority may enter into an agreement with an eligible business for a tax credit under section 9 if the authority determines that all of the following are met:

(a) Except as provided in subsection (5), the eligible business creates 1 or more of the following within 12 months of the expansion or location as determined by the authority:

(*i*) A minimum of 75 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 150 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.787, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) A minimum of 5 qualified new jobs at the facility if the eligible business is a qualified high-technology business.

(*v*) A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(*i*) A minimum of 75 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 150 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.787, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(*v*) If the eligible business is a rural business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.

(c) Except as provided in subsection (5), in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the authority.

(d) Except as otherwise provided in this subdivision, the average wage paid for all retained jobs and qualified new jobs is equal to or greater than 150% of the federal minimum wage. However, if the eligible business is a qualified high-technology business, then the average wage paid for all qualified new jobs is equal to or greater than 400% of the federal minimum wage.

(e) Except for a qualified high-technology business, the expansion, retention, or location of the eligible business will not occur in this state without the tax credits offered under this act.

(f) The local governmental unit in which the eligible business will expand, be located, or maintain retained jobs, or a local economic development corporation or similar entity, will make a staff, financial, or economic commitment to the eligible business for the expansion, retention, or location.

(g) The financial statements of the eligible business indicated that it is financially sound and that its plans for the expansion, retention, or location are economically sound.

(h) Except as provided in subsection (5)(c), the eligible business has not begun construction of the facility.

(i) The expansion, retention, or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(j) The tax credits offered under this act are an incentive to expand, retain, or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state.

(k) A cost/benefit analysis reveals that authorizing the eligible business to receive tax credits under this act will result in an overall positive fiscal impact to the state.

(*l*) If feasible, as determined by the authority, in locating the facility, the authorized business reuses or redevelops property that was previously used for an industrial or commercial purpose.

(m) If the eligible business is a qualified high-technology business, the eligible business agrees that not less than 25% of the total operating expenses of the business will be maintained for research and development for the first 3 years of the written agreement.

(2) If the authority determines that the requirements of subsection (1) or (5) have been met, the authority shall determine the amount and duration of tax credits to be authorized under section 9, and shall enter into a written agreement as provided in this section. The duration of the tax credits shall not exceed 20 years or for an authorized business that is a distressed business, 3 years. In determining the amount and duration of tax credits authorized, the authority shall consider the following factors:

(a) The number of qualified new jobs to be created or retained jobs to be maintained.

(b) The average wage level of the qualified new jobs or retained jobs relative to the average wage paid by private entities in the county in which the facility is located.

(c) The total capital investment or new capital investment the eligible business will make.

(d) The cost differential to the business between expanding, locating, or retaining new jobs in Michigan and a site outside of Michigan.

(e) The potential impact of the expansion, retention, or location on the economy of Michigan.

(f) The cost of the credit under section 9, the staff, financial, or economic assistance provided by the local government unit, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(3) A written agreement between an eligible business and the authority shall include, but need not be limited to, all of the following:

(a) A description of the business expansion, retention, or location that is the subject of the agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business and the loss or reduction of future credits under section 9.

(d) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the refund of credits received under section 9.

(e) A method for measuring full-time jobs before and after an expansion, retention, or location of an authorized business in this state.

(f) A written certification from the eligible business regarding all of the following:

(*i*) The eligible business will follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and that this process will be open to all Michigan residents and firms. The eligible business may not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(*ii*) The eligible business will make a good faith effort to employ, if qualified, Michigan residents at the facility.

(*iii*) The eligible business will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(*iv*) The eligible business is encouraged to make a good faith effort to utilize Michigan-based suppliers and vendors when purchasing goods and services.

(4) Upon execution of a written agreement as provided in this section, an eligible business is an authorized business.

(5) After receipt of an application, the authority may enter into a written agreement with an eligible business that meets 1 or more of the following criteria:

(a) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(b) Meets either of the following criteria:

(*i*) Relocates production of a product to this state after the date of the application, makes capital investment of $500,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(*ii*) Makes capital investment of $100,000,000.00 in a time period beginning 3 years prior to and 2 years following becoming an authorized business and agrees to maintain at least 1,500 jobs at the facility without permanent reduction in full-time employment except through attrition or retirement. The credit under this subparagraph can only be granted as part of a package of incentives that addresses international competition and includes a negotiated labor contribution.

(c) Is a distressed business.

(6) The authority shall not execute more than 25 new written agreements each year for eligible businesses that are not qualified high-technology businesses, distressed businesses, or rural businesses. If the authority executes less than 25 new written agreements in a year, the authority may carry forward for 1 year only the difference between 25 and the number of new agreements executed in the immediately preceding year.

(7) The authority shall not execute more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural business. Only 5 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural businesses.

(8) The authority shall not execute more than 20 new written agreements each year for eligible businesses that are distressed businesses. The authority shall not execute more than 5 of the written agreements described in this subsection each year for distressed businesses that had 1,000 or more full-time jobs at a facility 4 years immediately preceding the application to the authority under this act.

207.808a Fee or donation.

Sec. 8a. Beginning on the effective date of the amendatory act that added this section, the authority shall not require an eligible business, as a condition of becoming an authorized business, to pay an unreasonable fee to or make a donation to the Michigan economic development corporation or a foundation or fund associated with the Michigan economic development corporation.

207.810 Report to legislature.

Sec. 10. The authority shall report to both houses of the legislature yearly on October 1 on the activities of the authority. The report shall include, but is not limited to, all of the following:

(a) The total amount of capital investment attracted under this act.

(b) The total number of qualified new jobs created under this act.

(c) The total number of new written agreements.

(d) Name and location of all authorized businesses and the names and addresses of all of the following:

(*i*) The directors and officers of the corporation if the authorized business is a corporation.

(*ii*) The partners of the partnership or limited liability partnership if the authorized business is a partnership or limited liability partnership.

(*iii*) The members of the limited liability company if the authorized business is a limited liability company.

(e) The amount and duration of the tax credit separately for each authorized business.

(f) The amount of any fee, donation, or other payment of any kind from the authorized business to the Michigan economic development corporation or a foundation or fund associated with the Michigan economic development corporation paid or made in the previous reporting year end or, if it is the first reporting year for the authorized business, for the immediately preceding 3 calendar years.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 249]

(HB 5246)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 38g (MCL 208.38g), as amended by 2002 PA 726.

The People of the State of Michigan enact:

208.38g Tax credit; conditions; application for project costing $10,000,000 or less; application to Michigan economic growth authority for project costing $10,000,000 or more; limitations; total credits; criteria; investment on more than 1 property; project completion; tax year credits claimed; leased machinery, equipment, or fixtures; calculation of credits; carryforward provisions; qualified taxpayer; investment related to sports stadium, casino, or landfill; report; amendment of project; project as multiphase; definitions.

Sec. 38g. (1) Subject to the criteria under this section, an eligible taxpayer may claim a credit against the tax imposed by this act as determined under subsections (20) to (25); and subject to the criteria under this section, a qualified taxpayer that has a preapproval

letter issued after December 31, 1999 and before January 1, 2008, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued, or an assignee under subsection (17) or (18) may claim a credit that has been approved under subsection (2) or (3) against the tax imposed by this act equal to either of the following:

(a) If the total of all credits for a project is $1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) If the total of all credits for a project is more than $1,000,000.00 but $30,000,000.00 or less and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (8) paid or accrued by the qualified taxpayer on an eligible property. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be for $10,000,000.00 or less, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The chairperson of the Michigan economic growth authority or his or her designee is authorized to approve an application or project under this subsection. Only the chairperson of the Michigan economic growth authority is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the chairperson of the Michigan economic growth authority or his or her designee does not approve or deny an application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed $30,000,000.00 in any calendar year. The criteria in subsection (6) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed $1,000,000.00. A taxpayer may apply under this subsection instead of subsection (3) for approval of a project that will be for more than $10,000,000.00 but the total of all credits for that project shall not exceed $1,000,000.00. If the chairperson of the Michigan economic growth authority or his or her designee approves a project under this subsection, the chairperson of the Michigan economic growth authority or his or her designee shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(3) If the cost of a project will be for more than $10,000,000.00 and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. The Michigan economic growth authority shall approve or deny the project not

more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within the 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (5). The Michigan economic growth authority shall use the criteria in subsection (6) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (2) for the same project or for another project.

(4) If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(5) The Michigan economic growth authority may approve not more than 15 projects each calendar year under subsection (3), and the following limitations apply:

(a) Of the 15 projects allowed under this subsection, the total of all credits for each project may be more than $10,000,000.00 but $30,000,000.00 or less for up to 3 projects.

(b) Of the 15 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) Of the 3 projects allowed under subdivision (a), 1 may be a project that also qualifies under subdivision (b).

(6) The Michigan economic growth authority shall review all applications for projects under subsection (3) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than $10,000,000.00 but $30,000,000.00 or less only, the Michigan economic growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (3), except that the Michigan economic growth authority may approve 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without determining that the eligible investment would not

occur in this state without the tax credit offered under this section. The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (3) and the chairperson of the Michigan economic growth authority or his or her designee shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or when considering an amendment to a project under subsection (31):

(a) The overall benefit to the public.

(b) The extent of reuse of vacant buildings and redevelopment of blighted property.

(c) Creation of jobs.

(d) Whether the eligible property is in an area of high unemployment.

(e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.

(f) The level of private sector contribution.

(g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.

(i) Whether the financial statements of the qualified taxpayer indicate that it is financially sound and that the project is economically sound.

(j) Any other criteria that the Michigan economic growth authority or the chairperson of the Michigan economic growth authority, as applicable, considers appropriate for the determination of eligibility under subsection (2) or (3).

(7) A qualified taxpayer may apply for projects under subsection (2) or (3) for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(8) When a project under subsection (2) or (3) is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made. The chairperson of the Michigan economic growth authority or his or her designee, for projects approved under subsection (2), or the Michigan economic growth authority, for projects approved under subsection (3), shall verify that the project is completed. The Michigan economic growth authority shall conduct an on-site inspection as part of the verification process. When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2) or (3) as applicable and shall state all of the following:

(a) That the taxpayer is a qualified taxpayer.

(b) The total cost of the project and the eligible investment of each qualified taxpayer.

(c) Each qualified taxpayer's credit amount.

(d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(e) The project number.

(f) For a project approved under subsection (3) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (32), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(9) Except as otherwise provided in this section, qualified taxpayers shall claim credits under subsections (2) and (3) in the tax year in which the certificate of completion is issued. For a project approved under subsection (3) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(10) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the Michigan economic growth authority.

(11) For credits under subsections (2) and (3), credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(12) Each qualified taxpayer and assignee under subsection (17) or (18) that claims a credit under subsection (1)(a) or (b) shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under subsection (2) or (3) is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (32) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(13) Except as otherwise provided in this subsection or subsection (15), (17), (19), or (32), a credit under subsection (2) or (3) shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (8)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(14) The credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under subsections (2) and (3) shall be calculated before the calculation of credits under subsections (20) to (25) and before the credits under sections 37c and 37d.

(15) If the credit allowed under subsection (2) or (3) for the tax year and any unused carryforward of the credit allowed under subsection (2) or (3) exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the

certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under subsection (2) or (3), the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (3) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section.

(16) If a project or credit under subsection (2) or (3) is for the addition of personal property, if the cost of that personal property is used to calculate a credit under subsection (2) or (3), and if the personal property is sold or disposed of or transferred from eligible property to any other location, the qualified taxpayer that sold, disposed of, or transferred the personal property shall add the same percentage as determined pursuant to subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability after application of all credits under this act for the tax year in which the sale, disposition, or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under subsection (2) or (3), the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (15).

(17) For credits under subsections (2) and (3) and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other

procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(18) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit allowed under subsection (2) or (3) to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the Michigan economic growth authority. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the Michigan economic growth authority. The qualified taxpayer shall send a copy of the completed assignment form to the Michigan economic growth authority in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(19) A qualified taxpayer or assignee under subsection (17) or (18) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d was based.

(20) In addition to the other credits allowed under this section and sections 37c and 37d, for tax years that begin after December 31, 1999 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, an eligible

taxpayer may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority that is 1 of the following:

(a) For an eligible business under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 50% of 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to the eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of new capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an eligible business under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(21) An eligible taxpayer shall not claim a credit under subsection (20) unless the Michigan economic growth authority has issued a certificate under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The eligible taxpayer shall attach the certificate to the return filed under this act on which a credit under subsection (20) is claimed.

(22) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit under subsection (20) for each tax year based on each written agreement whether or not a combined or consolidated return is filed.

(23) A credit shall not be claimed by a taxpayer under subsection (20) if the eligible taxpayer's initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, is issued after December 31, 2009. If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under subsection (20) get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under subsection (20), the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under subsection (20) is claimed.

(24) If the credit allowed under subsection (20)(a)(*ii*) or (b)(*ii*) for the tax year and any unused carryforward of the credit allowed by subsection (20)(a)(*ii*) or (b)(*ii*) exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the

tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(25) If the credit allowed under subsection (20)(a)(*i*) or (b)(*i*) exceeds the tax liability of the eligible taxpayer for the tax year, the excess shall be refunded to the eligible taxpayer.

(26) An eligible taxpayer that claims a credit under subsection (1)(a) or (b) is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under both subsections (1)(a) or (b) and (20) based on the same costs.

(27) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under subsection (2) or (3). Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under subsection (2) or (3).

(28) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under subsection (2) or (3). As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(29) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under subsection (2) or (3).

(30) The Michigan economic growth authority annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsection (2). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsection (2) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsection (2) in the calendar year.

(31) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the project is completed, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the Michigan economic growth authority to amend the project. The total of eligible investment for the project as amended shall not exceed the amount allowed in the preapproval letter for that project.

(32) A project under subsection (2) may be a multiphase project but only if the project is an industrial or manufacturing project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the Michigan economic growth authority or the designee of the Michigan economic growth authority, who shall verify that the component is complete. When the completion of the component is verified, a component completion

certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 3 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter for the project under subsection (1)(a). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23, beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter for the entire project.

(33) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, which shall be 10% of the qualified taxpayer's credit amount approved under subsection (3).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Authorized business", "full-time job", "new capital investment", "qualified high-technology business", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Blighted", "brownfield plan", "eligible activities", "eligible property", "facility", "functionally obsolete", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(e) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and after the date that the preapproval letter is issued, except that the date that the preapproval letter is issued is not a limitation for 1 project the construction of which

began after January 1, 2000 and before January 1, 2001 without the Michigan economic growth authority determining that the project would not occur in this state without the tax credit offered under this section as provided in subsection (7), if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures.

(f) "Eligible taxpayer" means an eligible business that meets the criteria under section 8(5) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(g) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(h) "Multiphase project" means a project for which the total of all credits is $1,000,000.00 or less for a project approved under subsection (2) that has more than 1 component, each of which can be completed separately.

(i) "Payroll" and "tax rate" mean those terms as defined in section 37c.

(j) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(*i*) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(*ii*) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(k) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), all eligible investment on property not in a qualified local governmental unit that is a facility.

(*l*) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(m) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(*i*) Owns or leases eligible property.

(*ii*) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(n) "Tax liability attributable to authorized business activity" means the tax liability imposed by this act after the calculation of credits provided in sections 36, 37, and 39.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5255 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: House Bill No. 5255, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, No. 248, Imd. Eff. Dec. 29, 2003.

[No. 250]

(SB 820)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 37d (MCL 208.37d), as amended by 1999 PA 100.

The People of the State of Michigan enact:

208.37d Tax credit; amount; certificate issued by Michigan economic growth authority; contents of certificate; tax liability; carrying forward unused credit; certificate issued after December 31, 2009; definitions.

Sec. 37d. (1) For tax years beginning after December 31, 1994, and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority plus any carryforward years allowed under subsection (5), a taxpayer that is an authorized business may credit against the tax imposed by section 31 an amount equal to the tax liability attributable to authorized business activity.

(2) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(3) The certificate required by subsection (2) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned.

(4) The tax liability attributable to authorized business activity is the tax liability imposed by this act after the calculation of the credits provided in sections 36, 37, 38, and 39 multiplied by either of the following fractions as appropriate:

(a) For an authorized business locating a facility in this state, a fraction the numerator of which is the ratio of the value of the facility to all of the taxpayer's property located in

this state plus the ratio of the taxpayer's payroll attributable to qualified new jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an authorized business expanding at an existing site, a fraction the numerator of which is the ratio of the value of the new property added to the site as part of that expansion to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to qualified new jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(5) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(6) A credit shall not be claimed by a taxpayer under this section if the taxpayer's initial certification, as required in subsection (2), is issued after December 31, 2009.

(7) As used in this section:

(a) "Authorized business" and "facility" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business activity" means the business activity of an authorized business certified under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Qualified new jobs" means that term as defined in section 37c.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5255 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: House Bill No. 5255, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, Act 248, Imd. Eff. Dec. 29, 2003.

[No. 251]

(SB 821)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 37c (MCL 208.37c), as amended by 2000 PA 429.

The People of the State of Michigan enact:

208.37c Tax credit; authorization and amount determined by Michigan economic growth authority; limitation; certificate; contents; refund; payments to department where qualified new jobs removed from state; statement; limitation on credits claimed; certificate issued after December 31, 2009; distressed business; definitions.

Sec. 37c. (1) For tax years beginning after December 31, 1994 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority.

(2) The credit allowed under subsection (1) for an authorized business for the tax year as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, shall not exceed the payroll of the authorized business attributable to employees who perform qualified new jobs multiplied by the tax rate.

(3) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(4) The certificate required by subsection (3) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(d) For a taxpayer that claims a credit allowed under subsection (10), the taxpayer is a distressed business.

(5) If the credit allowed under subsection (1) exceeds the tax liability of the taxpayer for the tax year, the excess shall be refunded to the taxpayer.

(6) A taxpayer that claims a credit under subsection (1) or section 37d that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(j)(*ii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) For a credit allowed under subsection (1), an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit for each

tax year for each expansion or location evidenced by a written agreement whether or not a combined or consolidated return is filed.

(9) A credit shall not be claimed by a taxpayer under subsection (1) if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2009.

(10) In addition to the credit allowed under subsection (1), for tax years that begin after December 31, 2003 and before January 1, 2007, a taxpayer that is an authorized business and is a distressed business, with an initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, issued after December 31, 2003 and before January 1, 2005 may claim a credit equal to the sum of the following:

(a) Up to 50% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on qualified new jobs as defined in section 3(k)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(b) Up to 25% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on all jobs other than qualified new jobs as defined in section 3(k)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(11) An authorized business that is a distressed business shall apply to the Michigan economic growth authority, which shall determine the percentage under subsection (10) for that authorized business. The Michigan economic growth authority shall issue a certificate to the authorized business stating the percentage amount and the tax years to which that percentage applies not more than 30 days after receipt of an application under this subsection.

(12) If the credit allowed under subsection (10) for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(13) As used in this section:

(a) "Authority" or "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business", "facility", "full-time job", "qualified high-technology business", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(d) "Qualified new jobs" means 1 or more of the following:

(*i*) For a credit allowed under subsection (1), the average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(*ii*) After July 1, 2000 for a credit allowed under subsection (1), the average number of full-time jobs at a facility created by an eligible business within 120 days before becoming an authorized business, that is in excess of the average number of full-time jobs that the business maintained in this state 120 days before becoming an authorized business, as

determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(*iii*) For credits allowed under subsection (10), that term as defined in section 3(k)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(e) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 5255 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: House Bill No. 5255, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, No. 248, Imd. Eff. Dec. 29, 2003.

[No. 252]

(SB 805)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 19608 (MCL 324.19608), as added by 1998 PA 288.

The People of the State of Michigan enact:

324.19608 Use of money allocated under MCL 324.19607; purposes; notice to public advisory council; use of fund to develop municipal or commercial marina prohibited; payment of costs; grant prohibited; submission of eligible project list; carrying over appropriations until project completion; submission of list of financed projects.

Sec. 19608. (1) Money in the fund that is allocated under section 19607 shall be used for the following purposes:

(a) Money allocated under section 19607(1)(a) shall be used by the department to fund all of the following:

(*i*) Corrective actions undertaken by the department to address releases from leaking underground storage tanks pursuant to part 213.

(*ii*) Response activities undertaken by the department at facilities pursuant to part 201 to address public health and environmental problems or to promote redevelopment.

(*iii*) Assessment activities undertaken by the department to determine whether a property is a facility.

(*iv*) $75,000,000.00 shall be used to provide grants and loans to local units of government and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities at known or suspected facilities with redevelopment potential. Of the money provided for in this subparagraph, not more than $37,500,000.00 shall be used to provide grants and not more than $37,500,000.00 shall be used to provide loans pursuant to the clean Michigan initiative revolving loan program created in section 19608a. However, grants or loans provided for in this subparagraph shall not be made to a local unit of government or a brownfield redevelopment authority that is responsible for causing a release or threat of release under part 201 at the site proposed for grant or loan funding.

(*v*) Not more than $12,000,000.00 shall be used for grants pursuant to the municipal landfill grant program under section 20109a.

(b) Money allocated under section 19607(1)(b) shall be used for waterfront redevelopment grants pursuant to part 795.

(c) Money allocated under section 19607(1)(c) shall be used for response activities for the remediation of contaminated lake and river sediments pursuant to part 201.

(d) Money allocated under section 19607(1)(d) shall be used for nonpoint source pollution prevention and control grants or wellhead protection grants pursuant to part 88.

(e) Money allocated under section 19607(1)(e) shall be deposited into the clean water fund created in section 8807.

(f) Money allocated under section 19607(1)(f) shall be expended as follows:

(*i*) $10,000,000.00 shall be deposited into the retired engineers technical assistance program fund created in section 14512.

(*ii*) $5,000,000.00 shall be deposited into the small business pollution prevention assistance revolving loan fund created in section 14513.

(*iii*) $5,000,000.00 shall be used by the department to implement pollution prevention activities other than those funded under subparagraphs (*i*) and (*ii*).

(g) Money that is allocated under section 19607(1)(g) shall be used by the department of community health for remediation and physical improvements to structures to abate or minimize exposure of persons to lead hazards.

(h) Money allocated under section 19607(1)(h) shall be used for infrastructure improvements at Michigan state parks as determined by the department of natural resources. The installation or upgrade of drinking water systems or rest room facilities shall be the first priority.

(i) Money allocated under section 19607(1)(i) shall be used to provide grants to local units of government for local recreation projects pursuant to part 716.

(2) Of the money allocated under section 19607(1)(a), $93,000,000.00 shall be used for facilities that pose an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment. For purposes of this subsection, facilities that pose an imminent or substantial endangerment shall include, but are not limited to, those where public access poses hazards because of potential exposure to chemicals or safety risks and where drinking water supplies are threatened by contamination.

(3) Before expending any funds allocated under subsection (1)(c) at a site that is an area of concern as designated by the parties to the Great Lakes water quality agreement, the department shall notify the public advisory council established to oversee that area of concern regarding the development, implementation, and evaluation of response activities to be conducted with money in the fund at that area of concern.

(4) Money in the fund shall not be used to develop a municipal or commercial marina.

(5) Money provided in the fund may be used by the department of treasury to pay for the cost of issuing bonds and by the department and the department of natural resources to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in section 19607(1)(a) to (f) shall be available for appropriation to the department to pay its costs directly associated with the completion of a project authorized by section 19607(1)(a) to (f). Not more than 3% of the total amount specified in section 19607(1)(h) and (i) shall be available for appropriation to the department of natural resources to pay its costs directly associated with the completion of a project authorized by section 19607(1)(h) and (i). It is the intent of the legislature that general fund appropriations to the department and to the department of natural resources shall not be reduced as a result of costs funded pursuant to this subsection.

(6) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

(7) The department, the department of natural resources, and the department of community health shall each submit annually a list of all projects that will be undertaken by that department that are recommended to be funded under this part. The list shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. The list shall be submitted to the legislative committees not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. For each eligible project, the list shall include the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the administering state department. A project that is funded by a grant or loan with money from the fund does not need to be included on the list submitted under this subsection. However, money in the fund that is appropriated for grants and loans shall not be encumbered or expended until the administering state department has reported those projects that have been approved for a grant or a loan to the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment and to the appropriations subcommittees in the house of representatives and the senate on natural resources and environmental quality. Before submitting the first cycle of recommended projects under subsection (1)(a), the department shall publish and disseminate the criteria it will use in evaluating and recommending these projects for funding.

(8) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed.

(9) Not later than December 31 of each year, the department, the department of natural resources, and the department of community health shall each submit a list of the projects financed under this part by that department to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the

protection of natural resources and the environment, and the subcommittees of the house of representatives and the senate on appropriations on natural resources and environmental quality. Each list shall include the name, address, and telephone number of the recipient or participant, if appropriate; the name and location of the project; the nature of the project; the amount of money allocated to the project; the county in which the project is located; a brief summary of what has been accomplished by the project; and other information considered pertinent by the administering state department.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5270 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: House Bill No. 5270, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, No. 253, Imd. Eff. Dec. 29, 2003.

[No. 253]

(HB 5270)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 19608a.

The People of the State of Michigan enact:

324.19608a Clean Michigan initiative revolving loan program.

Sec. 19608a. (1) The department shall create a clean Michigan initiative revolving loan program for the purpose of making loans to local units of government and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities at known or suspected facilities with redevelopment potential.

(2) The department shall accept, and consider for approval, applications for loans throughout the year. The department shall develop written instructions for prospective applicants, including the criteria that will be used in application review and approval.

(3) Final application decisions shall be made by the department within 90 days of submittal of a complete loan application.

(4) A complete application shall include all of the following:

(a) A description of the proposed eligible activities.

(b) An itemized budget for the proposed eligible activities.

(c) A schedule for the completion of the proposed eligible activities.

(d) The location of the property.

(e) The current ownership and ownership history of the property.

(f) The current use of the property.

(g) A detailed history of the use of the property.

(h) The existing and proposed future zoning of the property.

(i) If the property is not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that commits the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.

(j) A description of the property's economic redevelopment potential.

(k) A resolution from the governing body of the applicant committing to repayment of the loan according to the terms of this section.

(*l*) Other information as specified by the department in its written instructions.

(5) To receive loan funds, approved applicants must enter into a loan agreement with the department. At a minimum, the loan agreement shall contain all of the following:

(a) The approved eligible activities to be undertaken with loan funds.

(b) An implementation schedule for the approved eligible activities.

(c) Reporting requirements, including, at a minimum, the following:

(*i*) The loan recipient shall submit a progress status report to the department every 6 months during the implementation schedule.

(*ii*) The loan recipient shall provide a final report within 3 months of completion of the loan-funded activities that includes documentation of project costs and expenditures, including invoices and proof of payment.

(d) If the property is not owned by the loan recipient, an executed agreement that has been approved by the department that meets the requirements of subsection (4)(i).

(e) Other provisions as considered appropriate by the department.

(6) As used in this section:

(a) "Baseline environmental assessment" and "response activity" mean those terms as they are defined in section 20101.

(b) "Due care activities" means those activities conducted under section 20107a.

(c) "Eligible activities" means baseline environmental assessment activities, due care activities, and any additional response activity. Eligible activities include only those activities necessary to facilitate redevelopment. All eligible activities must be consistent with a work plan or remedial action plan pursuant to section 15 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665. Unless otherwise approved by the director, only activities carried out and costs incurred after execution of a loan agreement are eligible.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 805 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: Senate Bill No. 805, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, No. 252, Imd. Eff. Dec. 29, 2003.

[No. 254]

(SB 761)

AN ACT to amend 1937 PA 306, entitled "An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 1 (MCL 388.851), as amended by 2002 PA 628.

The People of the State of Michigan enact:

388.851 School buildings; construction requirements; waiver.

Sec. 1. A school building, public or private, or any additions to a school building, shall not be erected, remodeled, or reconstructed in this state unless all of the following requirements are met:

(a) All plans and specifications for buildings shall be prepared by an architect or professional engineer who is licensed in this state. An architect or professional engineer licensed in this state or another person qualified to supervise construction shall supervise the construction of a school building. For energy conservation improvements and services under section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, the licensed architect or professional engineer may be directly affiliated with the qualified provider, as defined under that section, that is providing the applicable improvements and services. However, the specifications for the project shall be generic in character and, to the extent possible, shall not include proprietary equipment or technology developed by the qualified provider or in which the qualified provider has an interest.

(b) All walls, floors, partitions, and roofs shall be constructed of fire-resisting materials such as stone, brick, tile, concrete, gypsum, steel, or similar fire-resisting material. All steel members shall be protected by at least 3/4 of an inch of fire-resisting material.

(c) Wood lath or wood furring shall not be used in the construction. This requirement does not prohibit the use of finished wood flooring, wood door and window frames, wood sash, or wood furring and grounds, for the purpose of installing wood trim, panelling, acoustical units, or similar facing materials on masonry walls, structural steel, or concrete ceiling members.

(d) Every room enclosing a heating unit shall be enclosed by walls of fire-resisting materials and shall be equipped with automatically closing fire doors. A heating unit shall not be located directly beneath any portion of a school building or addition that is constructed or reconstructed after January 1, 2003. This requirement does not require the removal of an existing heating plant from beneath an existing building when an addition to the building is constructed unless the department requires that removal in the interests of the public safety. In any school where natural gas or any other kind of gas is used for heating purposes, the gas shall be chemically treated before being used in such a manner as to give a very distinguishable odor if a leak develops in the heating system.

(e) In a gymnasium, fire-proofings may be omitted from the trusses and purlins if they are more than 16 feet off the main floor level.

(f) The architect or engineer shall provide adequate exits from all parts of a school building. In all cases, there shall be at least 2 stairways and the distance from the door of any class or assembly room to a stairway or exit shall not exceed 100 feet.

(g) A requirement in subdivisions (b) to (f) may be waived in writing by the department.

(h) Compliance with section 1b.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 482 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

Compiler's note: Senate Bill No. 482, referred to in enacting section 1, was filed with the Secretary of State December 29, 2003, and became P.A. 2003, No. 255, Imd. Eff. Dec. 29, 2003.

[No. 255]

(SB 482)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1274a (MCL 380.1274a), as amended by 1990 PA 227.

The People of the State of Michigan enact:

380.1274a Energy conservation improvements; payment; bond; contract terms; removal or treatment of asbestos or other material injurious to health; issuance of bonds; competitive bidding requirements; reports; forms; definitions.

Sec. 1274a. (1) The board of a school district, intermediate school district, or local act school district may contract with a qualified provider for energy conservation improvements to school facilities. These improvements may be paid from operating funds of the school district or from the proceeds of bonds or notes issued for energy conservation improvements, or the board or intermediate school board may enter into 1 or more energy saving performance contracts. These contracts may contain a written financial guarantee providing that the costs of improvements will be paid only if the energy savings are sufficient to cover them. Energy conservation improvements may include, but are not limited to, building envelope improvements; heating and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor,

pump, or fan replacements; domestic water use reductions; and upgrading other energy consuming equipment or appliances.

(2) A school board or intermediate school board that contracts for energy conservation improvements under subsection (1) may require the qualified provider to furnish a bond that guarantees energy cost savings for a specified period of time.

(3) If a school board or intermediate school board enters into an energy saving performance contract under this section, all of the following apply:

(a) The bids for the contract shall provide a detailed breakdown of the energy performance savings to be derived each year and for the duration of the energy saving performance contract, including at least all of the following:

(*i*) A description of the guaranteed energy use savings and tasks to be performed under the energy saving performance contract.

(*ii*) The combined total net cost of all of the energy conservation measures in the project.

(*iii*) The projected energy savings and operating and maintenance cost savings resulting from the project.

(*iv*) The useful life of each energy conservation measure.

(*v*) The simple payback period.

(b) The qualified provider shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the protocols published in January 2001 by the international performance measurement and verification protocol inc.

(4) The board of a school district, intermediate school district, or local act school district may provide for the removal or treatment of asbestos or other material injurious to health for school facilities and may pay for the improvements from operating funds of the school district or from the proceeds of bonds or notes issued for that purpose.

(5) Issuance of bonds for the purposes authorized by this section shall be considered as issued for capital expenditures for all purposes including section 16 of article IX of the state constitution of 1963.

(6) Energy conservation improvements or substance removal or treatment authorized by this section is subject to the competitive bidding requirements of section 1267.

(7) If energy conservation improvements are made by a school district, local act school district, or intermediate school district as provided in this section, the school board or intermediate school board shall report the following information to the state treasurer within 60 days after the completion of the improvements:

(a) Name of each facility to which an improvement was made and a description of the conservation improvements.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(8) If energy conservation improvements are made as provided in this section, the school board or intermediate school board shall report to the state treasurer by July 1 of each of the 5 years after the improvements are completed the actual annual energy consumption of each facility to which improvements were made. The forms for the reports required by this section shall be furnished by the state treasurer.

(9) As used in this section:

(a) "Energy saving performance contract" means an agreement for the evaluation, recommendation, and implementation of energy conservation measures including, but not limited to, an energy audit or detailed energy study; the design, installation, operation, and maintenance of 1 or more energy conservation measures; energy management services; and an energy savings guarantee.

(b) "Qualified provider" means an individual or a business entity that is experienced in performing design, analysis, and installation of energy conservation improvements and facility energy management measures and that will provide these services under the contract with a guarantee or on a performance basis.

This act is ordered to take immediate effect.
Approved December 23, 2003.
Filed with Secretary of State December 29, 2003.

[No. 256]

(HB 4513)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 200h (MCL 750.200h), as amended by 2001 PA 135.

The People of the State of Michigan enact:

750.200h Definitions.

Sec. 200h. As used in this chapter:

(a) "Chemical irritant" means solid, liquid, or gas that through its chemical or physical properties, alone or in combination with 1 or more other substances, can be used to produce an irritant effect in humans, animals, or plants.

(b) "Chemical irritant device" means a device designed or intended to release a chemical irritant.

(c) "Computer", "computer network", and "computer system" mean those terms as defined in section 145d.

(d) "Deliver" means that actual or constructive transfer of a substance or device from 1 person to another regardless of any agency relationship.

(e) "For an unlawful purpose" includes, but is not limited to, having the intent to do any of the following:

(*i*) Frighten, terrorize, intimidate, threaten, harass, injure, or kill any person.

(*ii*) Damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over the property.