The People of the State of Michigan enact:

TITLE

An act to prohibit the selling, giving, or furnishing of tobacco products to minors; to prohibit the purchase, possession, or use of tobacco products by minors; to regulate the retail sale of tobacco products; to prescribe penalties; and to prescribe the powers and duties of certain state agencies and departments.

722.641 Selling, giving, or furnishing tobacco products to minor prohibited; misdemeanor; penalty; sign required; copies of sign; affirmative defense; notice; rebuttal testimony; notice of rebuttal; exception.

Sec. 1. (1) A person shall not sell, give, or furnish a tobacco product to a minor. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $50.00 for each violation.

(2) A person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of community health that includes the following statement:

"The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties.".

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2 inches and the statement required under subsection (2) shall be printed in 36-point boldfaced type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it shall be 2 inches by 4 inches and the statement required under subsection (2) shall be printed in 20-point boldfaced type.

(4) The department of community health shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products free of charge. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products shall obtain copies of the sign from the department of community health and distribute them free of charge, upon request, to persons who are subject to subsection (2). The department of community health shall provide copies of the sign free of charge, upon request, to persons subject to subsection (2) who do not purchase their supply of tobacco products from wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products licensed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

(5) It is an affirmative defense to a charge under subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the date set for trial and shall contain the name and address of each rebuttal witness.

(7) Subsection (1) does not apply to the handling or transportation of a tobacco product by a minor under the terms of that minor's employment.

722.642 Prohibited conduct by minor; violation as misdemeanor; penalty; participation in health promotion and risk reduction assessment program; costs; community service; exceptions; other violations.

Sec. 2. (1) Subject to subsection (3), a minor shall not do any of the following:

(a) Purchase or attempt to purchase a tobacco product.

(b) Possess or attempt to possess a tobacco product.

(c) Use a tobacco product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than $50.00 for each violation. Pursuant to a probation order, the court may also require an individual who violates subsection (1) to participate in a health promotion and risk reduction assessment program, if available. An individual who is ordered to participate in a health promotion and risk reduction assessment program under this subsection is responsible for the costs of participating in the program. In addition, an individual who violates subsection (1) is subject to the following:

(a) For the first violation, the court may order the individual to do 1 of the following:

(*i*) Perform not more than 16 hours of community service in a hospice, nursing home, or long-term care facility.

(*ii*) Participate in a health promotion and risk reduction program, as described in this subsection.

(b) For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than 32 hours of community service in a hospice, nursing home, or long-term care facility.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the individual to perform not more than 48 hours of community service in a hospice, nursing home, or long-term care facility.

(3) Subsection (1) does not apply to a minor participating in any of the following:

(a) An undercover operation in which the minor purchases or receives a tobacco product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives a tobacco product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

(c) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103, and with the prior approval of the state police or a local police agency.

(4) Subsection (1) does not apply to the handling or transportation of a tobacco product by a minor under the terms of that minor's employment.

(5) This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of subsection (1).

722.644 Definitions.

Sec. 4. As used in this act:

(a) "Minor" means an individual under 18 years of age.

(b) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

(c) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

(d) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and cigars.

(e) "Use a tobacco product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product.

Effective date.

Enacting section 1. This amendatory act takes effect September 1, 2006.

This act is ordered to take immediate effect.
Approved June 24, 2006.
Filed with Secretary of State June 26, 2006.

[No. 237]

(HB 5125)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 80110, 80111, and 80112 (MCL 324.80110, 324.80111, and 324.80112), as added by 1995 PA 58; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.80110 Special rules for vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances; investigations and inquiries; preliminary report; notice of public hearing; presentation of views by interested persons; determination by department; proposal for local ordinance; appeal; "water body" defined.

Sec. 80110. (1) The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar contrivances on any of the waters of this state to assure compatibility of uses and to protect public safety. If the department receives a resolution pursuant to section 80112, the department shall initiate an investigation and inquiry under this subsection.

(2) The department's investigation and inquiry under subsection (1) into whether special rules are needed on a particular water body shall include a consideration of all of the following:

(a) Whether the activities subject to the proposed special rules pose any issues of safety to life or property.

(b) The profile of the water body, including local jurisdiction, size, geographic location, and amount of vessel traffic.

(c) The current and historical depth of the water body, including whether there is an established lake level for the water body.

(d) Whether any identifiable special problems or conditions exist on the water body for the activities subject to the proposed special rules, such as rocks, pier heads, swimming areas, public access sites, shallow waters, and submerged obstacles.

(e) Whether the proposed special rules would unreasonably interfere with normal navigational traffic.

(f) Whether user conflicts exist on the water body.

(g) Complaints received by local law enforcement agencies regarding activities on the water body.

(h) The status of any accidents that have occurred on the water body.

(i) Historical uses of the water body and potential future uses of the water body.

(j) Whether the water body is public or private.

(k) Whether existing law adequately regulates the activities subject to the proposed special rules.

(3) Following completion of the department's investigation and inquiry, the department shall prepare a preliminary report that includes the department's evaluation of the items listed in subsection (2) and the department's preliminary recommendation as to whether special rules are needed for the water body.

(4) Upon preparation of the preliminary report, the department shall provide a copy of the preliminary report to the local political subdivision that has waters subject to its jurisdiction for which the proposed special rules are being considered and shall schedule a public hearing in the vicinity of the water body to gather public input on the preliminary report and the need for special rules. Notice of the public hearing shall be made in a newspaper of general circulation in the area where the water body is located, not less than 10 calendar days before the hearing. At the public hearing, interested persons shall be afforded an opportunity to present their views on the preliminary report and the need for special rules, either orally or in writing.

(5) Within 90 days following the public hearing under subsection (4), if the department determines that there is a need for special rules for the water body, the department shall propose a local ordinance or appropriate changes to a local ordinance. If the department determines that there is not a need for special rules, the department shall notify the political subdivision that has waters subject to its jurisdiction and shall provide the specific reasons for its determination.

(6) A determination by the department that there is not a need for special rules for a water body may be appealed to the commission by the political subdivision that has waters subject to its jurisdiction. The commission shall make the final agency decision on the need for special rules for a water body.

(7) As used in this section, "water body" includes all or a portion of a water body.

324.80111 Proposed local ordinance; submission to governing body; approval or disapproval; enactment; enforcement.

Sec. 80111. A local ordinance proposed pursuant to section 80110 shall be submitted to the governing body of the political subdivision in which the water body subject to the proposed special rules is located. Within 60 calendar days, the governing body shall inform the department that it approves or disapproves of the proposed local ordinance. If the required information is not received within the time specified, the department shall consider the proposed local ordinance disapproved by the governing body. If the governing body disapproves the proposed local ordinance, or if the 60-day period has elapsed without a reply having been received from the governing body, no further action shall be taken. If the governing body approves the proposed local ordinance, the local ordinance shall be enacted identical in all respects to the local ordinance proposed by the department. After the local ordinance is enacted, the local ordinance shall be enforced as provided for in section 80113.

324.80112 Special local ordinances; request for assistance; form; receipt of resolution by department.

Sec. 80112. Local political subdivisions that believe that special local ordinances of the type authorized by this part are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision following a public hearing on the resolution. Upon receipt of a resolution under this section, the department shall proceed as required by sections 80110 and 80111.

Repeal of MCL 324.80110; effective date of repeal.

Enacting section 1. Section 80110 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80110, is repealed effective 3 years after the effective date of this amendatory act.

This act is ordered to take immediate effect.
Approved June 24, 2006.
Filed with Secretary of State June 26, 2006.

[No. 238]

(HB 5015)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain

health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 5901, 5911, 5913, 5915, 5919, and 5923 (MCL 333.5901, 333.5911, 333.5913, 333.5915, 333.5919, and 333.5923), as added by 1987 PA 258, and by adding section 5906; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

333.5901 Definitions.

Sec. 5901. As used in this part:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "Advisory task force" means the task force created in section 5906.

(c) "Fund" means the Michigan health initiative fund created in section 5911.

(d) "HCV" means hepatitis C virus.

(e) "HIV" means human immunodeficiency virus.

(f) "Institute of higher education" means a public or private college or university. Institute of higher education includes a community college.

(g) "Risk reduction" means the process of identifying and reducing or eliminating behaviors or conditions, or both, that are harmful to physical or mental health, or both.

333.5906 Hepatitis C advisory task force; creation; membership; terms; chairperson and officers; compensation and expenses; business conducted at public meeting; writings; duties; abolishment of task force on June 30, 2010.

Sec. 5906. (1) The hepatitis C advisory task force is created in the department. The task force shall be appointed by the governor. The task force shall consist of 11 members including the director and his or her designee as an ex officio member, 1 member from an association representing local public health, and 9 members appointed from the following categories:

(a) Business and industry.

(b) Labor.

(c) Health care providers.

(d) The legal community.

(e) Religious organizations.

(f) State and local government.

(g) The education community.

(2) A health care provider member appointed pursuant to subsection (1) shall not be an employee of a state executive department or local health department, nor represent a facility or agency which is owned or operated by a state executive department or a local

health department. To the extent practicable, the members appointed pursuant to subsection (1), except the director, shall be representative of the demographic composition and geographic regions of this state.

(3) The term of each member, other than the director, shall be 3 years, except that of the members first appointed, 4 shall serve for 3 years, 3 shall serve for 2 years, and 3 shall serve for 1 year. A member shall not serve more than 2 consecutive terms, whether partial or full. A vacancy on the task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. The task force biannually shall elect a chairperson and other officers and committees as considered appropriate by the task force. The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the task force shall be the same as is established annually by the legislature for similar commissions or task forces that are reimbursed from the general fund.

(4) The business which the task force performs shall be conducted at a public meeting of the task force 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 in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the task force in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The task force shall do all of the following:

(a) Meet not less than quarterly at the call of the chairperson.

(b) Advise the governor and the legislature on policies regarding hepatitis C and risk reduction.

(c) Annually report to the governor and the legislature on major risk factors and preventable diseases or conditions including, but not limited to, hepatitis C.

(d) Make recommendations to the department regarding the allocation of money, if available, from the Michigan health initiative fund or any other source, including, but not limited to, the level of funding for grants under section 5925.

(e) Review and comment to the department on topics determined by the task force to be appropriate for the media campaign conducted under this part.

(f) Review and identify potential additional funding mechanisms and sources to cover the costs of outreach, awareness, available treatment options, and testing, for HCV.

(g) Make recommendations to the department regarding information to be utilized and incorporated into the HCV information package, including, but not limited to, information regarding the status of HCV in this state, state-supported testing and counseling programs, and research findings.

(6) The hepatitis C advisory task force created under this section is abolished effective June 30, 2010.

333.5911 Michigan health initiative fund; creation; administration; expenditures; fund cumulative; amounts credited to fund; investment of fund; crediting earnings; disposition and use of unencumbered balance.

Sec. 5911. (1) The Michigan health initiative fund is created in the state treasury and shall be administered by the department. The fund shall be expended only as provided in

this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department.

(2) The state treasurer shall credit to the fund all amounts appropriated for that purpose under this section, section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.11. The state treasurer may receive money or other assets from any source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. Earnings shall be credited to the fund.

(4) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund, and shall not revert to the general fund.

333.5913 Michigan health initiative information clearinghouse; establishment; accessibility; duties.

Sec. 5913. (1) The department shall utilize the fund to establish the Michigan health initiative information clearinghouse, which shall be accessible to the public statewide.

(2) The Michigan health initiative information clearinghouse shall, at a minimum, maintain and provide up-to-date information on both of the following:

(a) Major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS.

(b) Risk reduction service providers, HCV treatment programs, and AIDS treatment programs throughout the state.

333.5915 Media campaign; public service announcements.

Sec. 5915. (1) The department shall utilize the fund to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS, pursuant to the advice of the task force as provided under section 5906.

(2) In addition to the requirements of subsection (1), the department shall utilize the fund to produce or arrange for the production of public service announcements regarding risk reduction, HCV, and AIDS which shall be distributed to publicly supported radio and television stations and to cable television studios, and which may be distributed to commercial radio and television stations.

333.5919 Risk reduction, HVC information package, and AIDS information package.

Sec. 5919. The department shall utilize the fund to develop, in cooperation with institutions of higher education, a risk reduction, HCV information package, and AIDS information package that shall include, but not be limited to, information regarding testing, counseling, transmission, prevention, and treatment.

333.5923 HIV and HCV testing; counseling; costs.

Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. If additional funds are available, the department shall utilize the fund to provide HCV testing free of charge to residents of this state who are identified as high-risk and do not have health insurance, coverage, or benefits. All HIV and HCV testing under this section

shall be performed by the department or a licensed clinical laboratory designated by the department.

(2) As a condition of receiving an HIV or HCV test under this section, the department shall require an individual who requests an HIV or HCV test to undergo counseling both before and after the test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475. If a distribution of funds is not made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.

(3) A person who provides HIV or HCV testing or counseling under this section shall be reimbursed for the cost of the testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

Repeal of MCL 333.5903, 333.5905, 333.5907, and 333.5909.

Enacting section 1. Sections 5903, 5905, 5907, and 5909 of the public health code, 1978 PA 368, MCL 333.5903, 333.5905, 333.5907, and 333.5909, are repealed.

This act is ordered to take immediate effect.
Approved June 24, 2006.
Filed with Secretary of State June 26, 2006.

[No. 239]

(HB 5014)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide

for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 5927 (MCL 333.5927), as added by 1987 PA 258.

The People of the State of Michigan enact:

333.5927 Educational programs for health care workers; availability of educational materials to individuals at high risk for hepatitis C virus.

Sec. 5927. (1) The department shall utilize the fund to develop educational programs for health care workers, whether licensed or not, regarding the delivery of quality care and protection against exposure to disease in the workplace.

(2) The department shall utilize the fund to make available to health care workers, veterans, public safety officers, parolees, and other individuals at high risk for the hepatitis C virus educational materials, in written and electronic forms, on the diagnosis, treatment, and prevention of the hepatitis C virus. The educational materials shall include the recommendations of the federal centers for disease control and prevention regarding prevention and control of the hepatitis C virus. As used in this subsection, "public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or emergency medical services personnel.

This act is ordered to take immediate effect.
Approved June 24, 2006.
Filed with Secretary of State June 26, 2006.

[No. 240]

(HB 6183)

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 sections 38g, 39c, and 71 (MCL 208.38g, 208.39c, and 208.71), section 38g as amended by 2006 PA 112, section 39c as amended by 2006 PA 53, and section 71 as amended by 1999 PA 115.

The People of the State of Michigan enact:

208.38g Tax credit; conditions; application for project costing more than $2,000,000 but $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 or eligible taxpayer; investment related to sports stadium, casino, or landfill; report; amendment of project; project as multiphase; project $200,000 or less; repeal of act for tax years beginning after December 31, 2007; effect; 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) or section 35e may claim a credit that has been approved under subsection (2), (3), or (33) 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 more than $2,000,000.00 but $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. After the first full calendar year after the effective date of the amendatory act that added subsection (33), if the authority approves a total of all credits for all projects under this subsection of less than $30,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between $30,000,000.00 and the total of all credits for all projects approved under this subsection in the immediately preceding 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. An application under this subsection shall state whether the project is a multiphase 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 17 projects each calendar year under subsection (3), and the following limitations apply:

(a) Of the 17 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 2 projects.

(b) Of the 17 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 or, for 1 of the 3 projects, if the property is not a facility but is functionally obsolete or blighted, property 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 2 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 (33) 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), (3), or (33) 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), (3), or (33) 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 (33), 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 for projects approved under subsection (3). 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) or section 35c 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), (3), and (33) 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) or section 35e that claims a credit under subsection (1)(a) or (b) or (33) 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), (3), or (33) 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), (18), or (32) or section 35e, a credit under subsection (2), (3), or (33) 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), (3), and (33) 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), (3), or (33) for the tax year and any unused carryforward of the credit allowed under subsection (2), (3), or (33) 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), (3), or (33), 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), (3), or (33) is for the addition of personal property, if the cost of that personal property is used to calculate a credit under subsection (2), (3), or (33), 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), (3), or (33), 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 subsection (2), (3), or (33) for projects for which a certificate of completion is issued before January 1, 2006 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) Except as otherwise provided in this subsection, for projects for which a certificate of completion is issued before January 1, 2006, 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. A credit assignment based on a credit for a component of a multiphase project that is completed before January 1, 2006 shall be made under this subsection. A credit assignment based on a credit for a component of a multiphase project that is completed on or after January 1, 2006

may be made under this section or section 35e. 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), (1)(b), or (33) is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under subsection (1)(a), (1)(b), or (33) and subsection (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), (3), or (33). 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), (3), or (33).

(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), (3), or (33). 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), (3), or (33).

(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), (3), or (33) may be a multiphase project but, for projects completed before January 1, 2006, 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 20 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). 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) If the total of all credits for a project is $200,000.00 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. Subject to section 35c, 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 the application within 45 days after the application is received by the Michigan economic growth authority, the application is considered approved as written. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection for the same project or for another project. The total of all credits for all projects approved under this subsection shall not exceed $10,000,000.00 in any calendar year. After the first full calendar year after the effective date of the amendatory act that added this subsection, if the authority approves a total of all credits for all projects under this subsection of less than $10,000,000.00 in a calendar year, the authority may carry forward for 1 year only the difference between $10,000,000.00 and the total of all credits for all projects under this subsection approved in the immediately preceding calendar year. 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. The Michigan economic growth authority shall develop and implement the use of the application form to be used for projects under this subsection. Before the application form is first used and if the Michigan economic growth authority substantially changes the form, the Michigan economic growth authority shall adopt the form or changes by resolution. After 60 days after the effective date of the amendatory act that added this subsection and before the Michigan economic growth authority substantially changes the application form, the Michigan economic growth authority shall give notice of the proposed resolution to the secretary of the senate, to the clerk of the house of representatives, and to each person who requested from the Michigan economic growth authority in writing or electronically to be notified regarding proposed resolutions. The notice and proposed resolution and all attachments shall be published on the Michigan economic growth authority's internet website. The Michigan economic growth authority shall hold a public hearing not sooner than 14 days and not later than 30 days after the date notice of a proposed resolution is given and offer an opportunity for persons to present data, views, questions, and arguments. The Michigan economic growth authority board members or 1 or more persons designated by the Michigan economic growth authority who have knowledge of the subject matter of the proposed resolution shall be present at the public hearing and shall participate in the discussion of the proposed resolution. The Michigan economic growth authority may act on the proposed resolution no sooner than 14 days after the public hearing. The Michigan economic growth authority shall produce a final decision document that describes the basis for its decision. The final resolution and all attachments and the decision document shall be provided to the secretary of the senate and to the clerk of the house of representatives and shall be published on the Michigan economic growth authority's internet website. The notice shall include all of the following:

(a) A copy of the proposed resolution and all attachments.

(b) A statement that any person may express any data, views, or arguments regarding the proposed resolution.

(c) The address to which written comments may be sent and the date by which comments must be mailed or electronically transmitted, which date shall not be restricted to only before the date of the public hearing.

(d) The date, time, and place of the public hearing.

(34) If this act is repealed for tax years beginning after December 31, 2007, all of the following apply:

(a) Except as otherwise provided in this subsection, a qualified taxpayer that has a preapproval letter issued before January 1, 2007 for a brownfield credit for a project that is completed after the end of the taxpayer's last tax year but before January 1, 2010 or an assignee may claim the brownfield credit amount that could be claimed for the project for 2008 and 2009 against the taxpayer's or assignee's tax liability under this act on the taxpayer's or assignee's timely filed original or amended annual return filed under this act for the taxpayer's or assignee's last tax year.

(b) Except as otherwise provided in subdivision (e), a credit under this subsection shall be taken after all other credits the taxpayer claims for the tax year under this act and all of the following apply:

(*i*) The brownfield credit amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year or for projects completed in 2009 is in addition to the brownfield credit amount that the taxpayer or assignee is allowed to claim for projects completed before the end of the taxpayer's or assignee's last tax year.

(*ii*) The brownfield credit amount that the taxpayer or assignee is allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year or for projects completed in 2009 on the taxpayer's or assignee's annual return for the taxpayer's or assignee's last tax year or the sum of both brownfield credit amounts shall not exceed the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year after all other credits for that tax year except the taxpayer's or assignee's brownfield credit for the taxpayer's or assignee's last tax year have been taken.

(*iii*) The brownfield credit amount that the taxpayer or assignee is allowed to claim for its last tax year under this subsection shall not exceed the sum of the amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2008 after the end of the taxpayer's or assignee's last tax year plus the amount that the taxpayer or assignee would have been allowed to claim for projects completed in 2009.

(c) If the amount of the total of all brownfield credit amounts that may be claimed by the taxpayer or assignee under this subsection exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year, the amount by which the total of all brownfield credit amounts exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year shall be refunded.

(d) A brownfield credit under this subsection shall not be claimed before a certificate of completion is issued for the project on which the brownfield credit is based.

(e) The credit allowed under this subsection shall be taken before the credit allowed under section 39c(16).

(f) This subsection does not apply to any amount the taxpayer or assignee may claim for the same project for a tax year that begins after December 31, 2007 under any other tax act.

(g) As used in this subsection:

(*i*) "Assignee" means an assignee under subsection (17) or (18) or under section 35e.

(*ii*) "Brownfield credit" means the credit allowed under subsections (2), (3), and (33).

(*iii*) "Last tax year" means the taxpayer's tax year under this act that begins after December 31, 2006 and before January 1, 2008.

(35) 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", "qualified local governmental unit", and "response activity" mean, except as otherwise provided in subdivision (f), 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 property" means that term as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, except that, for purposes of subsection (33), all of the following apply:

(*i*) Eligible property means property identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes and that is 1 of the following:

(A) Property for which eligible activities are identified under the brownfield plan, is in a qualified local governmental unit, and is a facility, functionally obsolete, or blighted.

(B) Property that is not in a qualified local governmental unit but is within a downtown development district established under 1975 PA 197, MCL 125.1651 to 125.1681, and is functionally obsolete or blighted, and a component of the project on that eligible property is 1 or more of the following:

(I) Infrastructure improvements that directly benefit the eligible property.

(II) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(III) Lead or asbestos abatement.

(IV) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Property for which eligible activities are identified under the brownfield plan, is not in a qualified local governmental unit, and is a facility.

(*ii*) Eligible property includes parcels that are adjacent or contiguous to the eligible property if the development of the adjacent or contiguous parcels is estimated to increase the captured taxable value of the property or tax reverted property owned or under the control of a land bank fast track authority pursuant to the land bank fast track authority act, 2003 PA 258, MCL 124.751 to 124.774.

(*iii*) Eligible property includes, to the extent included in the brownfield plan, personal property located on the eligible property.

(*iv*) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, 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.

(g) "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.

(h) "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.

(i) "Multiphase project" means a project approved under subsection (2), (3), or (33) that has more than 1 component, each of which can be completed separately.

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

(k) "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.

(*l*) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), 1 of the following:

(*i*) All eligible investment on property not in a qualified local governmental unit that is a facility.

(*ii*) All eligible investment on property that is not a facility but is functionally obsolete or blighted.

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

(n) "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.

(o) "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.

208.39c Rehabilitation of historic resource; tax credit; plan; certification; report; repeal of act for tax years beginning after December 31, 2007; effect; definitions.

Sec. 39c. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 1998 may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued provided that the certification of completed rehabilitation was issued not more than 5 years after the rehabilitation plan was certified by the Michigan historical center.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code.

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan historical center certification that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

(a) All of the following criteria:

(*i*) The historic resource contributes to the significance of the historic district in which it is located.

(*ii*) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.

(*iii*) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the property.

(b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.

(4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the center to qualify for the credit

allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.

(5) The center may inspect a historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.

(6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):

(a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:

(*i*) Individually listed on the national register of historic places or state register of historic sites.

(*ii*) A contributing resource located within a historic district listed on the national register of historic places or the state register of historic sites.

(*iii*) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:

(*i*) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

(*ii*) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.

(*iii*) The historic resource is located in an unincorporated local unit of government.

(*iv*) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.

(7) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a credit allowed under this section to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of ownership or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which a certificate of completed rehabilitation is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned to the partner, member, or shareholder under this subsection. A credit amount assigned under this subsection may be claimed against the partner's, member's, or shareholder's tax liability under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. A credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer and assignees shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and attach a copy of the completed assignment form to the annual return required to be filed under this act for that tax year.

(8) 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.

(9) If the taxpayer sells a historic resource for which a credit under this section was claimed less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:

(a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(10) If a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:

(a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.

(b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.

(c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.

(d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

(e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.

(f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.

(11) The department of history, arts, and libraries through the Michigan historical center may impose a fee to cover the administrative cost of implementing the program under this section.

(12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return required under this act or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, if applicable, on which the credit is claimed:

(a) Certification of completed rehabilitation.

(b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.

(c) A completed assignment form if the qualified taxpayer has assigned any portion of a credit allowed under this section to a partner, member, or shareholder, or if the taxpayer is an assignee of any portion of a credit allowed under this section.

(13) The department of history, arts, and libraries shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(14) The total of the credits claimed under this section and section 266 of the income tax act of 1967, 1967 PA 281, MCL 206.266, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.

(15) The department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:

(a) The fee schedule used by the center and the total amount of fees collected.

(b) A description of each rehabilitation project certified.

(c) The location of each new and ongoing rehabilitation project.

(16) If this act is repealed for tax years beginning after December 31, 2007, all of the following apply:

(a) Except as otherwise provided in this subsection, a qualified taxpayer that has a rehabilitation plan certified before January 1, 2007 for the rehabilitation of a historic resource for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year but before January 1, 2010 or an assignee may claim the historic preservation credit amount for the year in which the certification of completed rehabilitation is issued against the taxpayer's or assignee's tax liability under this act on the taxpayer's or assignee's timely filed original or amended annual return filed under this act, for the taxpayer's or assignee's last tax year.

(b) A credit under this subsection shall be taken after all other credits the taxpayer claims for the tax year under this act and all of the following apply:

(*i*) The historic preservation credit amount that the taxpayer or assignee would have been allowed to claim for historic rehabilitation completed in 2008 after the end of the taxpayer's or assignee's last tax year or for the rehabilitation of a historic resource completed in 2009 is in addition to the historic preservation credit amount that the taxpayer or assignee is allowed to claim for the rehabilitation of a historic resource completed before the end of the taxpayer's or assignee's last tax year.

(*ii*) The historic preservation credit amount that the taxpayer or assignee is allowed to claim for the rehabilitation of a historic resource completed in 2008 after the end of the taxpayer's or assignee's last tax year or for the rehabilitation of a historic resource completed in 2009 on the taxpayer's or assignee's annual return for the taxpayer's or assignee's last tax year or the sum of both historic preservation credit amounts shall not exceed the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year after all other credits for that tax year except the taxpayer's or assignee's historic preservation credit for the taxpayer's or assignee's last tax year have been taken.

(*iii*) The historic preservation credit amount that the taxpayer or assignee is allowed to claim for its last tax year under this subsection shall not exceed the sum of the amount that the taxpayer or assignee would have been allowed to claim for the rehabilitation of a historic resource completed in 2008 after the end of the taxpayer's or assignee's last tax year plus the amount that the taxpayer or assignee would have been allowed to claim for the rehabilitation of a historic resource completed in 2009.

(c) If the amount of the total of all historic preservation credit amounts that may be claimed by the taxpayer or assignee under this subsection exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year, the amount by which the total of all historic preservation credit amounts exceeds the taxpayer's or assignee's tax liability for the taxpayer's or assignee's last tax year shall be refunded.

(d) A historic preservation credit under this subsection shall not be claimed before a certification of completed rehabilitation is issued for the rehabilitation of a historic resource on which the historic preservation credit is based.

(e) This subsection does not apply to any amount the taxpayer or assignee may claim for the same rehabilitation plan for a tax year that begins after December 31, 2007 under any other tax act.

(f) As used in this subsection:

(*i*) "Assignee" means an assignee under subsection (7).

(*ii*) "Historic preservation credit" means the credit allowed under this section.

(*iii*) "Last tax year" means the taxpayer's tax year under this act that begins after December 31, 2006 and before January 1, 2008.

(17) As used in this section:

(a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.

(b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:

(*i*) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.

(*ii*) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.

(*iii*) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.

(*iv*) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

(*v*) Any other resource that could benefit from rehabilitation.

(d) "Local unit" means a county, city, village, or township.

(e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.

(f) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.

(g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of a historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.

(j) "Qualified taxpayer" means a person that is an assignee under subsection (7) or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.

(k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

208.71 Estimated returns and payments.

Sec. 71. (1) A taxpayer that reasonably expects liability for the tax year to exceed $600.00 or adjustments under section 23 to exceed $100,000.00 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax year. A taxpayer shall calculate liability for purposes of this section before applying any credit that the taxpayer may claim under section 38g(34) or section 39c(16).

(2) For taxpayers on a calendar year basis the quarterly returns and estimated payments shall be made by April 30, July 31, October 31, and January 31. Taxpayers not on a calendar year basis shall file quarterly returns and make estimated payments on the appropriate due date which in the taxpayer's fiscal year corresponds to the calendar year.

(3) The estimated payment made with each quarterly return of each tax year shall be for the estimated tax base for the quarter or 25% of the estimated annual liability. The

second, third, and fourth estimated payments in each tax year shall include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly payments in the tax year to a revised estimate of the annual tax liability.

(4) The interest provided by this act shall not be assessed if any of the following occur:

(a) If the sum of the estimated payments equals at least 85% of the liability or 1% of the gross receipts for the tax year and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made.

(b) If the preceding year's tax liability was $20,000.00 or less and if the taxpayer submitted 4 equal installments the sum of which equals the previous year's tax liability.

(5) Each estimated return shall be made on a form prescribed by the department and shall include an estimate of the annual tax liability and other information required by the commissioner. This form may be combined with any other tax reporting form prescribed by the department.

(6) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less than 12 months, the amounts paid with each return shall be proportional to the number of payments made in the first tax year.

(7) Payments made under this section shall be a credit against the payment required with the annual tax return required in section 73.

(8) When the commissioner considers it necessary to insure payment of the tax or to provide a more efficient administration of the tax, the commissioner may require filing of the returns and payment of the tax for other than quarterly or annual periods.

(9) A taxpayer that elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15, in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, shall have the same option in filing the estimated and annual returns required by this act.

(10) Instead of the quarterly return prescribed in subsections (1) and (2) the taxpayer may elect either of the following options:

(a) To file and pay before the sixteenth day of each month an estimated return computed at the rate of 1% of the gross receipts for the preceding month.

(b) To file and pay before the sixteenth day of the months specified in subsection (2) an estimated return computed at the rate of 1% of the gross receipts for the preceding quarter.

(11) A penalty for underpayment of an estimated tax under this act shall not be assessed for the taxpayer's first tax year beginning after December 31, 1999 if the taxpayer claimed a credit under section 35a for the first time on the taxpayer's annual return for that tax year and a penalty would not have applied if the taxpayer had made adjustments under section 23 or 23b on that return.

This act is ordered to take immediate effect.
Approved June 27, 2006.
Filed with Secretary of State June 27, 2006.

[No. 241]

(SB 861)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending section 7 (MCL 390.1457), as amended by 2004 PA 595.

The People of the State of Michigan enact:

390.1457 Michigan merit award scholarship program; establishment; administration; eligibility of students for award; requirements; adjustment of available amount; review and approval of assessment test; additional award; approval of United States department of education.

Sec. 7. (1) The Michigan merit award scholarship program is established. The board shall administer the Michigan merit award scholarship program.

(2) Subject to subsection (6) and section 7b(2) and (5), and to adjustment under subsection (4), each student enrolled in grade 11 in or after the 1998-1999 school year and before the 2006-2007 school year who meets the eligibility requirements of this subsection and section 7b(1) is eligible for the award of a $2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or in a service academy. Subject to subsection (6) and section 7b(2) and (5), and to adjustment under subsection (4), each student enrolled in grade 11 in or after the 1998-1999 school year who graduated from high school before the 2006-2007 school year and who meets the eligibility requirements of this subsection and section 7b(1) is eligible for the award of a $1,000.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution outside this state other than a service academy. A student is eligible under this subsection if the board finds that the student while in high school had taken the high school assessment test in the subject areas of reading, writing, mathematics, and science and met 1 of the following:

(a) Received qualifying results in each of the subject areas of reading, writing, mathematics, and science.

(b) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(3) Subject to subsection (6) and section 7b(5) and to adjustment under subsection (4), each student enrolled in grade 11 in or after the 2006-2007 school year who meets the requirements of section 7b(1) is eligible for the award of a $2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or in a service academy, if the board finds that the student while in high school had taken the Michigan merit examination and met 1 of the following:

(a) Received qualifying results in each of the subject area components of the Michigan merit examination.

(b) Did not receive qualifying results in each of the subject area components of the Michigan merit examination, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in each of the subject area components of the Michigan merit examination, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(4) In any fiscal year, the board may adjust the amount of a Michigan merit award scholarship available to students eligible under 1 or more of subsections (2), (3), and (5), based upon its determination of available resources and amounts appropriated, but the board shall not increase an amount by more than 5% in any fiscal year. The board shall notify the governor, the speaker of the house of representatives, and the majority leader of the senate in writing at least 30 days before an adjustment under this subsection.

(5) If a student who has previously received a $1,000.00 Michigan merit award scholarship under this section as a student enrolled in an approved postsecondary educational institution outside of this state other than a service academy enrolls in an approved postsecondary educational institution in this state and meets the requirements of section 7b(1), and subject to adjustment under subsection (4), the student is eligible for the award of an additional $1,500.00 Michigan merit award scholarship.

(6) If the United States department of education has not approved the use of the Michigan merit examination for the purposes of the federal no child left behind act of 2001, Public Law 107-110, by December 31, 2006, all of the following apply:

(a) Eligibility for a Michigan merit award scholarship under this section shall be determined under subsection (2) until the next calendar year that begins after that approval occurs.

(b) Eligibility for a Michigan merit award scholarship under this section shall be determined under subsection (3) beginning in the next calendar year that begins after that approval occurs.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State June 30, 2006.

[No. 242]

(SB 1146)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 199 (MCL 750.199).

The People of the State of Michigan enact:

750.199 Concealing or harboring person who has escaped; violation; penalties; "peace officer" defined.

Sec. 199. (1) A person who knowingly or willfully conceals or harbors for the purpose of concealment from a peace officer a person who has escaped or is escaping from lawful

custody in violation of this chapter is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(2) A person who knowingly or willfully conceals or harbors for the purpose of concealment from a peace officer a person who is the subject of 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both:

(a) An arrest warrant for a misdemeanor.

(b) A bench warrant in a civil case other than a civil infraction under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(c) A bench warrant in a criminal case if the underlying crime charged is a misdemeanor.

(3) A person who knowingly or willfully conceals or harbors for the purpose of concealment from a peace officer a person who is the subject of 1 or more of the following is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both:

(a) An arrest warrant for a felony.

(b) A bench warrant in a criminal case if the underlying crime charged is a felony.

(4) As used in this section, "peace officer" means that term as defined in section 215.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State June 30, 2006.

[No. 243]

(SB 1147)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of

probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16j of chapter XVII (MCL 777.16j), as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

777.16j MCL 750.183 to 750.199a; felonies to which chapter applicable.

Sec. 16j. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.183	Pub saf	E	Aiding escaping prisoner	7
750.186a(1)	Pub saf	F	Escape from a juvenile facility	4
750.189	Pub saf	H	Officer negligently allowing prisoner to escape or refusing to receive prisoner	2
750.190	Pub saf	G	Officer receiving reward to assist or permit escape	2
750.193	Pub saf	E	Escape from prison	5
750.195(1)	Pub saf	H	Escape from a misdemeanor jail sentence	2
750.195(2)	Pub saf	F	Escape from a felony jail sentence	4
750.197(1)	Pub saf	H	Escape while awaiting trial for misdemeanor	2
750.197(2)	Pub saf	F	Escape while awaiting trial for felony	4
750.197c	Pub saf	F	Escape from jail through violence	4
750.199(3)	Pub saf	F	Harboring a person for whom felony warrant has been issued	4
750.199a	Pub ord	F	Absconding on or forfeiting bond	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1146 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 28, 2006.

Filed with Secretary of State June 30, 2006.

Compiler's note: Senate Bill No. 1146, referred to in enacting section 1, was filed with the Secretary of State June 30, 2006, and became 2006 PA 242, Eff. Sept. 28, 2006.

[No. 244]

(SB 689)

AN ACT to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts," (MCL 691.1401 to 691.1419) by adding section 7c.

The People of the State of Michigan enact:

691.1407c Donated fire control or rescue equipment; liability; testing, repair, or maintenance; rights of employee or volunteer under MCL 418.101 to 418.941; "organized fire department" defined.

Sec. 7c. (1) A municipal corporation, organized fire department, or agent of a municipal corporation or organized fire department that donates fire control or rescue equipment to another municipal corporation or organized fire department is not liable for damages for personal injury, death, or property damage proximately caused after the donation by a defect in the equipment.

(2) Before using equipment donated under subsection (1), a municipal corporation or organized fire department that receives the donated equipment shall have the equipment tested, repaired, or maintained if required by state or federal law, rule, or regulation. The municipal corporation or organized fire department shall not use the donated equipment unless the use is consistent with state and federal laws, rules, and regulations. Subject to subsection (3), a municipal corporation or organized fire department that complies with this subsection is not liable for damages for personal injury, death, or property damage proximately caused by a defect in the donated equipment.

(3) The immunity from liability provided by subsection (2) does not affect the rights of an employee or volunteer of the municipal corporation or organized fire department that receives the donated equipment to benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, or any similar law.

(4) As used in this section, "organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State June 30, 2006.

[No. 245]

(SB 1120)

AN ACT to amend 1957 PA 185, entitled "An act to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of

any municipality subject to the provisions of this act; to authorize the incurring of contract obligations and the issuance and payment of bonds or notes; to provide for a pledge by a municipality of its full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; and to prescribe a procedure for special assessments and condemnation," by amending sections 13 and 25 (MCL 123.743 and 123.755), section 25 as amended by 2002 PA 407.

The People of the State of Michigan enact:

123.743 Project special assessment district; municipal special assessments.

Sec. 13. (1) If the board of public works determines to spread all or part of the cost of a project to a special assessment district, it shall proceed as provided under chapter 2.

(2) If a municipality other than a county operating under this act elects to raise moneys to pay all or any portion of its share of the cost of a project by assessing the cost upon benefited lands, its governing body shall do so by resolution and fix the district for assessment.

(3) The governing body shall cause a special assessment roll to be prepared and the proceedings of the special assessment roll and the making and collection of the special assessments shall be in accordance with the provisions of the statute or charter governing special assessments in the municipality, except that the total assessment may be divided into any number of installments not exceeding 40.

(4) Any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district established under this section.

123.755 Special assessments; annual installments; interest on unpaid installments; spreading installments on tax rolls; advance payment; issuance of bonds subject to revised municipal finance act.

Sec. 25. (1) The board of public works may provide that the assessments made on any roll shall be payable in 1 or more annual installments, not exceeding 40. The board may vary the principal amount of each installment but an installment shall not be less than 1/4 of the amount of a subsequent installment. Annual installments need not be extended upon the special assessment roll until after confirmation.

(2) All unpaid installments shall bear interest from the date fixed by the board of public works, payable annually, at a rate to be set by the board at the time the special assessment is established, which shall not exceed any of the following:

(a) If bonds are not issued, 8% per annum.

(b) If bonds are issued, the maximum rate permitted to be charged under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Installments of special assessments shall be spread as provided in this act, 1 each year, upon the tax rolls upon which county taxes are spread. The board of public works shall specify the first year of this spread, which shall not be later than the year following that in which the roll was confirmed. The board may provide the times and conditions upon which installments of special assessments may be paid in advance of their due dates.

(4) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State June 30, 2006.

[No. 246]

(SB 1202)

AN ACT to amend 2004 PA 452, entitled "An act to prohibit certain acts and practices concerning identity theft; to provide for the powers and duties of certain state and local governmental officers and entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 5 (MCL 445.65) and by adding section 5a.

The People of the State of Michigan enact:

445.65 Prohibited acts; violations; defense in civil action or criminal prosecution; burden of proof.

Sec. 5. (1) A person shall not do any of the following:

(a) With intent to defraud or violate the law, use or attempt to use the personal identifying information of another person to do either of the following:

(*i*) Obtain credit, goods, services, money, property, a vital record, a confidential telephone record, medical records or information, or employment.

(*ii*) Commit another unlawful act.

(b) By concealing, withholding, or misrepresenting the person's identity, use or attempt to use the personal identifying information of another person to do either of the following:

(*i*) Obtain credit, goods, services, money, property, a vital record, a confidential telephone record, medical records or information, or employment.

(*ii*) Commit another unlawful act.

(2) A person who violates subsection (1)(b)(*i*) may assert 1 or more of the following as a defense in a civil action or as an affirmative defense in a criminal prosecution, and has the burden of proof on that defense by a preponderance of the evidence:

(a) That the person gave a bona fide gift for or for the benefit or control of, or use or consumption by, the person whose personal identifying information was used.

(b) That the person acted in otherwise lawful pursuit or enforcement of a person's legal rights, including an investigation of a crime or an audit, collection, investigation, or transfer of a debt, child or spousal support obligation, tax liability, claim, receivable, account, or interest in a receivable or account.

(c) That the action taken was authorized or required by state or federal law, rule, regulation, or court order or rule.

(d) That the person acted with the consent of the person whose personal identifying information was used, unless the person giving consent knows that the information will be used to commit an unlawful act.

445.65a Definitions; prohibited acts; obtaining confidential telephone records by law enforcement agency or telecommunication provider.

Sec. 5a. (1) As used in this act:

(a) "Confidential telephone record" means any of the following:

(*i*) Information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a service offered by a telecommunication provider subscribed to by any customer of that telecommunication provider.

(*ii*) Information that is made available to a telecommunication provider by a customer solely by virtue of the relationship between the telecommunication provider and the customer.

(*iii*) Information contained in any bill related to the product or service offered by a telecommunication provider and received by any customer of the telecommunication provider.

(b) "Covered specialized mobile radio service" means a commercial mobile radio service that offers real-time, 2-way switched voice or data service and is interconnected with the public switched network utilizing an in-network switching facility.

(c) "IP-enabled voice service" means an interconnected voice over internet protocol service that enables real-time, 2-way voice communications, requires a broadband connection from the user's location using internet protocol-compatible equipment, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(d) "Telecommunication provider" means all of the following:

(*i*) A provider as that term is defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(*ii*) A provider of IP-enabled voice service.

(*iii*) A provider of any telecommunication service.

(e) "Telecommunication service" means all of the following:

(*i*) A service as that term is defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(*ii*) Cellular telephone service.

(*iii*) Broadband personal communication service.

(*iv*) Covered specialized mobile radio.

(2) A person shall not do any of the following:

(a) Knowingly procure, attempt to procure, or solicit or conspire with another to procure a confidential telephone record of any resident of this state without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means.

(b) Knowingly sell or attempt to sell a confidential telephone record of any resident of this state without the authorization of the customer to whom the record pertains.

(c) Receive a confidential telephone record of any resident of this state knowing that the record has been obtained without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means.

(3) This section does not prohibit any action by a law enforcement agency, or any officer, employee, or agent of such agency, from obtaining confidential telephone records in connection with the performance of the official duties of the agency.

(4) This section does not prohibit a telecommunication provider from obtaining, using, disclosing, or permitting access to any confidential telephone record, either directly or indirectly, through its agents, subcontractors, affiliates, or representatives in the normal course of business. This section does not expand the obligations and duties of a telecommunication provider to protect confidential telephone records beyond those obligations and duties otherwise established by federal and state law.

This act is ordered to take immediate effect.
Approved June 30, 2006.
Filed with Secretary of State June 30, 2006.

[No. 247]

(SB 582)

AN ACT to amend 1969 PA 306, entitled "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," by amending sections 46 and 49 (MCL 24.246 and 24.249), section 46 as amended by 1999 PA 262 and section 49 as amended by 2004 PA 23.

The People of the State of Michigan enact:

24.246 Promulgation of rules; procedure; arrangement, binding, certification, and inspection of rules.

Sec. 46. (1) To promulgate a rule the state office of administrative hearings and rules shall file in the office of the secretary of state 3 copies of the rule bearing the required certificates of approval and adoption, true copies of the rule without the certificates, and 1 electronic copy. The state office of administrative hearings and rules shall not file a rule, except an emergency rule under section 48 and rules processed under sections 33 and 44, until the time periods for committee and legislative consideration described in section 45a have elapsed.

(2) The secretary of state shall endorse the date and hour of filing of rules on the 3 copies of the filing bearing the certificates and shall maintain a file containing 1 copy for public inspection.

(3) The secretary of state, as often as he or she considers it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his or her office with their attached certificates and published in a supplement to the Michigan administrative code. The secretary of state shall certify under his or her hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record of the rules is required to be kept. The bound rules are subject to public inspection.

24.249 Filed rules; transmission.

Sec. 49. (1) The secretary of state shall transmit, after copies of rules are filed in his or her office, the following:

(a) To the secretary of the committee and the state office of administrative hearings and rules, a paper copy upon which the day and hour of that filing have been endorsed.

(b) To the secretary of the senate and the clerk of the house of representatives, an electronic copy for distribution or transmittal by them to each member of the senate and the house of representatives. When the legislature is not in session, or is in session but will not meet for more than 10 days after the secretary and clerk have received the rules, the secretary and clerk shall mail or electronically transmit 1 copy to each member of the legislature at his or her home address.

(2) The secretary of the senate and clerk of the house of representatives shall present the rules to the senate and the house of representatives.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State July 3, 2006.

[No. 248]

(HB 6110)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 74126.

The People of the State of Michigan enact:

324.74126 "Fred Meijer White Pine Trail State Park"; "Fred Meijer Berry Junction Trail"; criteria for naming state parks and state owned recreational facilities.

Sec. 74126. (1) The state owned land containing the White Pine trail, which traverses an abandoned rail corridor between Comstock Park and Cadillac, shall be known as the "Fred Meijer White Pine Trail State Park".

(2) The department shall facilitate the establishment of a recreational trail that traverses, in part, the abandoned rail corridor that runs from White Lake drive, south of the city of Whitehall, to Lake avenue in the city of North Muskegon. This trail shall be known as the "Fred Meijer Berry Junction Trail".

(3) The department, in consultation with the committee, the commission, and the Michigan natural resources trust fund board established in section 1905, shall develop criteria for naming state parks and other state owned recreational facilities. Within 1 year after the effective date of the amendatory act that added this subsection, the department shall present to the standing committees of the senate and the house of representatives with jurisdiction primarily relating to natural resources and state parks the criteria it has developed under this section.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State July 3, 2006.

[No. 249]

(SB 1172)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending sections 301, 401, and 717 (MCL 484.1301, 484.1401, and 484.1717), section 301 as amended by 1994 PA 29, section 401 as amended by 1999 PA 81, and section 717 as added by 1999 PA 79, and by adding section 413.

The People of the State of Michigan enact:

484.1301 Emergency telephone district; establishment; implementation of 9-1-1 service; modification or alteration of existing emergency telephone service; emergency telephone district board; creation and powers; receipt of operational funds by multiple districts; operation of systems.

Sec. 301. (1) The board of commissioners of a county may establish an emergency telephone district within all or part of the county and may cause 9-1-1 service to be implemented within the emergency telephone district under this act.

(2) The board of commissioners of a county all or part of which is operating an existing emergency telephone service may modify the existing emergency telephone service or may alter the scope or method of financing of 9-1-1 service within all or part of the county by establishing an emergency telephone district and causing 9-1-1 service to be implemented within the emergency telephone district under this act.

(3) The board of commissioners of a county may create an emergency telephone district board and delegate certain powers to the board.

(4) If the board of commissioners of a county has created multiple emergency telephone districts before March 2, 1994, the emergency telephone districts created shall receive all operational funds collected by the service supplier of the district and operate the systems as provided by this act.

484.1401 Agreement; emergency telephone technical charge and emergency operational charge; billing and collection service; computation; monthly charge for recurring costs and charges; ballot question; annual accounting; distribution of operational funds; limitation on levy and collection.

Sec. 401. (1) An emergency telephone district board, a 9-1-1 service district as defined in section 102 and created under section 201b, or a county on behalf of a 9-1-1 service area created by the county may enter into an agreement with a public agency that does either of the following:

(a) Grants a specific pledge or assignment of a lien on or a security interest in any money received by a 9-1-1 service district for the benefit of qualified obligations.

(b) Provides for payment directly to the public entity issuing qualified obligations of a portion of the emergency telephone operational charge sufficient to pay when due principal of and interest on qualified obligations.

(2) A pledge, assignment, lien, or security interest for the benefit of qualified obligations is valid and binding from the time the qualified obligations are issued without a physical delivery or further act. A pledge, assignment, lien, or security interest is valid and binding and has priority over any other claim against the emergency telephone district board, the 9-1-1 service district, or any other person with or without notice of the pledge, assignment, lien, or security interest.

(3) Except as provided in sections 407 to 412, each service supplier within a 9-1-1 service district shall provide a billing and collection service for an emergency telephone technical charge and emergency telephone operational charge from all service users of the service supplier within the geographical boundaries of the emergency telephone or 9-1-1 service district. The billing and collection of the emergency telephone operational charge and that portion of the technical charge used for billing cost shall begin as soon as feasible after the final 9-1-1 service plan has been approved. The billing and collection of the emergency telephone technical charge not already collected for billing costs shall begin as soon as feasible after installation and operation of the 9-1-1 system. The emergency telephone technical charge and emergency telephone operational charge shall be uniform per each exchange access facility within the 9-1-1 service district. The portion of the emergency telephone technical charge that represents start-up costs, nonrecurring billing, installation, service, and equipment charges of the service supplier, including the costs of updating equipment necessary for conversion to 9-1-1 service, shall be amortized at the prime rate plus 1% over a period not to exceed 10 years and shall be billed and collected from all service users only until those amounts are fully recouped by the service supplier. The prime rate to be used for amortization shall be set before the first assessment of nonrecurring charges and remain at that rate for 5 years, at which time a new rate may be set for the remaining amortization period. Recurring costs and charges included in the emergency telephone technical charge and emergency telephone operational charge shall continue to be billed to the service user.

(4) Except as provided in sections 407 to 412 and subject to the limitation provided by this section, the amount of the emergency telephone technical charge and emergency telephone operational charge to be billed to the service user shall be computed by dividing the total emergency telephone technical charge and emergency telephone operational charge by the number of exchange access facilities within the 9-1-1 service district.

(5) Except as provided in subsection (7) and sections 407 to 412, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 2% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. The amount of emergency telephone technical charge payable monthly by a service user for nonrecurring costs and charges shall not exceed 5% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district. With the approval of the county board of commissioners, a county may assess an amount for recurring emergency telephone operational costs and charges that shall not exceed 4% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county. The percentage to be set for the emergency telephone operational charge shall be established by the county board of commissioners under section 312. A change to the percentage set for the emergency telephone operational charge may be made only by the county board of commissioners. The difference, if any, between the amount of the emergency telephone technical charge computed under subsection (4) and

the maximum permitted under this section shall be paid by the county from funds available to the county or through cooperative arrangements with public agencies within the 9-1-1 service district.

(6) Except as provided in sections 407 to 412, the emergency telephone technical charge and emergency telephone operational charge shall be collected in accordance with the regular billings of the service supplier. The amount collected for emergency telephone operational charge shall be paid by the service supplier to the county that authorized the collection. The emergency telephone technical charge and emergency telephone operational charge payable by service users pursuant to this act shall be added to and shall be stated separately in the billings to service users.

(7) Except as provided in sections 407 to 412, for a 9-1-1 service district created or enhanced after June 27, 1991, the amount of emergency telephone technical charge payable monthly by a service user for recurring costs and charges shall not exceed 4% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the 9-1-1 service district.

(8) Except as provided in sections 407 to 412, a county may, with the approval of the voters in the county, assess up to 16% of the lesser of $20.00 or the highest monthly rate charged by the service supplier for primary basic local exchange service under section 304 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2304, within the geographical boundaries of the assessing county or assess a millage or combination of the 2 to cover emergency telephone operational costs. In a ballot question under this subsection, the board of commissioners shall specifically identify how the collected money is to be distributed. An affirmative vote on a ballot question under this subsection shall be considered an amendment to the 9-1-1 service plan pursuant to section 312. Not more than 1 ballot question under this subsection may be submitted to the voters within any 12-month period. An assessment approved under this subsection shall be for a period not greater than 5 years.

(9) The total emergency telephone operational charge as prescribed in subsections (5) and (8) shall not exceed 20% of the lesser of $20.00 or the highest monthly flat rate charged for primary basic service by a service supplier for a 1-party access line.

(10) Except as provided in sections 407 to 412, if the voters approve the charge to be assessed on the service user's telephone bill on a ballot question under subsection (8), the service provider's bill shall state the following:

"This amount is for your 9-1-1 service which has been approved by the voters on (DATE OF VOTER APPROVAL). This is not a charge assessed by your telephone carrier. If you have questions concerning your 9-1-1 service, you may call (INCLUDE APPROPRIATE TELEPHONE NUMBER).".

(11) Except as provided in sections 407 to 412, an annual accounting shall be made of the emergency telephone operational charge approved under this act in the same manner as the annual accounting required by section 405.

(12) Except as otherwise provided in subsection (13), or as provided in sections 407 to 412, the emergency telephone operational charge collected under this section shall be distributed by the county or the counties to the primary PSAPs by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the plan, then according to any agreement for distribution between the county and public agencies.

(c) If distribution is not provided in the plan or by agreement, then according to the distribution of access lines within the primary PSAPs.

(13) Except as provided in sections 407 to 412, if a county had multiple emergency telephone districts before the effective date of the amendatory act that added this subsection, then the emergency telephone operational charge collected under this section shall be distributed in proportion to the amount of access lines within the primary PSAPs.

(14) Except as provided in sections 407 to 412, this section shall not preclude the distribution of funding to secondary PSAPs if the distribution is determined by the primary PSAPs within the emergency telephone district to be the most effective method for dispatching of fire or emergency medical services and the distribution is approved within the final 9-1-1 service plan.

(15) Notwithstanding any other provision of this act, the emergency telephone technical charge and the emergency telephone operational charge shall not be levied or collected after December 31, 2007. If all or a portion of the emergency telephone operational charge has been pledged as security for the payment of qualified obligations, the emergency telephone operational charge shall be levied and collected only to the extent required to pay the qualified obligations or satisfy the pledge.

484.1413 Report; funding recommendations.

Sec. 413. (1) The state 9-1-1 director shall issue a report to the legislature and the governor no later than December 1, 2006, providing recommendations for stable, equitable long-term funding of the 9-1-1 system in this state and recommendations, if any, for the establishment of standards for the training and response time of 9-1-1 personnel.

(2) The report shall contain a recommendation that any 9-1-1 fees collected from communications providers are assessed in a competitively neutral manner.

484.1717 Repeal of act.

Sec. 717. This act is repealed effective December 31, 2007.

This act is ordered to take immediate effect.
Approved June 28, 2006.
Filed with Secretary of State July 3, 2006.

[No. 250]

(HB 5328)

AN ACT to regulate the money transmission services business; to require the licensing of persons engaged in providing money transmission services; to prescribe powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

487.1001 Short title.

Sec. 1. This act shall be known and may be cited as the "money transmission services act".

487.1002 Definitions; A to L.

Sec. 2. As used in this act:

(a) "Agency" means the office of financial and insurance services in the department of labor and economic growth.

(b) "Applicant" means a person that files an application for a license under this act.

(c) "Authorized delegate" means a person that a licensee designates to provide money transmission services in this state on behalf of the licensee.

(d) "Commissioner" means the commissioner of the office of financial and insurance services.

(e) "Control" means any of the following:

(*i*) Ownership of, or the power to vote, directly or indirectly, at least 25% of a class of voting securities or voting interests of a licensee or person in control of a licensee.

(*ii*) Power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee.

(*iii*) The power to exercise directly or indirectly a controlling influence over the management or policies of a licensee or person in control of a licensee.

(f) "Control person" means a director, manager, or executive officer of a licensee or a natural person who has the authority to participate in the direction, directly or indirectly through 1 or more other natural persons, of the management or policies of a licensee.

(g) "Depository financial institution" means a bank, national bank, savings and loan association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States whose deposits are insured by an agency of the federal government.

(h) "Executive officer" means an officer, member, or partner of a licensee, including, but not limited to, a chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(i) "Financial licensing act" means any of the financial licensing acts, as that term is defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(j) "Licensee" means a person licensed or required to be licensed under this act.

(k) "Location" means a place of business at which activities regulated by this act occur.

487.1003 Definitions; M to T.

Sec. 3. As used in this act:

(a) "Material litigation" means litigation that, according to generally accepted accounting principles, is significant to an applicant's or a licensee's financial health and must be disclosed in the applicant's or licensee's audited financial statements, report to shareholders, or similar records.

(b) "Money" means a medium of exchange authorized or adopted by the United States or a foreign government as a part of its currency that is customarily used and accepted as a medium of exchange in the country of issuance. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between 2 or more governments.

(c) "Money transmission services" means selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online, or telecommunications services or network access.

(d) "Outstanding payment instrument" means any check, draft, money order, travelers check, other written instrument, electronic or wire transfer, stored value device, or facsimile issued by a licensee that has been sold in the United States directly by the licensee or any payment instrument issued by the licensee that has been sold by the licensee or an authorized delegate in the United States, that has been reported to the licensee as having been sold, and that has not yet been paid by or for the licensee.

(e) "Payment instrument" means any electronic or written check, draft, money order, travelers check, or other wire, electronic, or written instrument or order for the transmission or payment of money, sold or issued to 1 or more persons, whether or not the instrument is negotiable. The term includes any stored value device or facsimile. The term does not include any credit card voucher, letter of credit, or tangible object redeemable by the issuer in goods or services.

(f) "Person" means an individual, partnership, association, corporation, limited liability company, trust, estate, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal entity.

(g) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(h) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or protectorate of the United States.

(i) "Stored value device" means a card or other tangible object used for the transmission or payment of money that contains a microprocessor chip, magnetic stripe, or other means for the storage of information; that is prefunded; and the value of which is reduced after each use. The term does not include a tangible object the value of which is redeemable in the issuer's goods and services.

(j) "Travelers check" means an instrument for the payment of money or a foreign currency instrument in any denomination that provides for both of the following:

(*i*) A specimen signature of the purchaser to be completed at the time of purchase of the instrument.

(*ii*) A countersignature of the purchaser to be completed when the instrument is negotiated.

487.1004 Applicability of act.

Sec. 4. This act does not apply to any of the following:

(a) The United States or a department, agency, or instrumentality of the United States.

(b) Money transmission services provided by the United States postal service or by a contractor on behalf of the United States postal service.

(c) A state, county, city, or any other governmental subdivision of a state.

(d) A depository financial institution, office of an international banking corporation, or branch of a foreign bank; a bank holding company or subsidiary, as those terms are defined in section 2(a)(1) and 2(d) of the bank holding company act of 1956, 12 USC 1841; a bank service company organized under the bank service company act, 12 USC 1861 to 1867; a subsidiary or affiliate of a depository financial institution, or a subsidiary or affiliate of a holding company of a depository financial institution, if the depository financial institution maintains its main office or a branch office in this state; a credit union service organization, as that term is defined in section 102 of the credit union act, 2003 PA 215, MCL 490.102; or a corporation organized under the Edge act, 12 USC 611 to 633.

(e) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency,

or instrumentality of the United States or a state or governmental subdivision, agency, or instrumentality of a state.

(f) A board of trade designated as a contract market under the commodity exchange act, 7 USC 1 to 27f, or a person that in the ordinary course of business provides clearance and settlement services for a board of trade, to the extent of its operation as or for that board.

(g) A registered futures commission merchant under the federal commodities laws, to the extent of its operation as a merchant.

(h) A person that provides clearance or settlement services under a registration as a clearing agency or an exemption from registration granted under the federal securities laws, to the extent of its operation as a provider under this subdivision.

(i) An operator of a payment system, to the extent that it provides processing, clearing, settlement, or other similar services between or among persons excluded by this section in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or other similar funds transfers or transactions.

(j) A person registered as a securities broker-dealer under federal or state securities laws, to the extent of its operation as a registered broker-dealer.

487.1011 Money transmission services; license required; exception.

Sec. 11. (1) Except as otherwise provided in this section and subject to section 4, a person shall not provide money transmission services in this state after December 31, 2006 without a license under this act or a class I license issued under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(2) A person licensed under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, on the day before the effective date of this act may continue to provide money transmission services under that license until December 31, 2006.

(3) A license under this act is not required for a person to act as an authorized delegate of a person licensed under this act.

487.1012 License application; form; information required.

Sec. 12. (1) A person applying for a license under this act shall apply on a form and in a medium prescribed by the commissioner. The application shall include all of the following information:

(a) The legal name and residential and business addresses of the applicant and any assumed or trade name used by the applicant in conducting its money transmission services business.

(b) A list of any criminal convictions of the applicant and any material litigation in which the applicant was involved in the 10-year period preceding the submission of the application.

(c) A description of any money transmission services previously provided by the applicant and the money transmission services that the applicant intends to provide in this state.

(d) A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in providing money transmission services.

(e) A list of all other states in which the applicant is licensed to engage in providing money transmission services and any license revocations, suspensions, or other disciplinary action taken against the applicant in any other state.

(f) Information concerning any bankruptcy or receivership proceedings affecting the applicant.

(g) The name and address of any depository financial institution through which the applicant's payment instrument will be paid.

(h) A description of the source of money and credit to be used by the applicant to provide money transmission services.

(i) Any other information the commissioner reasonably requires with respect to the applicant.

(2) If an applicant is not a natural person, the applicant shall also provide all of the following information with the application:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation.

(b) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether the applicant or a parent or subsidiary of the applicant is publicly traded.

(c) The name, all assumed or trade names, and all business addresses of the applicant.

(d) The name, all assumed or trade names, all business and residential addresses, and the employment history for the 10-year period preceding the submission of the application of each control person of the applicant.

(e) A list of any criminal convictions and material litigation in which any control person of the applicant has been involved in the 10-year period preceding the submission of the application.

(f) If the applicant is publicly traded, a copy of the most recent report filed with the securities and exchange commission under section 13 of the federal securities exchange act of 1934, 15 USC 78m.

(g) If the applicant is a wholly owned subsidiary of a corporation publicly traded in the United States, a copy of financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal securities exchange act of 1934, 15 USC 78m.

(h) If the applicant is a wholly owned subsidiary of a corporation publicly traded outside the United States, a copy of any documentation similar to that described in subdivision (g) that is filed with the regulator of the parent corporation's domicile outside the United States.

(i) If the applicant has a registered agent in this state, the name and address of that registered agent.

(j) Any other information the commissioner reasonably requires with respect to the applicant.

487.1013 Financial statements; net worth; qualification to do business; application fee; surety bond; aggregate liability of surety; limitation.

Sec. 13. (1) At the time of filing an application for a license under this act, an applicant shall provide the commissioner with copies of the applicant's financial statements for the most recent fiscal year and, if available, for the 2-year period preceding the submission of the application. The financial statements shall meet all of the following:

(a) If subdivision (b) does not apply, show that the applicant's net worth exceeds $100,000.00.

(b) If the applicant intends to engage in providing money transmission services in this state at more than 1 location or through authorized delegates, show that the applicant has

a net worth that equals or exceeds either the sum of $100,000.00 plus an additional $25,000.00 for each location or authorized delegate, as applicable, or $1,000,000.00, whichever is less.

(c) Are in the form prescribed by the commissioner, except that financial statements prepared by or reviewed by an independent certified public accountant may be in the form prescribed by that accountant.

(d) Are prepared in accordance with generally accepted accounting principles.

(2) A licensee shall at all times maintain a net worth that meets the amounts described in subsection (1) for its money transmission services business.

(3) At the time of the filing of an application and at all times after a license is issued, an applicant shall be registered, if required, or otherwise qualified to do business in this state.

(4) An applicant shall include with an application for a license under this act a nonrefundable application fee established by the commissioner under section 15.

(5) An applicant shall include with an application for a license under this act a surety bond that meets all of the following:

(a) Is issued by a bonding company or insurance company authorized to do business in this state and expires no earlier than the date the license expires.

(b) Is in a principal amount of at least $500,000.00 and not more than $1,500,000.00. The commissioner shall determine the principal amount of this bond based on the number of locations and authorized delegates of the applicant in this state.

(c) Is in a form satisfactory to the commissioner, is payable to the commissioner for the benefit of any individuals who are Michigan residents and who are creditors or claimants of the applicant and its authorized delegates through purchase of a payment instrument from the applicant or an authorized delegate located in this state, and secures the faithful performance of the obligations of the applicant and its authorized delegates with respect to the receipt of money in connection with the conduct of its money transmission services business.

(6) The aggregate liability of a surety under a bond issued for purposes of subsection (5) shall not exceed the principal amount of the bond.

487.1014 Investigation; completed application; time period; issuance of license; fee; extension of time period; denial; request for hearing.

Sec. 14. (1) When the commissioner receives a completed application for a license under this act, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant and may reasonably conduct a similar investigation of each control person of the applicant under this subsection. The commissioner may conduct an on-site investigation of the applicant.

(2) When the commissioner determines that an application for a license under this act is complete, the commissioner shall promptly notify the applicant in writing of the date on which he or she determined that the application was complete and shall approve or deny the application within 120 days after that date. Subject to subsection (5), if the commissioner does not approve or deny an application within that 120-day period, the commissioner shall issue the license.

(3) The commissioner shall issue a license to an applicant under this act if the commissioner determines all of the following:

(a) That the applicant has complied with sections 12, 13, and 16.

(b) That the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant and the experience, character, and general fitness of each control person and any shareholders of the applicant meet the requirements of this act.

(c) That the applicant commands the confidence of the public and warrants the belief that the applicant and its executive officers will comply with the law.

(d) That the applicant has paid the license fee under subsection (4).

(4) If an application for a license is approved under this section, the licensee shall pay a license fee in an amount established by the commissioner under section 15 within 30 days after the date of approval.

(5) The commissioner may for good cause extend the 120-day time period described in subsection (2).

(6) An applicant whose application is denied by the commissioner under this act may appeal within 30 days after the date of the notice of the denial and request a hearing on the denial.

487.1015 Fee schedule; expiration and renewal of license.

Sec. 15. (1) By December 31 of each year, the commissioner shall establish a schedule of fees to be paid by applicants and licensees during the next calendar year. In establishing license fees, the commissioner shall consider each licensee's business volume and number of locations and any other business factors he or she considers reasonable in order to generate funds sufficient to pay, but not to exceed, the office's reasonably anticipated costs of administering this act.

(2) A license issued under this act expires on December 31 of each year unless earlier suspended, surrendered, or revoked under this act. A licensee may renew a license by filing an application for a license renewal, in the form and medium prescribed by the commissioner, and paying the license fee for the renewal year, on or before the December 1 preceding the renewal year. The commissioner shall not renew a license if the license fee for the renewal term is not paid.

487.1016 Travel expenses; recovery of fees and fines; collection; disposition.

Sec. 16. (1) In addition to any fees established by the commissioner, a licensee shall pay the actual travel, lodging, and meal expenses incurred by any agency employee who travels outside of this state to examine the records of the licensee or investigate the licensee. An agency employee who incurs expenses under this subsection shall comply with any applicable provisions of the standardized travel regulations issued by the department of management and budget and civil service commission.

(2) If any fees or fines provided for in this act are not paid when required, the commissioner may maintain an action against the licensee for the recovery of the fees or fines, interest, costs, and reasonable legal fees.

(3) The fees and civil and administrative fines collected under this act shall be paid into the state treasury to the credit of the agency and used only for the operation of the agency.

487.1021 Information obtained in examination or investigation; disclosure prohibited.

Sec. 21. The commissioner may conduct an examination or investigation of a licensee or any of its authorized delegates. Except as provided in section 26, the commissioner and the agency shall not disclose information obtained in an examination or investigation.