PUBLIC ACTS

[No. 1]

(HB 4718)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.2080) by adding section 78.

The People of the State of Michigan enact:

250.1078 "UAW Sitdown Strike Memorial Highway"; "Marine Corps League Memorial Highway."

Sec. 78. (1) Highway M-54 in Genesee county beginning at the intersection of M-54 and I-75 and continuing north to the intersection of M-54 and I-69 shall be known as the "UAW Sitdown Strike Memorial Highway".

(2) Highway M-54 in Genesee county beginning at the intersection of M-54 and I-69 and continuing north to the intersection of M-54 and M-57 shall be known as the "Marine Corps League Memorial Highway".

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 624 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved February 2, 2006.
Filed with Secretary of State February 3, 2006.

Compiler's note: Senate Bill No. 624, referred to in enacting section 1, was filed with the Secretary of State February 3, 2006, and became 2006 PA 2, Imd. Eff. Feb. 3, 2006.

[No. 2]

(SB 624)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.2080) by adding section 92.

The People of the State of Michigan enact:

250.1092 "10th Mountain Division Highway"; "Ronald W. Reagan Memorial Highway."

Sec. 92. (1) Highway US-24 in Wayne county shall be known as the "10th Mountain Division Memorial Highway".

(2) Highway M-3 in Macomb county beginning at the intersection of M-3 and Harrington Boulevard and continuing north to its end shall be known as the "Ronald W. Reagan Memorial Highway".

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4718 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved February 2, 2006.
Filed with Secretary of State February 3, 2006.

Compiler's note: House Bill No. 4718, referred to in enacting section 1, was filed with the Secretary of State February 3, 2006, and became 2006 PA 1, Imd. Eff. Feb. 3, 2006.

[No. 3]

(HB 5039)

AN ACT to amend 1953 PA 181, entitled "An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon," by amending section 1 (MCL 52.201), as amended by 2002 PA 22.

The People of the State of Michigan enact:

52.201 Coroner; abolition of office; county medical examiner; appointment; terms; vacancies; civil service; qualifications; agreement among counties.

Sec. 1. (1) The board of commissioners of each county of this state shall by resolution abolish the office of coroner and appoint a county medical examiner to hold office for a period of 4 years. If the office of county medical examiner becomes vacant before the expiration of the term of office, the board of commissioners may appoint a successor to complete the term of office. In counties with a civil service system, the appointment and tenure of the medical examiner shall be made in accordance with the provisions of that civil service system.

(2) County medical examiners shall be physicians licensed to practice within this state or, if the county does not have an accredited hospital, licensed in another state that borders the county.

(3) Two or more counties, by resolution of the respective boards of commissioners, may enter into an agreement to employ the same person to act as medical examiner for all of the counties.

This act is ordered to take immediate effect.
Approved February 2, 2006.
Filed with Secretary of State February 3, 2006.

[No. 4]

(SB 956)

AN ACT to make, supplement, and adjust appropriations for various state departments and agencies and certain other state purposes for the fiscal year ending September 30, 2006; and to provide for the expenditure of the appropriations.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; state departments and agencies.

Sec. 101. There is appropriated for certain state departments and agencies and certain other state purposes as provided in this part for the fiscal year ending September 30, 2006, from the following funds:

APPROPRIATION SUMMARY

Full-time equated classified positions	0.0	
GROSS APPROPRIATION	$	21,500,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	21,500,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		21,500,000
State general fund/general purpose	$	0

Department of labor and economic growth.

Sec. 102. DEPARTMENT OF LABOR AND ECONOMIC GROWTH

(1) APPROPRIATION SUMMARY

Full-time equated classified positions	0.0	
GROSS APPROPRIATION	$	21,500,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	21,500,000
Total federal revenues		0
Total local revenues		0

		For Fiscal Year Ending Sept. 30, 2006
Total private revenues	$	0
Total state restricted revenues		21,500,000
State general fund/general purpose	$	0
(2) DEPARTMENT GRANTS		
Low-income energy efficiency assistance	$	21,500,000
GROSS APPROPRIATION	$	21,500,000
Appropriated from:		
Special revenue funds:		
Low-income energy efficiency fund		21,500,000
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending from state resources in part 1 for the fiscal year ending September 30, 2006 is $21,500,000.00 and state appropriations paid to local units of government are $0.

Appropriations subject to MCL 18.1101 to 18.1594.

Sec. 202. The appropriations made and expenditures authorized under this act and the departments, commissions, boards, offices, and programs for which appropriations are made under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 203. For the fiscal year ending September 30, 2006, there is appropriated and transferred from the general fund to the countercyclical budget and economic stabilization fund described in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351, the amount of $116,300,000.00.

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

[No. 5]

(HB 4244)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer;

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," (MCL 205.1 to 205.31) by adding section 21a.

The People of the State of Michigan enact:

205.21a Credit audit or refund denial; informal conference; notice.

Sec. 21a. If a taxpayer serves written notice upon the department within 60 days of the issuance of a credit audit or a refund denial, the taxpayer is entitled to an informal conference on the question in the same manner and under the same procedures provided for under section 21.

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

[No. 6]

(HB 5356)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," (MCL 205.1 to 205.31) by adding section 6.

The People of the State of Michigan enact:

205.6 Identification of refund opportunity by auditor; notification to taxpayer.

Sec. 6. If during the course of an audit authorized under this act an auditor identifies a refund opportunity for the taxpayer, the auditor shall notify the taxpayer of that refund opportunity in a timely manner. The taxpayer may then claim a refund under the provisions of this act. Neither the auditor nor any other department employee shall be required to

provide detailed transactional support for refund claims or be required to perform a review beyond that necessary to carry out the intended audit scope.

Effective date.

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

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

[No. 7]

(HB 5357)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," (MCL 205.1 to 205.31) by adding section 21b.

The People of the State of Michigan enact:

205.21b Taxpayer subject to use tax audit; offset; "use tax" defined.

Sec. 21b. (1) In the course of an audit conducted under the authority of section 21, a taxpayer has the right to claim credit amounts as an offset against debit amounts determined in the audit. A taxpayer that is the subject of a use tax audit of its purchases is entitled to offset the use tax liability determined in that audit by the amount of sales tax paid annually under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, by it to a Michigan vendor, or use tax paid annually by it to a vendor located outside this state, on an amount of up to $5,000.00 in purchases.

(2) As used in this section, "use tax" means the tax described in the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

Effective date.

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

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

[No. 8]

(HB 5358)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 21 (MCL 205.21), as amended by 2002 PA 657.

The People of the State of Michigan enact:

205.21 Failure or refusal to make return or payment; obtaining information on which to base assessment; procedure; determination of refund as result of audit; frivolous protest; penalty.

Sec. 21. (1) If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

(2) In carrying out this section, the department and the taxpayer shall comply with the following procedure:

(a) The department shall send to the taxpayer a letter of inquiry stating, in a courteous and nonintimidating manner, the department's opinion that the taxpayer needs to furnish further information or owes taxes to the state, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the person may initiate communication with the department to resolve any dispute. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer files a return showing a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's books and records by this state.

(*iii*) The taxpayer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department sends the taxpayer a letter of inquiry or if a letter of inquiry is not required pursuant to subdivision (a), the department, after determining the amount of tax due from a taxpayer, shall give notice to the taxpayer of its intent to assess the tax. The notice shall include the amount of the tax the department believes the taxpayer owes, the reason for that deficiency, and a statement advising the taxpayer of a right to an informal conference, the requirement of a written request by the taxpayer for the informal conference that includes the taxpayer's statement

of the contested amounts and an explanation of the dispute, and the 30-day time limit for that request.

(c) If the taxpayer serves written notice upon the department within 30 days after the taxpayer receives a notice of intent to assess, remits the uncontested portion of the liability, and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

(d) Upon receipt of a taxpayer's written notice, the department shall set a mutually agreed upon or reasonable time and place for the informal conference and shall give the taxpayer reasonable written notice not less than 20 days before the informal conference. The notice shall specify the intent to assess, type of tax, and tax year that is the subject of the informal conference. The informal conference provided for by this subdivision is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, but is subject to the rules governing informal conferences as promulgated by the department in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The taxpayer may appear or be represented by any person before the department at an informal conference, and may present testimony and argument. At the party's own expense and with advance notice to the other party, a taxpayer or the department, or both, may make an audio recording of an informal conference.

(e) After the informal conference, the department shall render a decision and order in writing, setting forth the reasons and authority, and shall assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice under subdivision (c).

(f) If the taxpayer does not protest the notice of intent to assess within the time provided in subdivision (c), the department may assess the tax and the interest and penalty on the tax that the department believes are due and payable. An assessment under this subdivision or subdivision (e) is final and subject to appeal as provided in section 22. The final notice of assessment shall include a statement advising the person of a right to appeal.

(3) If as a result of an audit it is determined that a taxpayer is owed a refund, the department shall send a notice to the taxpayer stating the amount of the refund the department believes is owed to the taxpayer as a result of the audit. The notice shall inform the taxpayer of his or her appeal rights. If the taxpayer disputes the findings of the audit, the taxpayer may serve written notice upon the department in the same manner as provided for in subsection (2)(c) and the taxpayer is entitled to the same informal conference and subsequent appeals as provided for in this section.

(4) If a protest to the notice of intent to assess the tax is determined by the department to be a frivolous protest or a desire by the taxpayer to delay or impede the administration of taxes administered under this act, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

Effective date.

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

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

[No. 9]

(HB 5359)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 21 (MCL 205.21), as amended by 2002 PA 657.

The People of the State of Michigan enact:

205.21 Failure or refusal to make return or payment; obtaining information on which to base assessment; procedure; frivolous protest; penalty; claim for refund.

Sec. 21. (1) If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

(2) In carrying out this section, the department and the taxpayer shall comply with the following procedure:

(a) The department shall send to the taxpayer a letter of inquiry stating, in a courteous and nonintimidating manner, the department's opinion that the taxpayer needs to furnish further information or owes taxes to the state, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the person may initiate communication with the department to resolve any dispute. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer files a return showing a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's books and records by this state.

(*iii*) The taxpayer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department sends the taxpayer a letter of inquiry or if a letter of inquiry is not required pursuant to subdivision (a), the department, after determining the amount of tax due from a taxpayer, shall give notice to the taxpayer of its intent to assess the tax. The notice shall include the amount of the tax the department believes the taxpayer owes, the reason for that deficiency, and a statement advising the taxpayer of a right to an informal conference, the requirement of a written request by the taxpayer for the informal conference that includes the taxpayer's statement of the contested amounts and an explanation of the dispute, and the 30-day time limit for that request.

(c) If the taxpayer serves written notice upon the department within 30 days after the taxpayer receives a notice of intent to assess, remits the uncontested portion of the liability,

and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

(d) Upon receipt of a taxpayer's written notice, the department shall set a mutually agreed upon or reasonable time and place for the informal conference and shall give the taxpayer reasonable written notice not less than 20 days before the informal conference. The notice shall specify the intent to assess, type of tax, and tax year that is the subject of the informal conference. The informal conference provided for by this subdivision is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, but is subject to the rules governing informal conferences as promulgated by the department in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The taxpayer may appear or be represented by any person before the department at an informal conference, and may present testimony and argument. At the party's own expense and with advance notice to the other party, a taxpayer or the department, or both, may make an audio recording of an informal conference.

(e) After the informal conference, the department shall render a decision and order in writing, setting forth the reasons and authority, and shall assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice under subdivision (c).

(f) If the taxpayer does not protest the notice of intent to assess within the time provided in subdivision (c), the department may assess the tax and the interest and penalty on the tax that the department believes are due and payable. An assessment under this subdivision or subdivision (e) is final and subject to appeal as provided in section 22. The final notice of assessment shall include a statement advising the person of a right to appeal.

(3) If a protest to the notice of intent to assess the tax is determined by the department to be a frivolous protest or a desire by the taxpayer to delay or impede the administration of taxes administered under this act, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

(4) During the course of the informal conference under subsection (2)(d), the taxpayer by written notice may convert his or her contest of the assessment to a claim for a refund. The written notice shall be accompanied by payment of the contested amount. The informal conference shall continue and the department shall render a decision and issue an order regarding the claim for refund.

Effective date.

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

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

[No. 10]

(HB 5360)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide

for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 21 (MCL 205.21), as amended by 2002 PA 657.

The People of the State of Michigan enact:

205.21 Failure or refusal to make return or payment; obtaining information on which to base assessment; procedure; frivolous protest; penalty.

Sec. 21. (1) If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

(2) In carrying out this section, the department and the taxpayer shall comply with the following procedure:

(a) The department shall send to the taxpayer a letter of inquiry stating, in a courteous and nonintimidating manner, the department's opinion that the taxpayer needs to furnish further information or owes taxes to the state, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the person may initiate communication with the department to resolve any dispute. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer files a return showing a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's books and records by this state.

(*iii*) The taxpayer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department sends the taxpayer a letter of inquiry or if a letter of inquiry is not required pursuant to subdivision (a), the department, after determining the amount of tax due from a taxpayer, shall give notice to the taxpayer of its intent to assess the tax. The notice shall include the amount of the tax the department believes the taxpayer owes, the reason for that deficiency, and a statement advising the taxpayer of a right to an informal conference, the requirement of a written request by the taxpayer for the informal conference that includes the taxpayer's statement of the contested amounts and an explanation of the dispute, and the 30-day time limit for that request.

(c) If the taxpayer serves written notice upon the department within 30 days after the taxpayer receives a notice of intent to assess, remits the uncontested portion of the liability, and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

(d) Upon receipt of a taxpayer's written notice, the department shall set a mutually agreed upon or reasonable time and place for the informal conference and shall give the taxpayer reasonable written notice not less than 20 days before the informal conference. The notice shall specify the intent to assess, type of tax, and tax year that is the subject of the informal conference. The informal conference provided for by this subdivision is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, but is subject to the rules governing informal conferences as promulgated by the department in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The taxpayer may appear or be represented by any person before the department at an informal conference, and may present testimony and argument. At the party's own expense and with advance notice to the other party, a taxpayer or the department, or both, may make an audio recording of an informal conference. At the taxpayer's written request, if the department fails to issue an order and determination within 180 days after the taxpayer serves notice upon the department as provided under subdivision (c), the informal conference may be considered denied. If so denied, the taxpayer may appeal the issues contested as provided under section 22.

(e) After the informal conference, the department shall render a decision and order in writing, setting forth the reasons and authority, and shall assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice under subdivision (c).

(f) If the taxpayer does not protest the notice of intent to assess within the time provided in subdivision (c), the department may assess the tax and the interest and penalty on the tax that the department believes are due and payable. An assessment under this subdivision or subdivision (e) is final and subject to appeal as provided in section 22. The final notice of assessment shall include a statement advising the person of a right to appeal.

(3) If a protest to the notice of intent to assess the tax is determined by the department to be a frivolous protest or a desire by the taxpayer to delay or impede the administration of taxes administered under this act, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

Effective date.

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

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

[No. 11]

(HB 5361)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from

the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 21 (MCL 205.21), as amended by 2002 PA 657.

The People of the State of Michigan enact:

205.21 Failure or refusal to make return or payment; obtaining information on which to base assessment; procedure; determination of refund as result of audit; appeal; frivolous protest; penalty; claim for refund.

Sec. 21. (1) If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

(2) In carrying out this section, the department and the taxpayer shall comply with the following procedure:

(a) The department shall send to the taxpayer a letter of inquiry stating, in a courteous and nonintimidating manner, the department's opinion that the taxpayer needs to furnish further information or owes taxes to the state, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the person may initiate communication with the department to resolve any dispute. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer files a return showing a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's books and records by this state.

(*iii*) The taxpayer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department sends the taxpayer a letter of inquiry or if a letter of inquiry is not required pursuant to subdivision (a), the department, after determining the amount of tax due from a taxpayer, shall give notice to the taxpayer of its intent to assess the tax. The notice shall include the amount of the tax the department believes the taxpayer owes, the reason for that deficiency, and a statement advising the taxpayer of a right to an informal conference, the requirement of a written request by the taxpayer for the informal conference that includes the taxpayer's statement of the contested amounts and an explanation of the dispute, and the 60-day time limit for that request.

(c) If the taxpayer serves written notice upon the department within 60 days after the taxpayer receives a notice of intent to assess, remits the uncontested portion of the liability, and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

(d) Upon receipt of a taxpayer's written notice, the department shall set a mutually agreed upon or reasonable time and place for the informal conference and shall give the

taxpayer reasonable written notice not less than 20 days before the informal conference. The notice shall specify the intent to assess, type of tax, and tax year that is the subject of the informal conference. The informal conference provided for by this subdivision is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, but is subject to the rules governing informal conferences as promulgated by the department in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The taxpayer may appear or be represented by any person before the department at an informal conference, and may present testimony and argument. At the party's own expense and with advance notice to the other party, a taxpayer or the department, or both, may make an audio recording of an informal conference. A taxpayer who has made a timely request for an informal conference may at any time withdraw that request by filing written notice with the department. Upon receipt of the request for withdrawal from the informal conference process, the department shall issue a decision and order of determination and, where appropriate, a final assessment, from which a taxpayer may seek an appeal as provided under section 22.

(e) After the informal conference, the department shall render a decision and order in writing, setting forth the reasons and authority, and shall assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice under subdivision (d).

(f) If the taxpayer does not protest the notice of intent to assess within the time provided in subdivision (c), the department may assess the tax and the interest and penalty on the tax that the department believes are due and payable. An assessment under this subdivision or subdivision (e) is final and subject to appeal as provided in section 22. The final notice of assessment shall include a statement advising the person of a right to appeal.

(3) If as a result of an audit it is determined that a taxpayer is owed a refund, the department shall send a notice to the taxpayer stating the amount of the refund the department believes is owed to the taxpayer as a result of the audit. The notice shall inform the taxpayer of his or her appeal rights. If the taxpayer disputes the findings of the audit, the taxpayer may serve written notice upon the department in the same manner as provided for in subsection (2)(c) and the taxpayer is entitled to the same informal conference and subsequent appeals as provided for in this section.

(4) If a protest to the notice of intent to assess the tax is determined by the department to be a frivolous protest or a desire by the taxpayer to delay or impede the administration of taxes administered under this act, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

(5) During the course of the informal conference under subsection (2)(d), the taxpayer by written notice may convert his or her contest of the assessment to a claim for a refund. The written notice shall be accompanied by payment of the contested amount. The informal conference shall continue and the department shall render a decision and issue an order regarding the claim for refund.

Effective date.

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

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

[No. 12]

(HB 5362)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," (MCL 205.1 to 205.31) by adding section 6a.

The People of the State of Michigan enact:

205.6a Bulletin or letter ruling; reliance by taxpayer; definitions.

Sec. 6a. (1) A taxpayer may rely on a bulletin or letter ruling issued by the department after September 30, 2006 and shall not be penalized for that reliance until the bulletin or letter ruling is revoked in writing. However, that reliance by the taxpayer is limited to issues addressed in the bulletin or letter ruling for tax periods up to the effective date of an amendment to the law upon which the bulletin or letter ruling is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin or letter ruling is based.

(2) As used in this section:

(a) "Bulletin" means a revenue administrative bulletin.

(b) "Letter ruling" means a formal document issued by the department to a specific taxpayer on a specific tax matter related to a future transaction. A taxpayer shall request a letter ruling on a form and in a manner prescribed by the department.

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

[No. 13]

(HB 5364)

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

taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 53b (MCL 211.53b), as amended by 2003 PA 105.

The People of the State of Michigan enact:

211.53b Qualified error; verification, approval, and affidavit; correction of records; rebate; notice and payment; initiation of action; actions of board of review; exemption; appeal; "qualified error" defined.

Sec. 53b. (1) If there has been a qualified error, the qualified error shall be verified by the local assessing officer and approved by the board of review at a meeting held for the purposes of this section on Tuesday following the second Monday in December and, for summer property taxes, on Tuesday following the third Monday in July. If there is not a levy of summer property taxes, the board of review may meet for the purposes of this section on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the qualified error with the proper officials and all affected official records shall be corrected. If the qualified error results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. The treasurer in possession of the appropriate tax roll may deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes. The treasurer in possession of the appropriate tax roll shall bill to the appropriate tax collecting unit the tax collecting unit's share of taxes rebated. Except as otherwise provided in subsection (6) and section 27a(4), a correction under this subsection may be made in the year in which the qualified error was made or in the following year only.

(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7u, 7cc, and 7ee. If an exemption under section 7u is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If an appeal under section 7cc or 7ee results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). Except as otherwise provided in sections 7cc and 7ee, a correction under this subsection shall be made for the year in which the appeal is made only. If the board of review grants an exemption or provides a rebate for property under section 7cc or 7ee as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc or 7ee and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section, the provisions of section 7cc apply. If an exemption under section 7cc is not granted by the board of review under this section, the owner may appeal that decision in writing to the department of treasury within 35 days of the board of review's denial and the appeal shall be conducted as provided in section 7cc(8).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties, if any, shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(6) A correction under this section that grants a principal residence exemption pursuant to section 7cc may be made for the year in which the appeal was filed and the 3 immediately preceding tax years.

(7) As used in this section, "qualified error" means 1 or more of the following:

(a) A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.

(b) A mutual mistake of fact.

(c) An adjustment under section 27a(4) or an exemption under section 7hh(3)(b).

(d) For board of review determinations in 2006 through 2009, 1 or more of the following:

(*i*) An error of measurement or calculation of the physical dimensions or components of the real property being assessed.

(*ii*) An error of omission or inclusion of a part of the real property being assessed.

(*iii*) An error regarding the correct taxable status of the real property being assessed.

(*iv*) An error made by the taxpayer in preparing the statement of assessable personal property under section 19.

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

[No. 14]

(SB 788)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles

and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 685, 686, 688, and 695 (MCL 257.685, 257.686, 257.688, and 257.695), sections 686 and 688 as amended by 1990 PA 98 and section 695 as amended by 1995 PA 221, and by adding section 684a.

The People of the State of Michigan enact:

257.684a Implement of husbandry; sale; requirements; posting standards.

Sec. 684a. (1) Beginning January 1, 2007, a person shall not sell an implement of husbandry that does not comply with this section. This section does not apply to an implement of husbandry that was manufactured before January 1, 2007.

(2) An implement of husbandry shall comply with the following, which are incorporated by reference:

(a) ANSI/ASAE S276.6 JAN2005, Slow-Moving Vehicle Identification Emblem.

(b) ANSI/ASAE S279.12 DEC02, Lighting and Marking of Agricultural Equipment on Highways.

(3) The secretary of state shall post, on its website, the standards incorporated by reference under subsection (2) not later than 30 days after enactment of the amendatory act that added this section.

257.685 Head lamps; number; height; auxiliary, spot, or other lamps; exemption.

Sec. 685. (1) Every motor vehicle other than a motorcycle or moped, shall be equipped with at least 2 head lamps with at least 1 on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter. An implement of husbandry manufactured on or after January 1, 2007 shall comply with section 684a.

(2) Every motorcycle and moped shall be equipped with at least 1 and not more than 2 head lamps which shall comply with the requirements and limitations of this chapter.

(3) Every head lamp, upon every motor vehicle, including every motorcycle and moped, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches above the level surface upon which the vehicle stands.

(4) When a motor vehicle equipped with head lamps as required in this section is also equipped with auxiliary lamps or a spot lamp or any other lamp on the front of the motor vehicle projecting a beam of an intensity greater than 300 candlepower, not more than a total of 4 of those lamps on the front of a vehicle shall be lighted at a time when upon a highway.

(5) A motor vehicle licensed as an historic vehicle is exempt from the requirements of this section if the vehicle as originally equipped failed to meet these requirements. An historic vehicle shall not be operated in violation of section 684.

257.686 Rear lamps; exemption; requirements for implement of husbandry; pickup camper.

Sec. 686. (1) A motor vehicle, trailer, semitrailer, pole trailer, or vehicle which is being drawn in a train of vehicles shall be equipped with at least 1 rear lamp mounted on the rear, which, when lighted as required by this act, shall emit a red light plainly visible from a distance of 500 feet to the rear.

(2) Either a tail lamp or a separate lamp shall be constructed and placed so as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. A tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be wired so as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(3) A motor vehicle licensed as an historic vehicle is exempt from the requirements of this section if the vehicle as originally equipped failed to meet these requirements.

(4) When operated or moved on a highway at the times specified in section 684, an implement of husbandry shall meet either of the following requirements:

(a) For implements of husbandry manufactured before January 1, 2007, the following:

(*i*) Display lighted rear lamps which meet the requirements of subsection (1).

(*ii*) Be accompanied by a vehicle which follows behind the implement of husbandry at a distance of not more than 50 feet, illuminates the implement of husbandry with the vehicle's headlights, and displays on the rear of the vehicle lighted rear lamps as required by this section.

(b) For implements of husbandry manufactured on or after January 1, 2007, the provisions of section 684a.

(5) A pickup camper shall be attached to the motor vehicle in a manner so that the registration plate of the motor vehicle is clearly visible.

257.688 Additional lights or reflectors on buses, trucks, tractors, trailers, implement of husbandry, or special mobile equipment.

Sec. 688. (1) In addition to other equipment required in this chapter, the following vehicles shall be equipped as provided in this section under the conditions stated in section 687:

(a) On every bus or truck, whatever its size, there shall be on the rear, 2 red reflectors, 1 on each side, and 1 red or amber stop light.

(b) On every bus or truck 80 inches or more in overall width, in addition to the requirements in subdivision (a), the following:

(*i*) On the front, 2 clearance lamps, 1 at each side.

(*ii*) On the rear, 2 clearance lamps, 1 at each side.

(*iii*) On each side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear.

(*iv*) On each side, 2 reflectors, 1 at or near the front and 1 at or near the rear.

(*v*) Three identification lamps, mounted on the vertical centerline of the vehicle or the vertical centerline of the cab where different from the centerline of the vehicle, except that, where the cab is not more than 42 inches wide at the front roofline, a single lamp at the center of the cab shall be considered to comply with the requirements for identification lamps. The identification lamps or their mounts shall not extend below the top of the vehicle windshield.

(c) On every truck tractor, the following:

(*i*) On the front, 2 clearance lamps, 1 at each side.

(*ii*) On the rear, 1 stop light.

(d) On every trailer, pickup camper, or semitrailer having a gross weight in excess of 3,000 pounds, the following:

(*i*) On the front, 2 clearance lamps, 1 at each side.

(*ii*) On each side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear.

(*iii*) On each side, 2 reflectors, 1 at or near the front and 1 at or near the rear.

(*iv*) On the rear, 2 clearance lamps, 1 at each side, also 2 reflectors, 1 at each side, and 1 stop light.

(e) On every poletrailer, the following:

(*i*) On each side, 1 side marker lamp and 1 clearance lamp which may be in combination, to show to the front, side, or rear.

(*ii*) On the rear of the poletrailer or load, 2 reflectors, 1 on each side.

(f) On every trailer, pickup camper, or semitrailer weighing 3,000 pounds gross or less, on the rear, 2 reflectors, 1 on each side if any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with 1 stop light.

(g) Subject to subsection (3), when operated on the highway, every vehicle which has a maximum potential speed of 25 miles an hour, implement of husbandry, farm tractor, or special mobile equipment shall be identified with a reflective device as follows:

(*i*) An equilateral triangle in shape, at least 16 inches wide at the base and at least 14 inches in height: with a dark red border, at least 1-3/4 inches wide of highly reflective beaded material.

(*ii*) A center triangle, at least 12-1/4 inches on each side of yellow-orange fluorescent material.

(2) The device described in subdivision (g) shall be mounted on the rear of the vehicle, broad base down, not less than 3 feet nor more than 5 feet above the ground and as near the center of the vehicle as possible. The use of this reflective device is restricted to use on slow moving vehicles specified in this section, and use of such reflective device on any other type of vehicle or stationary object on the highway is prohibited. On the rear, at each side, red reflectors or reflectorized material visible from all distances within 500 to 50 feet to the rear when directly in front of lawful upper beams of headlamps.

(3) An implement of husbandry manufactured on or after January 1, 2007 shall comply with section 684a.

257.695 Minimum lighting for all vehicles.

Sec. 695. All vehicles, including animal-drawn vehicles, implements of husbandry, road machinery, road rollers, and farm tractors, not otherwise required under this act to be equipped with head or rear lamps, shall at the times specified in section 684 be in compliance with either of the following:

(a) For implements of husbandry manufactured before January 1, 2007, be equipped with at least 1 lighted lamp exhibiting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp exhibiting a red light visible from a distance of 500 feet to the rear of the vehicle.

(b) For implements of husbandry manufactured on or after January 1, 2007, be in compliance with section 684a.

This act is ordered to take immediate effect.

Approved February 9, 2006.

Filed with Secretary of State February 9, 2006.

[No. 15]

(SB 366)

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 74103a.

The People of the State of Michigan enact:

324.74103a Shooting range; posting hours of operation.

Sec. 74103a. At each state park that contains a designated shooting range that is open to visitors, the department shall post a notice at the entrance to the recreational areas of the state park that states the regular hours of operation of the shooting range. The notice shall be posted in a visible location, and the lettering on the notice shall be of a sufficient type size to be easily read by state park visitors. The department is not required to post the hours of operation in which the shooting range is open for special events. However, if the department does not post the hours of operation in which the shooting range is open for special events, the notice shall include a statement to that effect.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 16]

(HB 5281)

AN ACT to amend 1956 PA 40, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," by amending section 514 (MCL 280.514).

The People of the State of Michigan enact:

280.514 Drainage board; membership; chairperson; appointee; exception.

Sec. 514. (1) A drainage board is created for each project petitioned for under this chapter. Except as otherwise provided in subsection (3), the drainage board shall consist of the director of the department of agriculture and the drain commissioner of each county involved in the project.

(2) The director of the department of agriculture shall be the chairperson of the drainage board. The drainage board shall select 1 of its members as secretary.

(3) If a project involves a county with an appointed rather than an elected drain commissioner and a population of more than 1,000,000, the drainage board shall consist of the director of the department of agriculture, the drain commissioner of each county involved in the project, and an individual appointed by each drain commissioner of each county involved in the project, including a county with an elected drain commissioner. The appointee shall be an elected official, or his or her designee, of a city, village, or township subject to assessment for the project. The appointee shall serve for a 2-year term and shall not be appointed for successive terms unless the city, village, or township that he or she represents is the only municipality in the county subject to assessment. Following the completion of the 2-year term, the drain commissioner shall, if possible, appoint an elected official, or his or her designee, from a different city, village, or township subject to assessment for the project. If an appointee fails or refuses to serve or is disqualified, the drain commissioner shall appoint a successor to complete the remainder of his or her term.

(4) Subsection (3) does not apply to a project that involves a county with a population of more than 1,000,000 which was organized pursuant to 1973 PA 139, MCL 45.551 to 45.573.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 17]

(HB 4855)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4x (MCL 205.54x), as amended by 2004 PA 173.

The People of the State of Michigan enact:

205.54x Sales to domestic air carrier; tax exemption; definitions.

Sec. 4x. (1) A sale to a domestic air carrier of 1 or more of the following is exempt from the tax under this act:

(a) An aircraft that has a maximum certificated takeoff weight of at least 6,000 pounds for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers.

(b) Parts and materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that has a maximum certificated takeoff weight of at least 6,000 pounds for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers.

(2) The tax levied under this act does not apply to the sale of parts or materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that meets all of the following conditions:

(a) The aircraft leaves this state within 15 days after the sooner of the issuance of the final billing or authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the parts or materials are affixed to the aircraft and the aircraft is not based in this state or registered in this state after the parts or materials are affixed to the aircraft.

(3) The tax levied under this act does not apply to the sale of an aircraft temporarily located in this state for the purpose of prepurchase evaluation or the purpose of prepurchase evaluation and postsale customization if all of the following conditions are satisfied:

(a) The aircraft leaves this state within 15 days after authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the prepurchase evaluation or prepurchase evaluation and postsale customization are completed and the aircraft is not based in this state or registered in this state after the prepurchase evaluation or prepurchase evaluation and postsale customization are completed.

(4) A sale of an aircraft to a person for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 CFR 121, for use solely in the regularly scheduled transport of passengers is exempt from the tax under this act.

(5) As used in this section:

(a) "Based in this state" means hangared or stored in this state for not less than 10 days in not less than 3 nonconsecutive months during the immediately preceding 12-month period.

(b) "Domestic air carrier" is limited to entities engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

(c) "Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

(d) "Postsale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

(e) "Registered in this state" means an aircraft registered with the state transportation department, bureau of aeronautics or registered with the federal aviation administration to an address located in this state.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 18]

(HB 4856)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4k (MCL 205.94k), as amended by 2002 PA 669.

The People of the State of Michigan enact:

205.94k Tax inapplicable to parts and materials affixed to certain aircraft, sale of aircraft, rolling stock, and qualified truck or trailer; definitions.

Sec. 4k. (1) The tax levied under this act does not apply to parts and materials, excluding shop equipment or fuel, affixed to or to be affixed to an aircraft owned or used by a domestic air carrier that is any of the following:

(a) An aircraft for use solely in the transport of air cargo or a combination of air cargo and passengers that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996.

(b) An aircraft that is used solely in the regularly scheduled transport of passengers.

(c) An aircraft other than an aircraft described in subdivision (b), that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996, and that is designed to have a maximum passenger seating configuration of more than 30 seats and is used solely in the transport of passengers.

(2) The tax levied under this act does not apply to the sale of parts or materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that meets all of the following conditions:

(a) The aircraft leaves this state within 15 days after the sooner of the issuance of the final billing or authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the parts or materials are affixed to the aircraft and the aircraft is not based in this state or registered in this state after the parts or materials are affixed to the aircraft.

(3) The tax levied under this act does not apply to the sale of an aircraft temporarily located in this state for the purpose of prepurchase evaluation or the purpose of prepurchase evaluation and postsale customization if all of the following conditions are satisfied:

(a) The aircraft leaves this state within 15 days after authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the prepurchase evaluation or prepurchase evaluation and postsale customization are completed and the aircraft is not based in this state or registered in this state after the prepurchase evaluation or prepurchase evaluation and postsale customization are completed.

(4) For taxes levied after December 31, 1992, the tax levied under this act does not apply to the storage, use, or consumption of rolling stock used in interstate commerce and purchased, rented, or leased by an interstate fleet motor carrier. A refund for taxes paid before January 1, 1997 shall not be paid under this subsection if the refund claim is made after June 30, 1997.

(5) For taxes levied after December 31, 1996 and before May 1, 1999, the tax levied under this act does not apply to the product of the out-of-state usage percentage and the price otherwise taxable under this act of a qualified truck or a trailer designed to be drawn behind a qualified truck, purchased, rented, or leased in this state by an interstate fleet motor carrier and used in interstate commerce.

(6) As used in this section:

(a) "Based in this state" means hangared or stored in this state for not less than 10 days in not less than 3 nonconsecutive months during the immediately preceding 12-month period.

(b) "Domestic air carrier" means a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

(c) "Interstate fleet motor carrier" means a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10% outside of this state in the immediately preceding tax year.

(d) "Out-of-state usage percentage" is a fraction, the numerator of which is the number of miles driven outside of this state in the immediately preceding tax year by qualified trucks used by the taxpayer and the denominator of which is the total miles driven in the immediately preceding tax year by qualified trucks used by the taxpayer. Miles driven by qualified trucks used solely in intrastate commerce shall not be included in calculating the out-of-state usage percentage.

(e) "Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

(f) "Postsale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

(g) "Qualified truck" means a commercial motor vehicle power unit that has 2 axles and a gross vehicle weight rating in excess of 10,000 pounds or a commercial motor vehicle power unit that has 3 or more axles.

(h) "Registered in this state" means an aircraft registered with the state transportation department, bureau of aeronautics or registered with the federal aviation administration to an address located in this state.

(i) "Rolling stock" means a qualified truck, a trailer designed to be drawn behind a qualified truck, and parts affixed to either a qualified truck or a trailer designed to be drawn behind a qualified truck.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 19]

(HB 5104)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 627 (MCL 257.627), as amended by 2004 PA 62.

The People of the State of Michigan enact:

257.627 Speed limitations.

Sec. 627. (1) A person operating a vehicle on a highway shall operate that vehicle at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other condition then existing. A person shall not operate a vehicle upon a highway at a speed greater than that which will permit a stop within the assured, clear distance ahead.

(2) Subject to subsection (1) and except in those instances where a lower speed is specified in this chapter, it is prima facie lawful for the operator of a vehicle to operate that vehicle at a speed not exceeding the following, except when this speed would be unsafe:

(a) 25 miles an hour on all highways in a business or residence district as defined in this act.

(b) 25 miles an hour in public parks unless a different speed is fixed and duly posted.

(3) It is prima facie unlawful for a person to exceed the speed limits prescribed in subsection (2), except as provided in section 629.

(4) A person operating a vehicle in a mobile home park as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302, shall operate that vehicle at a careful and prudent speed, not greater than a speed that is reasonable and proper, having due regard for the traffic, surface, width of the roadway, and all other conditions existing, and not greater than a speed that permits a stop within the assured clear distance ahead. It is prima facie unlawful for the operator of a vehicle to operate that vehicle at a speed exceeding 15 miles an hour in a mobile home park as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(5) A person operating a passenger vehicle drawing another vehicle or trailer shall not exceed the posted speed limit.

(6) Except as otherwise provided in this subsection, a truck with a gross weight of 10,000 pounds or more, a truck-tractor, a truck-tractor with a semi-trailer or trailer, or a

combination of these vehicles shall not exceed a speed of 55 miles per hour on highways, streets, or freeways and shall not exceed a speed of 35 miles per hour during the period when reduced loadings are being enforced in accordance with this chapter. However, a truck, a truck-tractor, or a truck-tractor with a semi-trailer or trailer described in this subsection shall not exceed a speed of 60 miles per hour on a freeway if the maximum speed limit on that freeway is 70 miles per hour.

(7) A person operating a school bus shall not exceed the speed of 50 miles per hour.

(8) The maximum rates of speeds allowed under this section are subject to the maximum rate established under section 629b.

(9) A person operating a vehicle on a highway, when entering and passing through a work zone described in section 79d(a) where a normal lane or part of the lane of traffic has been closed due to highway construction, maintenance, or surveying activities, shall not exceed a speed of 45 miles per hour unless a different speed limit is determined for that work zone by the state transportation department, a county road commission, or a local authority. The state transportation department, a county road commission, or a local authority shall post speed limit signs in each work zone described in section 79d(a) that indicate the speed limit in that work zone and shall identify that work zone with any other traffic control devices necessary to conform to the Michigan manual of uniform traffic control devices. A person shall not exceed a speed limit established under this section or a speed limit established under section 628 or 629.

(10) A person who violates this section is responsible for a civil infraction.

Effective date.

Enacting section 1. This amendatory act takes effect 9 months after the date it is enacted into law.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 20]

(SB 736)

AN ACT to amend 1846 RS 171, entitled "Of county jails and the regulation thereof," by amending sections 4 and 4a (MCL 801.4 and 801.4a), as amended by 1984 PA 119.

The People of the State of Michigan enact:

801.4 Safekeeping and maintaining prisoners and persons charged with offense; charges and expenses; payment; medical care or treatment.

Sec. 4. (1) Except as provided in subsection (2) and sections 5 and 5a, all charges and expenses of safekeeping and maintaining prisoners and persons charged with an offense, shall be paid from the county treasury, the accounts therefor being first settled and allowed by the county board of commissioners.

(2) If medical care or treatment is provided to an individual described in subsection (1), the health care provider shall make a reasonable effort to determine whether that individual is covered by a health care policy, a certificate of insurance, or other source for the payment of medical expenses. If the county sheriff who has custody over the individual is aware that the individual is covered by any health care policy, certificate of insurance, or other source of payment, the sheriff shall provide that information to the health care provider. If the health care provider determines that the individual, at the time of admission or treatment, is a medicaid recipient or a beneficiary of any health care policy, certificate of insurance, or other source for the payment of some or all of those expenses, the health care provider shall first seek reimbursement from that source, subject to the terms and conditions of the applicable health care policy, certificate of insurance, or medicaid contract, before submitting those expenses to the county. When submitting an invoice to the county for the payment of medical expenses under this section, a health care provider shall provide a statement that the health care provider has made a reasonable effort to determine whether the individual was covered by a health care policy, certificate of insurance, or other source for the payment of medical expenses. A county may enter into agreements with health care providers to establish procedures for the submission of invoices for medical expenses under this section and the payment of those invoices.

801.4a Safekeeping and maintaining persons charged with ordinance violation; charges and expenses; payment; medical care or treatment.

Sec. 4a. (1) Except as provided in subsection (2) and sections 5 and 5a, all charges and expenses of safekeeping and maintaining persons in the county jail charged with violations of city, village, or township ordinances shall be paid from the county treasury if a district court of the first or second class has jurisdiction of the offense.

(2) If medical care or treatment is provided to an individual described in subsection (1), the health care provider shall make a reasonable effort to determine whether that individual is covered by a health care policy, a certificate of insurance, or other source for the payment of medical expenses. If the county sheriff who has custody over the individual is aware that the individual is covered by any health care policy, certificate of insurance, or other source of payment, the sheriff shall provide that information to the health care provider. If the health care provider determines that the individual, at the time of admission or treatment, is a medicaid recipient or a beneficiary of any health care policy, certificate of insurance, or other source for the payment of some or all of those expenses, the health care provider shall first seek reimbursement from that source, subject to the terms and conditions of the applicable health care policy, certificate of insurance, or medicaid contract, before submitting those expenses to the county. When submitting an invoice to the county for the payment of medical expenses under this section, a health care provider shall provide a statement that the health care provider has made a reasonable effort to determine whether the individual was covered by a health care policy, certificate of insurance, or other source for the payment of medical expenses. A county may enter into agreements with health care providers to establish procedures for the submission of invoices for medical expenses under this section and the payment of the invoices.

This act is ordered to take immediate effect.
Approved February 9, 2006.
Filed with Secretary of State February 9, 2006.

[No. 21]

(HB 5559)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 3 and 8 (MCL 207.803 and 207.808), section 3 as amended by 2004 PA 398 and section 8 as amended by 2005 PA 185.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

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

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

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

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

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

(*iii*) A single eligible business with a unique federal employer identification number that has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by a subsidiary business that withholds income and social security taxes, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

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

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

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

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

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

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

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

(h) "Facility" means a site or sites within this state in which an authorized business or subsidiary businesses maintains retained jobs or creates qualified new jobs.

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

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

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

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

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

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

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

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

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

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

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

(*viii*) Product research and development.

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

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

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

(*x*) Tool and die manufacturing.

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) "Rural business" means an eligible business located in a county with a population of 80,000 or less.

(q) "Subsidiary business" means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

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

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

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

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

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

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

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

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

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

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

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

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

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

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

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

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

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

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

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

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

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

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

(f) Except for an eligible business described in subsection (5)(b)(*ii*), the local governmental unit in which the eligible business will expand, be located, or maintain retained jobs, or a local economic development corporation or similar entity, will make a staff, financial, or economic commitment to the eligible business for the expansion, retention, or location.

(g) The financial statements of the eligible business indicated that it is financially sound or has submitted a chapter 11 plan of reorganization to the bankruptcy court and that its plans for the expansion, retention, or location are economically sound.

(h) Except for an eligible business described in subsection (5)(c), the eligible business has not begun construction of the facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) A condition that if the eligible business qualified under subsection (5)(b)(*ii*) and met the subsection (1)(g) requirement by filing a chapter 11 plan of reorganization, the plan must be approved by the bankruptcy court within 2 years of the date of the agreement or the agreement is rescinded.

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

(5) After receipt of an application, the authority may enter into a written agreement, which shall include a repayment provision of all or a portion of the credits under section 9 for a violation of the written agreement, with an eligible business that meets 1 or more of the following criteria:

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

(b) Meets 1 or more of the following criteria:

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

(*ii*) Maintains 150 retained jobs at a facility, maintains 1,000 or more full-time jobs in this state, and makes new capital investment in this state.

(*iii*) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of $100,000.00 per retained job maintained at that facility or $10,000,000.00 to be completed or contracted for not later than December 31, 2007.

(*iv*) Maintains 300 retained jobs at a facility; is a rural business; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2006. Of the written agreements entered into under this subparagraph, the authority may enter into 1 written agreement under this subparagraph that is excluded from the requirements of subsection (1)(e), (f), (g), (h), (j), and (k) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(e), (i), (j), and (k) within the immediately preceding 6 months from the signing of the written agreement for a tax credit.

(c) Is a distressed business.

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

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

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

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 579 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved February 14, 2006.
Filed with Secretary of State February 14, 2006.

Compiler's note: Senate Bill No. 579, referred to in enacting section 1, was filed with the Secretary of State February 14, 2006, and became 2006 PA 22, Imd. Eff. Feb. 14, 2006.

[No. 22]

(SB 579)

AN ACT to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 9 (MCL 207.559), as amended by 2005 PA 251.

The People of the State of Michigan enact:

207.559 Finding and determination in resolution approving application for certificate; valuation requiring separate finding and statement; compliance with certain requirements as condition to approval of application and granting of certificate; demolition, sale, or transfer of obsolete industrial property; certificate applicable to speculative building; procedural information; failure of commission to receive application; replacement facility; property owned or operated by casino; certificate extension approved after December 2003 and before March 1, 2006; issuance of certificate ending December 30, 2010.

Sec. 9. (1) The legislative body of the local governmental unit, in its resolution approving an application, shall set forth a finding and determination that the granting of the industrial facilities exemption certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located. If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force, exceeds 5% of the state equalized valuation of the local governmental unit, the commision, with the approval of the state treasurer, shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) Except for an application for a speculative building, which is governed by subsection (4), the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have

expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

(b) For applications made after December 31, 1983, the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration, replacement, or construction of the facility.

(c) For applications made after December 31, 1983, the commencement of the restoration, replacement, or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate.

(d) The application relates to a construction, restoration, or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district.

(e) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to create employment, retain employment, prevent a loss of employment, or produce energy in the community in which the facility is situated.

(f) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but rather is primarily for the purpose and will primarily have the effect of restoration, replacement, or updating the technology of obsolete industrial property. An increase in productive capacity, even though significant, is not an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met. This subdivision does not apply to a new facility.

(g) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993.

(h) The provisions of subdivisions (b) and (c) and section 4(3) do not apply to 1 or more of the following:

(*i*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1995 for construction that was commenced in July 1992 in a district that was established by the legislative body of the local governmental unit in July 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*ii*) A facility located in an industrial development district that was established in January 1994 and was owned by a person who filed an application for an industrial facilities exemption certificate in February 1994 if the personal property and real property portions of the application were approved by the legislative body of the local governmental unit and the personal property portion of the application was approved by the state tax commission in December 1994 and the real property portion of the application was denied by the state tax commission in December 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*iii*) A facility located in an industrial development district that was established in December 1995 and was owned by a person who filed an application for an industrial facilities exemptions certificate in November or December 1995 for construction that was commenced in September 1995.

(*iv*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16. The facility described in this subparagraph shall be taxed under this act as if it was granted an industrial facilities exemption certificate in October 2001, and a corrected tax bill shall be issued by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If granting the industrial facilities exemption certificate under this subparagraph results in an overpayment of the tax, a rebate, including any interest and penalties paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(i) The provisions of subdivision (c) do not apply to any of the following:

(*i*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993.

(*ii*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994.

(*iii*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993.

(*iv*) A facility located in an existing industrial development district occupied by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in October of 1995 for construction that was commenced in November or December of 1994.

(*v*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

(j) If the facility is locating in a plant rehabilitation district or an industrial development district from another location in this state, the owner of the facility is not delinquent in any of the taxes described in section 10(1)(a) of the Michigan renaissance zone act, 1996

PA 376, MCL 125.2690, or substantially delinquent in any of the taxes described in and as provided under section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690.

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property, then the applicant shall make provision for the obsolete industrial property by demolition, sale, or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or be used in a manner consistent with the general purposes of this act, subject to approval of the commission.

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district; the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities exemption certificate; the speculative building has not been occupied since completion of construction; and the speculative building otherwise qualifies under subsection (2)(e) for an industrial facilities exemption certificate. An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3).

(5) Not later than September 1, 1989, the commission shall provide to all local assessing units the name, address, and telephone number of the person on the commission staff responsible for providing procedural information concerning this act. After October 1, 1989, a local unit of government shall notify each prospective applicant of this information in writing.

(6) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997. The facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1987.

(7) Notwithstanding any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on July 8, 1991 but rescinded that resolution and passed a resolution approving an industrial facilities exemption certificate for that same facility as a replacement facility on October 21, 1996, the commission shall issue for that property an industrial facilities exemption certificate that begins December 30, 1991 and ends December 2003. The replacement facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1991.

(8) Property owned or operated by a casino is not industrial property or otherwise eligible for an abatement or reduction of ad valorem property taxes under this act. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, convention and trade center, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(9) Notwithstanding section 16a and any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 28, 1996 for a certificate that expired in December 2003 and the local governmental unit passes a resolution approving the extension of the certificate after December 2003 and before March 1, 2006, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2005 and ends December 30, 2010 as long as the property continues to qualify under this act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5559 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved February 14, 2006.

Filed with Secretary of State February 14, 2006.

Compiler's note: House Bill No. 5559, referred to in enacting section 1, was filed with the Secretary of State February 14, 2006, and became 2006 PA 21, Imd. Eff. Feb. 14, 2006.

[No. 23]

(SB 310)

AN ACT to regulate certain health clubs with respect to potential medical emergencies; and to provide for civil sanctions.

The People of the State of Michigan enact:

333.26311 Definitions.

Sec. 1. As used in this act:

(a) "AED" means automated external defibrillator.

(b) "Department" means the department of community health.

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

(d) "Health club" means an establishment that provides, as its primary purpose, services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development, including, but not limited to, a fitness center, studio, salon, or club. A health club does not include a hotel or motel that provides physical fitness equipment or activities, an organization solely offering training or facilities for an individual sport, or a weight reduction center.

333.26312 Owner or operator of health club; duties.

Sec. 2. Beginning 1 year after the effective date of this act, the owner or operator of a health club shall do all of the following:

(a) Employ at least 1 individual who has satisfactorily completed a course or courses in basic first aid, basic cardiopulmonary resuscitation, and AED use taught by the American red cross, the American heart association, or an equivalent organization approved by the department.

(b) Have available on the premises of the health club an AED deployed in a manner that provides obvious and ready accessibility to staff, members, and guests.

(c) Develop and implement an emergency plan to address emergency services, when needed, during operational hours at the health club.

333.26313 Emergency service.

Sec. 3. (1) A person, including, but not limited to, a health club owner, operator, or employee, does not have a duty to render emergency service to an individual using an AED that a health club has on the premises.

(2) This act does not limit the applicability of 1963 PA 17, MCL 691.1501 to 691.1507.

333.26314 Violation as civil infraction; civil fine.

Sec. 4. A person who violates this act is responsible for a state civil infraction and shall be ordered to pay a civil fine as follows:

(a) Not more than $250.00 for a first offense.

(b) Not more than $500.00 for a second offense.

(c) Not more than $1,000.00 for a third or subsequent offense.

This act is ordered to take immediate effect.
Approved February 16, 2006.
Filed with Secretary of State February 16, 2006.

[No. 24]

(HB 4670)

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," (MCL 333.1101 to 333.25211) by adding section 16184.

The People of the State of Michigan enact:

333.16184 Special volunteer license.

Sec. 16184. (1) An individual who is retired from the active practice of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery and who wishes to donate his or her expertise for the medical care and treatment of indigent and needy individuals in this state or for the medical care and treatment of individuals in medically underserved areas of this state may obtain a special volunteer license to engage in the practice of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery by submitting an application to the board pursuant to this section. An application for a special volunteer license shall be on a form provided by the department and shall include each of the following:

(a) Documentation that the individual has been previously licensed to engage in the practice of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery in this state and that his or her license was in good standing prior to the expiration of his or her license.

(b) Acknowledgment and documentation that the applicant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical care services provided under the special volunteer license.

(c) If the applicant has been out of practice for 3 or more years, documentation that, during the 3 years immediately preceding the application, he or she has attended at least 2/3 of the continuing education courses or programs required under part 170, 175, or 180 for the renewal of a license.

(2) If the board determines that the application of the individual satisfies the requirements of subsection (1) and that the individual meets the requirements for a license as prescribed by this article and rules promulgated under this article, the board shall grant a special volunteer license to the applicant. A licensee seeking renewal under this section shall provide the board with an updated acknowledgment and documentation as described under subsection (1)(b). Except as otherwise provided under this subsection, the board shall not charge a fee for the issuance or renewal of a special volunteer license under this section.

(3) Except as otherwise provided under this subsection, an individual who is granted a special volunteer license pursuant to this section and who accepts the privilege of practicing medicine, osteopathic medicine and surgery, or podiatric medicine and surgery in this state is subject to all of the provisions of this article, including those provisions concerning continuing education and disciplinary action.

(4) For purposes of this section, an individual is considered retired from practice if the individual's license has expired with the individual's intention of ceasing to engage in the practice of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery for remuneration.

This act is ordered to take immediate effect.
Approved February 16, 2006.
Filed with Secretary of State February 16, 2006.

[No. 25]

(HB 5375)

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," (MCL 333.1101 to 333.25211) by adding section 16185.

The People of the State of Michigan enact:

333.16185 Medical care by physician under special volunteer license; liability; definitions.

Sec. 16185. (1) Subject to subsection (2), a physician who provides medical care under a special volunteer license granted under section 16184 is not liable in a civil action for personal injury or death proximately caused by the professional negligence or malpractice of the physician in providing the care if both of the following apply:

(a) The care is provided at a health facility or agency that provides at least 75% of its care annually to medically indigent individuals.

(b) The physician does not receive and does not intend to receive compensation for providing the care.

(2) Subsection (1) does not apply if the negligent conduct or malpractice of the physician is gross negligence.

(3) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Medically indigent individual" means that term as defined in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4670 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved February 16, 2006.

Filed with Secretary of State February 16, 2006.

Compiler's note: House Bill No. 4670, referred to in enacting section 1, was filed with the Secretary of State February 16, 2006, and became 2006 PA 24, Imd. Eff. Feb. 16, 2006.

[No. 26]

(HB 5168)

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 16146, 16174, and 16245 (MCL 333.16146, 333.16174, and 333.16245), section 16146 as amended by 1988 PA 462, section 16174 as amended by 2002 PA 643, and section 16245 as amended by 1998 PA 109.

The People of the State of Michigan enact:

333.16146 Board; granting license or registration.

Sec. 16146. (1) A board shall grant a license or registration to an applicant meeting the requirements for the license or registration as prescribed in this article and the rules promulgated under this article.

(2) A board which grants licenses may:

(a) Certify licensees in those health profession specialty fields within its scope of practice which are established in this article.

(b) Reclassify licenses on the basis of a determination that the addition or removal of conditions or restrictions is appropriate.

(c) Upon good cause, request that a licensee or registrant have a criminal history check conducted in accordance with section 16174(3).

333.16174 License or registration; requirements; criminal history check; permitted acts by board or task force; sanctions; disclosure.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article or article 7 or the rules promulgated under this article or article 7, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application.

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Beginning May 1, 2006, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

(4) Before granting a license, registration, specialty certification, or a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2).

(5) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(6) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

333.16245 Reinstatement of limited, suspended, or revoked license or registration; application; payment; time; hearing; guidelines; fees; criminal history check.

Sec. 16245. (1) An individual whose license is limited, suspended, or revoked under this part may apply to his or her board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) An individual whose registration is suspended or revoked under this part may apply to his or her board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A board or task force shall reinstate a license or registration suspended for grounds stated in section 16221(j) upon payment of the installment.

(4) Except as otherwise provided in this subsection, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. In the case of a license or registration that was revoked for a violation of section 16221(b)(*vii*), a violation of section 16221(c)(*iv*) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(q), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection.

(5) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement.

(6) Based upon the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article or article 7. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record.

(7) An individual who seeks reinstatement or reclassification of a license or registration pursuant to this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license or registration period.

(8) An individual who seeks reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to this section shall have a criminal history check conducted in accordance with section 16174 and submit a copy of the results of the background check to the board with his or her application for reinstatement or reclassification.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 621.

(b) Senate Bill No. 622.

(c) House Bill No. 5448.

This act is ordered to take immediate effect.
Approved February 16, 2006.
Filed with Secretary of State February 17, 2006.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 621 was filed with the Secretary of State February 17, 2006, and became 2006 PA 28, Imd. Eff. Feb. 17, 2006.
Senate Bill No. 622 was filed with the Secretary of State February 17, 2006, and became 2006 PA 29, Eff. Apr. 1, 2006.
House Bill No. 5448 was filed with the Secretary of State February 17, 2006, and became 2006 PA 27, Imd. Eff. Feb. 17, 2006.

[No. 27]

(HB 5448)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 147 (MCL 330.1147), as amended by 1991 PA 40, and by adding section 134a.

The People of the State of Michigan enact:

330.1134a Employing, contracting, or granting clinical privileges to individuals; prohibitions; criminal history check; conditional employment or granting clinical privileges; false information; use of information obtained under subsection (4); condition of continued employment; failure to conduct criminal history check; establishment of automated fingerprint identification system database; report to legislature; web-based system; definitions.

Sec. 134a. (1) Except as otherwise provided in subsection (2), a psychiatric facility or intermediate care facility for people with mental retardation shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or intermediate care facility for people with mental retardation after the effective date of this section if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7.

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7, unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(*ii*) A felony involving cruelty or torture.

(*iii*) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iv*) A felony involving criminal sexual conduct.

(*v*) A felony involving abuse or neglect.

(*vi*) A felony involving the use of a firearm or dangerous weapon.

(*vii*) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7 or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a

misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(*ii*) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iii*) A misdemeanor involving criminal sexual conduct.

(*iv*) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(*v*) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(*ii*) A misdemeanor involving home invasion.

(*iii*) A misdemeanor involving embezzlement.

(*iv*) A misdemeanor involving negligent homicide.

(*v*) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(*vi*) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(*vii*) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(*ii*) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(*iii*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of conviction, is under the age of 18.

(*ii*) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Has been the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency pursuant to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in subsection (5), a psychiatric facility or intermediate care facility for people with mental retardation shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or intermediate care facility for people with mental retardation after the effective date of this section until the psychiatric facility or intermediate care facility for people with mental retardation conducts a criminal history check in compliance with subsection (4). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a psychiatric facility or intermediate care facility for people with mental retardation before the effective date of this section. Within 24 months after the effective date of this section, an individual who is exempt under this subdivision shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (12). An individual who is exempt under this subdivision is not limited to working within the psychiatric facility or intermediate care facility for people with mental retardation with which he or she is employed by, under independent contract to, or granted clinical privileges on the effective date of this section. That individual may transfer to another psychiatric facility or intermediate care facility for people with mental retardation that is under the same ownership with which he or she was employed, under contract, or granted privileges. If that individual wishes to transfer to another psychiatric facility or intermediate care facility for people with mental retardation that is not under the same ownership, he or she may do so provided that a criminal history check is conducted by the new psychiatric facility or intermediate care facility for people with mental retardation in accordance with subsection (4). If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) through (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), then he or she is no longer exempt and shall be terminated from employment or denied employment.

(b) An individual who is an independent contractor with a psychiatric facility or intermediate care facility for people with mental retardation if the services for which he or she is contracted is not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allows for direct access to the patients or residents but is not performed on an ongoing basis. This exception includes, but is not limited to, an individual who independently contracts with the psychiatric facility or intermediate care facility for people with mental retardation to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a psychiatric facility or intermediate care facility for people with mental retardation and has received a good faith offer of employment, an independent contract, or clinical privileges from the psychiatric facility or intermediate care facility for people with mental retardation shall give written consent at the time of application for the department of state police to conduct an initial criminal history check under this section, along with identification acceptable to the department of state police.