MICHIGAN PROMISE ZONE AUTHORITY ACT

Act 549 of 2008

AN ACT to authorize the creation of promise zones; to authorize the creation of promise zone authorities and the implementation of promise zone development plans; to prescribe the powers and duties of promise zone authorities; to provide for the capture and disbursement of certain tax revenue; and to prescribe powers and duties of certain state and local officials.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016

The People of the State of Michigan enact:

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390.1661 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan promise zone authority act".

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009

390.1663 Definitions.

Sec. 3.

As used in this act:

(a) "Authority" means a promise zone authority created under this act.

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

(c) "Eligible entity" means a city, township, county, local school district, or intermediate school district, in which the percentage of families with children under age 18 that are living at or below the federal poverty level is greater than or equal to the state average of families with children under age 18 living at or below the federal poverty level, as determined by the department of treasury.

(d) "Federal poverty level" means the poverty guidelines published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(e) "Governing body" means the elected body of an eligible entity that has legislative powers.

(f) "Nonpublic high school" means a high school operated by a nonpublic school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma. Nonpublic high school also includes a general education development test.

(g) "Nonpublic school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(h) "Promise of financial assistance" means a commitment by an eligible entity to provide financial resources for public or private postsecondary education, including a vocational program, to eligible students living in a promise zone and who have graduated from a public high school or nonpublic high school located within that promise zone.

(i) "Promise zone" means that area created by a governing body under this act.

(j) "Promise zone development plan" means that plan developed by an authority under this act that will ensure that the financial resources are available to adequately fund the promise of financial assistance.

(k) "Public high school" means a public school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma.

(l) "Public school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(m) "Qualified educational expenses" means tuition and fees required for the enrollment or attendance of a student at an educational institution, and may also include, if provided for in an authority's promise zone development plan, any of the following:

(i) Expenses for fees, books, supplies, and equipment required for courses of instruction at that educational institution.

(ii) Other costs of attendance, including the cost of housing and food; transportation expenses; federal student loan fees; miscellaneous expenses, including a reasonable amount for the documented cost of a personal computer; allowance for child care or other dependent care; costs related to a disability; costs of obtaining a license, certification, or a first professional credential; and reasonable costs for study abroad programs.

(n) "School district" means that term as defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(o) "State education tax" means the tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(p) "Vocational program" means an education or training program intended to teach a trade, occupation, or vocation and offered by a public or private postsecondary institution in this state.

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History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013 ;-- Am. 2020, Act 330, Eff. Mar. 24, 2021 ;-- Am. 2024, Act 99, Imd. Eff. July 23, 2024

390.1664 Promise zone; establishment by governing body; resolution; public hearing; application; review by department of treasury; determination of eligibility; certification; approval of resolution; election by local school district; establishment of separate promise zone by local school district; dissolution.

Sec. 4.

(1) If a governing body determines that it is necessary for the best interests of the public to promote access to postsecondary education, the governing body may, by resolution, declare its intention to establish a promise zone.

(2) A governing body shall set a date for a public hearing on the adoption of a proposed resolution establishing a promise zone. Notice of the public hearing shall be published twice in a newspaper of general circulation in the eligible entity, at least 20 and not more than 40 days before the date of the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the eligible entity at least 20 days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the proposed promise zone, the details of the promise of financial assistance, and the criteria for eligibility to receive that financial assistance.

(3) At least 30 days after the public hearing, if the governing body of an eligible entity intends to proceed with the establishment of a promise zone, it shall submit an application to the department of treasury seeking approval to establish the promise zone.

(4) The department of treasury shall review an application submitted under subsection (3) and shall determine if the governing body of the eligible entity that submitted the application is eligible to establish a promise zone under this act. If so, the department of treasury shall certify the eligibility of that governing body to establish a promise zone. The department of treasury shall review the applications submitted under subsection (3) on a first-come, first-served basis and shall not certify more than 15 governing bodies of eligible entities as eligible to establish a promise zone under this act.

(5) If the department of treasury certifies that the governing body of the eligible entity is eligible to create a promise zone, the governing body shall, by resolution, establish a promise zone.

(6) Within 90 days after a governing body approves a resolution to establish a promise zone, a local school district may by resolution elect not to participate in the establishment of a promise zone by the governing body of the eligible entity in which the local school district is located. The resolution shall include a provision that the local school district will establish a separate promise zone under this act. If the local school district does not establish a promise zone within a reasonable period of time, the department of treasury may include that local school district in the promise zone established by the eligible entity in which the local school district is located.

(7) If a governing body of an eligible entity by resolution dissolves a promise zone established under subsection (5), the department of treasury's certification authorizing that promise zone under subsection (4) is terminated and does not count toward the limit of 15 certifications under subsection (4).

History: Add. 2016, Act 9, Imd. Eff. Feb. 16, 2016 ;-- Am. 2017, Act 150, Imd. Eff. Nov. 6, 2017

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390.1664a Ineligible entity; revenue capture from state education tax.

Sec. 4a.

(1) A city, township, county, local school district, or intermediate school district that is not an eligible entity may create a promise zone under this act but shall not capture revenue from the state education tax under this act. The governing body of a city, township, county, local school district, or intermediate school district that is not an eligible entity shall not be considered under section 4 in determining the number of governing bodies of eligible entities eligible to establish a promise zone under this act.

(2) This section shall not prevent an eligible entity located within a city, township, county, local school district, or intermediate school district that is not an eligible entity from creating a promise zone under this act and capturing revenue from the state education tax under this act.

History: Add. 2016, Act 9, Imd. Eff. Feb. 16, 2016

390.1665 Promise zone authority; creation; authority as public body corporate; powers; board; oath; proceedings and rules subject to open meetings act; removal of board member; writings subject to the freedom of information act.

Sec. 5.

(1) If a governing body, by resolution, establishes a promise zone under section 4(5), the governing body shall, by resolution, create a promise zone authority.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The

enumeration of a power in this act must not be construed as a limitation on the general powers of an authority.

(3) An authority shall be under the supervision and control of a board. All of the following apply to the board of an authority:

(a) The board consists of 11 members, as follows:

(i) Nine locally appointed members. The chief executive officer of the eligible entity, with the advice and consent of the governing body, shall appoint the 9 initial locally appointed members of the board described in this subparagraph. If a vacancy occurs in an office of a locally appointed member appointed under this subparagraph, the board shall appoint a new member to fill that vacancy. As used in this subparagraph, for a local school district or an intermediate school district, "chief executive officer" means the superintendent of that local school district or intermediate school district.

(ii) Subject to subsection (4), 1 member appointed by the senate majority leader.

(iii) Subject to subsection (4), 1 member appointed by the speaker of the house of representatives.

(b) Not more than 3 members of the board may be government officials.

(c) One member of the board must be a representative of the public school community.

(d) The term of office of a member of the board is 4 years. However, of the members first appointed, an equal number of the members, as near as is practicable, must be appointed for 1 year, 2 years, 3 years, and 4 years.

(e) A member of the board shall hold office until the member's successor is appointed.

(f) Members of the board shall serve without compensation, but may be reimbursed for actual and necessary expenses.

(g) The board shall elect the chairperson of the board.

(4) Both of the following apply to any individual appointed to the board under subsection (3)(a)(ii) or (iii) on or after the effective date of the amendatory act that added this subsection:

(a) To be eligible for the appointment, the individual must reside in the promise zone or within reasonable proximity of it.

(b) To continue serving as a member of the board, the individual must continue to reside in the promise zone or within reasonable proximity of it. For purposes of this subdivision and subdivision (a), an individual resides within reasonable proximity of a promise zone if the individual resides within a county contiguous to the promise zone.

(5) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(6) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(7) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(8) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016 ;-- Am. 2024, Act 109, Imd. Eff. July 23, 2024

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390.1667 Promise zone development plan; provisions; funding for out-of-state postsecondary institution prohibited; submission of plan or amendments to department of treasury; failure to submit plan within certain time frame; review; approval or written notice of deficiencies; amendment.

Sec. 7.

(1) A promise zone authority created under section 5 shall prepare a promise zone development plan.

(2) A promise zone development plan must include, but is not limited to, all of the following:

(a) A complete description of the proposed promise of financial assistance. The proposed promise of financial assistance must include, but is not limited to, a promise of financial assistance to all eligible students residing within the promise zone and who graduate from a public high school or nonpublic high school located within that promise zone, in an amount established by the board to reflect the amount available for disbursement to eligible students and included in the annual budget under section 15. The amount of the proposed promise of financial assistance must, at a minimum, equal or exceed the amount the board determines is sufficient to pay for the qualified educational expenses for an eligible student to obtain an associate degree at a community or junior college in this state, and must not exceed the amount the board determines is sufficient to pay for the qualified educational expenses for an eligible student to obtain a bachelor's degree or its equivalent at a public postsecondary institution in this state or combination of public postsecondary institutions in this state, subject to any limitations authorized under this section. The proposed promise of financial assistance may also, at most, provide funding for an eligible student to attend a private college in this state in an amount that does not exceed the average amount of qualified educational expenses to obtain a bachelor's degree at all public universities in this state. The proposed promise of financial assistance may also authorize the expenditure of funds for educational improvement activities designed to increase student readiness for postsecondary education at public schools located in the promise zone or success programming designed to increase student degree or certificate attainment at postsecondary partner institutions and their entry into the workforce.

(b) A complete description of any limitation on the promise of financial assistance, including, but not limited to, any of the following:

(i) If the promise of financial assistance will be prorated based on the number of years the student has resided within the promise zone.

(ii) If the promise of financial assistance will be restricted to students who have resided within or attended a public high school or nonpublic high school within the promise zone for a minimum number of years.

(iii) If the promise of financial assistance is predicated on the student maintaining a minimum college grade point average and carrying a minimum college credit hour classload.

(iv) If the promise of financial assistance is restricted to attendance at 1 or more public or private postsecondary institutions in this state.

(v) If the promise of financial assistance is limited to students whose cumulative high school grade point average exceeds a specified minimum. However, a board may revise, establish, or eliminate a high school grade point average requirement for students after it submits a promise zone development plan to the department of treasury and is not required to amend the plan or obtain approval from the department of treasury for that change.

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(vi) If the promise of financial assistance is limited to students who comply with requirements established by the board in order to improve student progress toward degree completion.

(vii) If the promise of financial assistance in a promise zone that encompasses more than 2 school districts is limited to students who reside in and graduate from high schools located within the boundaries of fewer than all of its constituent school districts.

(c) A requirement that graduates of a public high school or nonpublic high school exhaust all other known and available restricted grants for qualified educational expenses for postsecondary education provided by a federal, state, or local governmental entity, as determined by the board.

(d) How the funds necessary to accomplish the promise of financial assistance will be raised. Any amount received under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, must not be included as a method of raising the necessary funds. The promise zone development plan must be financed from 1 or more of the following sources:

(i) Donations.

(ii) Revenues.

(iii) Money obtained from other sources approved by the governing body or otherwise authorized by law.

(e) An actuarial model of how much the proposed plan is estimated to cost, based on actuarial formulas developed by the department of treasury.

(f) A complete description of the criteria and procedures by which the performance of students receiving financial assistance pursuant to the proposed plan will be assessed and reported. This assessment and reporting methodology must include, but is not limited to, the submission of a written report by no later than October 31 of each year to the department of treasury. This annual report must include the following information, which may be obtained, in whole or in part, from any reliable source that complies with applicable laws regarding student privacy:

(i) The number of students who received financial assistance pursuant to the authority's approved promise zone development plan during the prior academic year.

(ii) Of those students accounted for under subparagraph (i), the number who successfully completed the following:

(A) A certificate or associate program.

(B) A bachelor's program.

(iii) Of those students accounted for under subparagraph (i), the number who withdrew from classes during the prior academic year.

(iv) Of those students accounted for under subparagraph (i) who initially reached successful completion of more than the equivalent of 23 semester credits during the prior academic year, the average time to successfully complete the equivalent of 24 semester credits.

(v) The 6-year graduation rate for recipients of financial assistance pursuant to the authority's approved promise zone development plan.

(3) The proposed promise of financial assistance under subsection (2) must not include funding for attendance at a public or private postsecondary institution not located in this state.

(4) The board shall submit the promise zone development plan to the department of treasury within 5 years after the eligibility to establish the promise zone was certified by the department of treasury under section 4(4). If a promise zone development plan is not submitted within this time frame, the department of treasury may dissolve the promise zone. The promise zone development plan must be published on the website of the eligible entity that established the promise zone.

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(5) The department of treasury shall review the promise zone development plan submitted under subsection (4). Not more than 60 days after receipt of a promise zone development plan submitted under subsection (4), the department of treasury shall either approve the promise zone development plan or provide a written notice of deficiencies. If the department of treasury does not approve a promise zone development plan submitted under subsection (4) or provide a written notice of deficiencies within 60 days, the promise zone development plan must be considered approved. If a promise zone development plan is approved, the department of treasury shall certify that the promise zone development plan meets all requirements under this act and is sustainable.

(6) The department of treasury shall review any proposed amendments to a promise zone development plan. Not more than 60 days after receipt of proposed amendments to a promise zone development plan, the department of treasury shall either approve the proposed amendments or provide a written notice of deficiencies. If the department of treasury does not approve proposed amendments or provide a written notice of deficiencies within 60 days, the proposed amendments must be considered approved. If proposed amendments are approved, the department of treasury shall certify that the amendments meet all requirements under this act.

(7) A promise zone development plan approved under this act before February 16, 2016 must be amended as necessary to meet the assessment and reporting requirements described in subsection (2)(f). The amendment must include a first annual reporting deadline not later than October 31, 2017. The board shall submit the amendment to the department of treasury within 60 days after February 16, 2016 and the amendment is subject to the review process set forth in subsection (6).

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History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016 ;-- Am. 2024, Act 109, Imd. Eff. July 23, 2024

390.1669 Cause of action not created.

Sec. 9.

(1) The establishment of a promise zone does not create a cause of action in law or in equity against this state, an eligible entity, or a promise zone authority.

(2) The establishment of a promise zone development plan does not create a cause of action in law or in equity against this state, an eligible entity, or a promise zone authority, if the proposed promise of financial assistance set forth in the promise zone development plan is not paid to an eligible student.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016

390.1671 Director; powers and duties; acting director; treasurer; secretary; legal counsel; other personnel; deposit of money; administrative costs; limitation; submission of audited financial statements; certification of compliance.

Sec. 11.

(1) The board may employ a director. All of the following apply to a director employed by a board under this subsection:

(a) The board shall establish the director's compensation.

(b) The director serves at the pleasure of the board.

(c) A member of the board is not eligible to hold the position of director.

(d) Before beginning the duties of office, the director shall take and subscribe to the constitutional oath and furnish a bond in an amount determined in the resolution establishing the authority, payable to the authority for use and benefit of the authority, approved by the board, and filed with the clerk of the eligible entity. The premium on the bond must be considered an operating expense of the authority, payable from money available to the authority for expenses of operation.

(e) The director is the chief executive officer of the authority.

(2) Subject to the approval of the board, the director shall supervise and is responsible for implementing the promise zone development plan and the performance of the functions of the authority in the manner authorized under this act. The director shall attend the meetings of the board and shall provide to the board, the governing body, and the chief executive officer of the eligible entity a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning the duties of office, the acting director shall take and subscribe to the oath, and furnish a bond, as required of the director under subsection (1)(d). The director shall furnish the board with any information or reports governing the operation of the authority that the board requires.

(3) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of money of the authority. The treasurer shall perform all duties delegated to the treasurer by the board and shall furnish a bond in an amount prescribed by the board.

(4) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers the treasurer is not required to maintain. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(5) The board may retain legal counsel to advise the board in the proper performance of its duties.

(6) The board may employ any other personnel that the board considers necessary.

(7) The authority shall immediately deposit any money it receives to the credit of the authority, subject to disbursement under this act.

(8) Beginning in the first fiscal year in which it receives revenue from the state from the capture of state education tax revenue under section 17, the authority may use not more than 15% of the amount of that revenue to pay for administrative costs. As used in this subsection, "administrative costs" does not include the cost of personnel who provide services to students or any expenditure of funds for implementing and carrying out educational improvement activities or success programming for students as described in section 7(2)(a).

(9) Within 120 days after the end of each fiscal year, the board shall submit audited financial statements of the authority for that fiscal year to the department of education. The board shall include with the financial statements a certification by the board that the board and authority are in compliance with this act and with the authority's approved promise zone development plan.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016 ;-- Am. 2024, Act 109, Imd. Eff. July 23, 2024

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390.1673 Board; powers.

Sec. 13.

The board may do any of the following:

(a) Prepare an analysis of the postsecondary educational opportunities for the residents of the promise zone.

(b) Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the promise zone.

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

(d) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property.

(e) Lease, in whole or in part, any facility, building, or property under its control.

(f) Solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009

390.1675 Budget.

Sec. 15.

(1) The board shall adopt a budget for the operation of the authority for each fiscal year, before the beginning of that fiscal year, based on a budget submitted to it by the director. The budget shall be prepared in the manner and contain the information required of municipal departments. Unless authorized by the governing body, the budget of an authority shall not include any money of the eligible entity.

(2) The budget described in subsection (1) shall include the amount the authority intends to disburse to each eligible student in the fiscal year covered by the budget. Subject to the maximum amounts described in section 7(2)(a), the board shall establish the amount of the annual payment to eligible students and, in making that determination, shall consider the financial resources available to the authority for disbursement to those students.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013

390.1677 Capture of state education tax; determination of base year; payments.

Sec. 17.

(1) The authority shall determine the base year for calculating the amount of incremental growth for the capture of the state education tax as provided in this section. The base year is the amount of revenue received from the collection of the state education tax in the promise zone in the year immediately preceding the year in which an authority makes its initial payment of qualified educational expenses in accordance with the promise of financial assistance or the amount of revenue received from the collection of the state education tax in the promise zone in any 1 of the 5 immediately succeeding years, whichever is less.

(2) If the authority continues to make annual payments in accordance with the promise of financial assistance, in the year immediately succeeding the base year determined in

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subsection (1) and each year thereafter, this state shall capture 1/2 of the increase in revenue, if any, from the collection of the state education tax. This state shall not capture any revenue from the collection of the state education tax under this act if that revenue is subject to capture under any other law of this state. Proceeds from the capture of the state education tax under this section shall be deposited in the state treasury and credited to a restricted fund to be used solely for the purposes of this act.

(3) If the authority continues to make annual payments of qualified educational expenses in accordance with the promise of financial assistance, 2 years after the authority's initial payment of financial assistance and each year thereafter, this state shall pay to the authority the state education tax captured under subsection (2). If the boundaries of 2 or more promise zones created under this act overlap, payments under this section shall only be made to the first authority eligible for payment under this subsection. If the boundaries of a promise zone are changed by merger or otherwise, the department of treasury may adjust the calculation of the tax revenue capture under this section to reflect that change.

(4) If at any time the authority does not make annual payments of qualified educational expenses in accordance with the promise for financial assistance, any amount captured from that promise zone in the restricted fund created under subsection (2) shall be paid into the school aid fund established in section 11 of article IX of the state constitution of 1963.

(5) For purposes of this section, payments under this section shall not be included in determining payments for financial assistance in the immediately preceding year.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2013, Act 210, Imd. Eff. Dec. 23, 2013 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016

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390.1679 Department of treasury; assumption of operational control; dissolution; resolution; use of remaining property and assets.

Sec. 19.

(1) The department of treasury shall oversee the operations of any promise zone authority or board created under this act. If the department of treasury determines that the actions of a promise zone authority or board are not in accordance with the promise zone development plan, the department of treasury may assume operational control of that promise zone authority or board. If a promise zone authority does not begin making annual payments of qualified educational expenses in accordance with the promise of financial assistance within 2 years of obtaining approval of its promise zone development plan under section 7, the department may dissolve the promise zone.

(2) An authority that has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the eligible entity and shall be used solely for purposes of promoting access to postsecondary education pursuant to resolution of the governing body of the eligible entity.

History: 2008, Act 549, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 9, Imd. Eff. Feb. 16, 2016