

CHAPTER 21. BUDGET AND STATE ACCOUNTS

THE STATE BUDGET ACT

Act 98 of 1919

21.1-21.16 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

UNEXPENDED BALANCES

Act 236 of 1879

21.21-21.23 Repealed. 1962, Act 211, Eff. Mar. 28, 1963.

UNENCUMBERED BALANCES

Act 28 of 1921 (1st Ex. Sess.)

21.31,21.32 Repealed. 1965, Act 95, Imd. Eff. June 28, 1965.

UNIFORM SYSTEM OF ACCOUNTING Act 71 of 1919

AN ACT to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices, and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office, and institution, and of each county office; to provide for financial reports from all those departments, institutions, and offices, and for the tabulation and publication of comparative financial statistics relating to the departments, institutions, and offices; to provide for the administration of this act; to provide for the powers and duties of the department of treasury, the state treasurer, the library of Michigan and depository libraries, and other officers and entities; to provide penalties; and to provide for meeting the expense authorized by this act.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—Am. 1975, Act 242, Imd. Eff. Sept. 4, 1975;—Am. 1996, Act 426, Imd. Eff. Nov. 25, 1996;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

The People of the State of Michigan enact:

21.41 Accounting and reporting system; installation by state treasurer; uniformity.

Sec. 1. The state treasurer shall formulate, prescribe, and install a system of accounting and reporting in conformity with the provisions of this act that shall be uniform for every county office and public account of the same class.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 299;—CL 1948, 21.41;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

Transfer of powers: See MCL 16.180 and 18.1 et seq.

Former law: See Act 183 of 1911, being CL 1915, §§ 266 to 275.

21.42 Accounting system; accounts; form and contents.

Sec. 2. The accounting system shall embrace accounts showing all sources of income, the amounts due, collected and received from each source, including all fees collected by county officers whether turned into the county treasury or not, the amount expended for each purpose, bills, and accounts payable; the receipt, use, and disposition of other public property and the income, if any, derived from them. The accounting system shall include other forms of accounts as the state treasurer may consider wise and essential to efficient financial administration of public affairs pertaining to county governments.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—Am. 1921, Act 187, Imd. Eff. May 17, 1921;—CL 1929, 300;—CL 1948, 21.42;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.43 Accounting system; separate accounts for appropriations; contents.

Sec. 3. A separate account shall be kept of each appropriation, or fund, made to or received by each county office, which shall show the date and manner of each payment, the name and address of the person or association of persons to whom paid, and for what purpose paid.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 301;—CL 1948, 21.43;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.44 Accounting system; uniform annual financial reports from county offices; filing.

Sec. 4. It shall be the duty of each county office to make an annual financial report in accordance with forms prescribed by the state treasurer, which shall be uniform for all accounts of the same class. The reports shall be made in duplicate, 1 copy of which shall, within 6 months after the close of each fiscal year, be filed in the office of the state treasurer, and shall contain an accurate statement in summarized form showing, for each fiscal year, the amount of all collections and receipts from all sources, and their disposition, all accounts due the public treasury but not collected, the amount of expenditures for every purpose and by what authority authorized, the amount of indebtedness, the cost of operation of all industrial activities and financial results obtained, balance of funds on hand at the close of each fiscal period, together with any other information as may be required by the state treasurer.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 302;—CL 1948, 21.44;—Am. 2002, Act 370, Imd. Eff. May 24, 2002;—Am. 2009, Act 68, Imd. Eff. July 9, 2009.

21.44a Statement to be filed with auditor general; annual county financial report; excluded information; unauthorized investments prohibited.

Sec. 4a. (1) Each department, institution, or office of state government shall file with the auditor general within 60 days after the close of the state fiscal year an accurate statement showing all of the following for the fiscal year:

(a) The cost and fiscal year end market value of derivative instruments or products in the department's, institution's, or office's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(b) For each state pension system, the cost and fiscal year end market value for each item in each of the following categories of pension investments in the state pension system's investment portfolio at fiscal year end:

(i) United States government or agency obligations, itemized by type of security.

(ii) Commercial paper, itemized by issuing bank.

(iii) United States government or agency repurchase agreements, itemized by institution with type of security specified.

(iv) United States bank bankers' acceptances, itemized by issuing bank.

(v) Mutual funds, itemized by mutual fund name.

(vi) Common stock, itemized by issuing corporation.

(vii) Corporate bonds, itemized by issuing corporation and type of security.

(viii) Real estate, itemized by separately described holding.

(ix) Mortgages, itemized by mortgagor.

x(x) Derivative instruments or products, itemized by issuer and type.

(xi) Other pension investments not listed above in this subdivision itemized by type of investment.

(c) The total cost and fiscal year end market value for each category of investments under subdivision (b) in the state pension system's investment portfolio at fiscal year end.

(d) The total cost and fiscal year end market value for all categories of investments under subdivision (b) in the state pension system's investment portfolio at fiscal year end, on an aggregate basis.

(2) In addition to the requirements of section 4, an annual financial report for a county shall contain, for each fiscal year, all of the following:

(a) A statement indicating whether there are derivative instruments or products in the county's nonpension investment portfolio at fiscal year end.

(b) If the statement in subdivision (a) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the county's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(c) A statement indicating whether there are derivative instruments or products in the county's pension investment portfolio at fiscal year end.

(d) If the statement under subdivision (c) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the county's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(3) Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under subsection (1)(b), (c), and (d) and subsection (2)(c) and (d).

(4) This section does not authorize a department, institution, or office of state government or a county to make investments not otherwise authorized by law.

History: Add. 1996, Act 426, Imd. Eff. Nov. 25, 1996.

21.44b Nonpension investments in derivative instruments or products; failure to report; determination and report by auditor general or department of treasury; expenses.

Sec. 4b. (1) If a department, institution, or office of state government fails to report nonpension investments in derivative instruments or products or pension investments as required by section 4a, the auditor general may determine that the department, institution, or office cannot report the investments without assistance, advice, or instruction from the auditor general. The auditor general shall submit a written statement of the findings and recommendations to the department, institution, or office. Within 90 days after receipt of this statement, the department, institution, or office shall retain the auditor general to report the investments or shall retain a certified public accountant to report the investments and notify the auditor general of the action. Upon failure of the department, institution, or office to respond within the 90-day period, the auditor general shall report the investments.

(2) The auditor general shall charge reasonable and necessary expenses, including per diem and travel expenses, to the department, institution, or office of state government for services performed pursuant to subsection (1) and the department, institution, or office shall pay the auditor general for these expenses. For

payment of the expenses, the auditor general shall either execute a contract with the department, institution, or office for payment of the expenses or bill the department, institution, or office on a monthly basis.

(3) If a county fails to report nonpension or pension investments in derivative instruments or products as required by section 4a, the department of treasury may determine that the county cannot report the investments without assistance, advice, or instruction from the department of treasury. The department of treasury shall submit a written statement of the findings and recommendations to the county. Within 90 days after receipt of this statement, the county shall retain the department of treasury to report the investments or shall retain a certified public accountant to report the investments and notify the department of treasury of the action. Upon failure of the county to respond within the 90-day period, the department of treasury shall report the investments.

(4) The department of treasury shall charge reasonable and necessary expenses, including per diem and travel expenses, to the county for services performed pursuant to subsection (3) and the county shall pay the department of treasury for these expenses. For payment of the expenses, the department of treasury shall either execute a contract with the county for payment of the expenses or bill the county on a monthly basis.

History: Add. 1996, Act 426, Imd. Eff. Nov. 25, 1996.

21.44c Schedule of derivative instruments and products; filing copies with library of Michigan and depository libraries; availability of report and statement for public inspection.

Sec. 4c. (1) The department of treasury shall promptly file with the library of Michigan a sufficient number of copies of a schedule of derivative instruments and products described in section 4a(2)(b) or (d) and obtained under section 4a or section 4b to deposit 1 copy in the library of Michigan and 1 copy in each depository library.

(2) The library of Michigan and depository libraries shall serve as depositories for schedules of derivative instruments and products described in section 4a(2)(b) or (d) in the manner required by sections 9 and 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being sections 397.19 and 397.20 of the Michigan Compiled Laws. The library of Michigan and each depository library shall promptly make a schedule of derivative instruments and products described in section 4a(2)(b) or (d) available to the public.

(3) A county shall obtain and retain a copy of an annual financial report submitted under this act. A county or the state treasurer shall make an annual financial report prepared, owned, used, in the possession of, or retained by the county or state treasurer available for public inspection under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(4) A department, institution, or office of state government shall obtain and retain subject to sections 284 to 292 of the management and budget act, Act No. 431 of the Public Acts of 1984, being sections 18.1284 to 18.1292 of the Michigan Compiled Laws, a copy of a statement submitted under section 4a(1). A department, institution, or office of state government, including but not limited to the auditor general, shall make a statement under section 4a(1) prepared, owned, used, in the possession of, or retained by the department, institution, or office of state government available for public inspection under Act No. 442 of the Public Acts of 1976.

History: Add. 1996, Act 426, Imd. Eff. Nov. 25, 1996.

Compiler's note: For transfer of powers and duties of library of Michigan and state librarian, except pertaining to services for blind and physically handicapped and those related to census data functions, to department of education, see E.R.O. No. 2009-26, compiled at MCL 399.752.

21.45 State treasurer; examination of accounts; annual audit; minimum auditing procedures and standards; report; filing copy of audit report and report of auditing procedures; extension; contents of audit report; performance of audit by certified public accountant; "chief administrative officer" defined.

Sec. 5. (1) The state treasurer is the supervisor of the accounts of all county offices. The state treasurer may examine, or cause to be examined, the books, accounts, and financial affairs of each county office.

(2) A county shall obtain an annual audit of its financial records, accounts, and procedures and may retain certified public accountants to perform the audits. If a county fails to provide for an audit, the state treasurer shall either conduct the audit or appoint a certified public accountant to perform the audit. The entire cost of any audit shall be borne by the county.

(3) The state treasurer shall prescribe minimum auditing procedures and standards, and these shall conform as nearly as practicable to generally accepted auditing standards and procedures established by the American institute of certified public accountants.

(4) A report of the auditing procedures applied in each audit shall be prepared on a form provided for this

purpose by the state treasurer. The state treasurer may require that the audit report, or the report of auditing procedures, or both, that are required by this subsection to be filed with the state treasurer be filed in an electronic format prescribed by the state treasurer.

(5) One copy of every audit report and 1 copy of the report of auditing procedures applied shall be filed with the state treasurer.

(6) The copy of the audit report and the copy of the report of auditing procedures applied required by subsection (5) shall be filed with the state treasurer within 6 months after the end of the fiscal year of a county for which an audit has been performed under this section. The chief administrative officer of a county may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. A chief administrative officer who requests an extension under this subsection shall, within 10 days of making the request, inform the governing body of the county in writing of the requested extension.

(7) Every audit report required under this section shall do all of the following:

(a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer.

(b) State that financial statements in the audit reports have been prepared in accordance with generally accepted accounting principles and with applicable rules and regulations of any state department or agency. Any deviations from such principles, rules, or regulations shall be described in detail.

(c) Disclose any material deviations by the county from generally accepted accounting practices or from applicable rules and regulations of any state department or agency.

(d) Disclose any fiscal irregularities including, but not limited to, any defalcations, misfeasance, nonfeasance, or malfeasance that came to the auditor's attention.

(8) A financial audit of a county that is performed by a certified public accountant in a manner consistent with auditing procedures and standards established by the state treasurer and that is filed with the state treasurer shall constitute an audit of county accounts by competent state authority for purposes of section 21 of article IX of the state constitution of 1963.

(9) As used in this section, "chief administrative officer" means that term as used in section 2b(3)(f) of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.422b.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—Am. 1921, Act 187, Imd. Eff. May 17, 1921;—CL 1929, 303;—CL 1948, 21.45;—Am. 1963, Act 59, Eff. Oct. 2, 1953;—Am. 1993, Act 196, Eff. Dec. 28, 1994;—Am. 2002, Act 370, Imd. Eff. May 24, 2002;—Am. 2009, Act 68, Imd. Eff. July 9, 2009.

Compiler's note: Section 2 of Act 196 of 1993 provides as follows:

"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

21.46 Examination of accounts; subpoenas; witnesses; production of records.

Sec. 6. Upon demand of the state treasurer, or any person duly appointed by the state treasurer, to make the examinations provided in this act, any and all officers of county governments shall produce, for examination, the books of account and papers of their respective departments, institutions, and offices, and shall truthfully answer all questions relating to that examination. In connection with the examinations, the state treasurer, or any person designated to make the examinations, may issue subpoenas, direct the service of those subpoenas by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine those persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer, or by any person charged with the duty of making the examinations as provided in this section, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt, as provided by law.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 304;—CL 1948, 21.46;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.47 Accounting system; report of examination of accounts; filing; criminal and civil proceedings; prosecution; removal for neglect.

Sec. 7. A report shall be made, in duplicate, of each examination made in accordance with the provisions of this act. The duplicate report shall be signed and verified by the officer making the examination, 1 copy of which shall be filed with the state treasurer and 1 copy with the county examined. If any examination discloses malfeasance, misfeasance, nonfeasance, or gross neglect of duty on the part of any officer or employee of any county office, for which a criminal penalty is provided by law, an additional copy of the report shall be made and filed with the attorney general, and the attorney general, within 60 days after receipt

of that report, shall institute criminal proceedings against the officer or employee, or direct that criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general, or the prosecuting attorney, as the case may be, also shall institute civil action in any court of competent jurisdiction for the recovery of any public money, disclosed by any examinations to have been illegally expended, or collected and not accounted for and for the recovery of any public property disclosed to have been converted and misappropriated. Refusal or neglect to comply with the requirements of this section on the part of the attorney general, or on the part of the prosecuting attorney of any county in the state, is sufficient cause for his or her removal from office by the governor.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 305;—CL 1948, 21.47;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.48 Accounting system; adoption by county officers mandatory; refusal; penalties.

Sec. 8. The executive officer of each county office shall adopt and use the books, forms, records and systems of accounting and reporting prescribed by the state treasurer and shall promptly purchase the books, forms, and records as may be necessary to implement their use, in the manner now provided by law for the purchase of those articles. Refusal or neglect on the part of any county officer to provide the books, forms, or records, or to use them, or to make the reports required by this act, or keep the accounts of his or her office as directed by the state treasurer, is sufficient cause for his or her removal from office by the governor. If, after the uniform accounting system has been installed in any county, it becomes necessary for an examiner employed under this act to perform any service, which a county officer has neglected or refused to do, in order to properly continue the system, then the per diem and expense incurred is a proper charge against the county where the service was performed. A statement covering that per diem and expense may be forwarded by the state treasurer to the county clerk who shall immediately issue his or her warrant upon the county treasurer who shall pay it from the general fund of the county. Money so received by the state shall be paid into the state treasury to the credit of the general fund.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—Am. 1921, Act 187, Imd. Eff. May 17, 1921;—CL 1929, 306;—CL 1948, 21.48;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.49 Accounting system; removal for noncompliance; hearing.

Sec. 9. The governor may, and he or she shall upon a finding of guilt, remove from office the officer of any branch of the state government, or county government, who refuses or willfully neglects to keep the accounts of his or her office in the manner and form prescribed by the state treasurer, or to make the reports provided in this act, or who refuses or neglects to comply with any other requirements of this act. The state treasurer shall promptly report to the governor each refusal or neglect and the governor, before taking final action on that report, shall summons the officer complained against to make answer why he or she should not be removed from office.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 308;—CL 1948, 21.49;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.50 Accounting system; audit of department of treasury.

Sec. 10. The department of treasury shall be audited by the auditor general as provided by law.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 309;—CL 1948, 21.50;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.51 Giving or offering to examiner or other employee money, gift, emolument, or thing of value; purposes; misdemeanor; penalty.

Sec. 11. Any person who gives or offers to any examiner, accountant, clerk, or other employee of the department of treasury, any money, gift, emolument, or thing of value for the purpose of influencing the action of the examiner or other employee, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any public account, or for the purpose of influencing the action of the examiner or other employee, in framing, changing, withholding, or delaying any report of any examination of any public account is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 nor less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 310;—CL 1948, 21.51;—Am. 1985, Act 48, Imd. Eff. June 14, 1985;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.52 Receiving or soliciting money, gift, emolument, or anything of value; purposes; misdemeanor; penalty.

Sec. 12. Any person appointed by the state treasurer to make the examinations provided for under this act, or any officer, clerk, or other employee of the state treasurer, who receives or solicits any money, gift,

emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 and not less than \$200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

History: 1919, Act 71, Imd. Eff. Apr. 15, 1919;—CL 1929, 311;—CL 1948, 21.52;—Am. 1985, Act 48, Imd. Eff. June 14, 1985;—Am. 2002, Act 370, Imd. Eff. May 24, 2002.

21.53 Repealed. 2002, Act 370, Imd. Eff. May 24, 2002.

Compiler's note: The repealed section pertained to biennial estimate of expenses by auditor general or budget commission.

21.54 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to monthly financial reports.

21.55 Definitions.

Sec. 15. As used in this act:

(a) "Depository library" means a depository library designated under section 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being section 397.20 of the Michigan Compiled Laws.

(b) "Derivative instrument or product" means either of the following, subject to subdivision (c):

(i) A contract or convertible security that changes in value in concert with a related or underlying security, future, or other instrument or index; or that obtains much of its value from price movements in a related or underlying security, future, or other instrument or index; or both.

(ii) A contract or security, such as an option, forward, swap, warrant, or a debt instrument with 1 or more options, forwards, swaps, or warrants embedded in it or attached to it, the value of which contract or security is determined in whole or in part by the price of 1 or more underlying instruments or markets.

(c) "Derivative instrument or product" does not mean a fund created pursuant to the surplus funds investment pool act, Act No. 367 of the Public Acts of 1982, being sections 129.111 to 129.118 of the Michigan Compiled Laws, or section 1223 of the revised school code, Act No. 451 of the Public Acts of 1976, being section 380.1223 of the Michigan Compiled Laws.

(d) "Library of Michigan" means the library of Michigan created under section 3 of Act No. 540 of the Public Acts of 1982, being section 397.13 of the Michigan Compiled Laws.

History: Add. 1996, Act 426, Imd. Eff. Nov. 25, 1996.

ACCOUNTING OF STATE AGENCIES Act 228 of 1903

21.61-21.67 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

REGULATION OF STATE INSTITUTIONS
Act 206 of 1881

AN ACT to provide for the uniform regulation of certain state institutions, and to repeal section 7 of Act No. 148 of the session laws of 1873, Act 162 of the session laws of 1873, Act No. 31 of the Session Laws of 1875, section 17 of Act No. 213 of the Session Laws of 1875, section 17 of Act No. 176 of the Session Laws of 1877, section 16 of Act No. 133 of the Session Laws of 1879, section 20 of Act No. 250 of the Session Laws of 1879, and all acts or parts of acts contravening the provisions of this act.

History: 1881, Act 206, Eff. Sept. 10, 1881.

The People of the State of Michigan enact:

21.71 State institutions; definition.

Sec. 1. That all educational, charitable, reformatory and penal institutions, supported wholly or in part by the state, shall be known as state institutions.

History: 1881, Act 206, Eff. Sept. 10, 1881;—How. 412;—CL 1897, 2223;—CL 1915, 1936;—CL 1929, 426;—CL 1948, 21.71.

21.72-21.76 Repealed. 1962, Act 18, Eff. Mar. 28, 1963.

Compiler's note: The repealed sections provided for uniform regulation of certain state institutions.

21.76a Contracts for televising affairs of state institutions; provisions for general transmission.

Sec. 6a. No state institution, or any state board, division or department, shall enter into any contract for the televising or phonovising of any of its programs, affairs or events under which contract the programs, affairs or events are to be used as entertainment for which a fee is charged unless provision is also made in such contract for the transmission at the same time of the same programs, affairs, or events to television owners generally in this state.

History: Add. 1951, Act 143, Eff. Sept. 28, 1951.

21.77-21.79 Repealed. 1962, Act 18, Eff. Mar. 28, 1963.

Compiler's note: The repealed sections required approval for plans for certain state institutions and for keeping accounts.

RECEIVING AND DISBURSING OFFICERS; ACCOUNTING
Act 148 of 1873

21.81-21.88 Repealed. 1962, Act 212, Eff. Mar. 28, 1963.

FISCAL YEAR
Act 116 of 1887

21.91,21.92 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

STATE FUNDS; ACCOUNTING
Act 258 of 1941

AN ACT to simplify the accounting procedures of the state; to provide for the state funds through which all state accounting or bookkeeping transactions are to be recorded; to provide for the discontinuance or merging of certain state funds; to adjust the accounting of payments into the highway bond sinking fund on a fiscal year basis; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1941, Act 258, Imd. Eff. June 17, 1941.

The People of the State of Michigan enact:

21.101-21.109 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to merging, transferring, and accounting of various funds.

21.110 State treasurer's common cash fund; assets and liabilities.

Sec. 10. The assets of the state treasurer's common cash fund shall consist of:

(a) Such remaining cash of the several state funds as may have been deposited by the state treasurer in 1 or more common bank depositories commingled with the cash of any other fund or funds in such depositories or held by the state treasurer for eventual deposit in such depositories.

(b) The cash overdrafts due from such state funds for which expenditures from such commingled depositories had exceeded the cash deposited or placed to their respective credit in such depositories.

The liabilities of the state treasurer's common cash fund shall comprise the equities of such state funds for which the aggregate of the cash deposited or placed to their respective credit in the state treasurer's common cash fund has exceeded the cash expended for their account therefrom.

History: 1941, Act 258, Imd. Eff. June 17, 1941;—CL 1948, 21.110.

21.111, 21.112 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to financial statements for 1941 and to authority of controller.

STATE REVOLVING FUNDS
Act 259 of 1941

21.121-21.130 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

SURPLUS FUNDS IN TREASURY Act 105 of 1855

An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies.

History: 1855, Act 105, Eff. May 15, 1855;—Am. 1979, Act 88, Imd. Eff. Aug. 1, 1979;—Am. 1980, Act 30, Imd. Eff. Mar. 8, 1980;—Am. 1980, Act 323, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 242, Imd. Eff. Dec. 3, 1986;—Am. 1990, Act 360, Imd. Eff. Dec. 27, 1990;—Am. 1993, Act 44, Imd. Eff. May 27, 1993.

The People of the State of Michigan enact:

21.141 Loan to eligible municipality; approval; compliance; warrant; limitation on total amount of loans; sale, assignment, transfer, or repurchase of loans; "board" defined.

Sec. 1. (1) The state treasurer shall make a loan from surplus funds to an eligible municipality, as municipality is defined in section 1 of the emergency municipal loan act, 1980 PA 243, MCL 141.931, if the loan is approved under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(2) A loan made under subsection (1) shall comply with the requirements of the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, relating to the terms, conditions, rate of interest, and amount of the loan.

(3) Upon approval of a loan by the board and execution of a note of indebtedness to this state by an authorized representative of the municipality, including, but not limited to, an emergency manager for the municipality if the municipality is in receivership under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, the state treasurer shall issue a warrant to the municipality in an amount equal to the amount of the loan.

(4) For state fiscal years beginning before October 1, 2011, the total amount of loans made from surplus funds pursuant to this section in any 1 state fiscal year shall not exceed \$5,000,000.00 plus the amount of any loans authorized by section 3(2) of the emergency municipal loan act, 1980 PA 243, MCL 141.933. For state fiscal years beginning after September 30, 2018, the total amount of loans made from surplus funds pursuant to this section in any 1 state fiscal year shall not exceed \$10,000,000.00 plus the amount of any loans authorized by section 3(2) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, with no loan to a single municipality exceeding \$4,000,000.00 in a state fiscal year. For the period beginning on October 1, 2011 and ending on September 30, 2018, loans made from surplus funds pursuant to this section may include both of the following:

(a) Loans to municipalities other than school districts in amounts authorized under section 3(1)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933.

(b) Loans to school districts in amounts authorized under section 3(1)(b) of the emergency municipal loan act, 1980 PA 243, MCL 141.933.

(5) The state treasurer may sell, assign, transfer, or repurchase loans made from surplus funds under this section or from the proceeds of the sale, assignment, or transfer of a loan under section 6a of the emergency municipal loan act, 1980 PA 243, MCL 141.936a. The state treasurer shall use surplus funds to repurchase a loan under this subsection.

(6) As used in this section, "board" means the local emergency financial assistance loan board created pursuant to the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

History: Add. 1980, Act 323, Imd. Eff. Dec. 15, 1980;—Am. 1987, Act 284, Eff. Apr. 11, 1988;—Am. 2012, Act 287, Imd. Eff. Aug. 1, 2012;—Am. 2015, Act 116, Imd. Eff. July 7, 2015.

21.142 Repealed. 2006, Act 228, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to use of surplus funds to make loans to qualified corporations.

21.142a Investment of surplus funds; conditions and restrictions; valid public purpose; approval of documentation; agricultural loans; disposition of earnings; reducing general fund by amount of interest deficiency or loss of principal; terms of certain investments; compliance; separate reports; definitions; value of qualified agricultural loans; deduction of grant; use of existing deposits for loans to farmers; appropriation; reduction of maximum amount of investments; effect of money not invested for qualified agricultural

loans; action to ensure successful operation of section; disposition of affidavit; use of federal grant.

Sec. 2a. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or in a financial institution that qualifies with proof of financial viability acceptable to the state treasurer under this act to receive deposits or investments of surplus funds. In addition to terms that may be prescribed in the investment agreement by the state treasurer, an investment under this section shall be subject to all of the following conditions and restrictions:

(a) The interest accruing on the investment shall not be more than the interest earned by the financial institution on qualified agricultural loans made after the date of the investment.

(b) The financial institution shall provide good and ample security as the state treasurer requires and shall identify the qualified agricultural loans and the terms and conditions of those loans that are made after the date of the investment that are attributable to that investment together with other information required by this act.

(c) As established in the investment agreement by the state treasurer, a qualified agricultural loan shall be made at a rate or rates of interest, if any.

(d) To the extent the financial institution has not made qualified agricultural loans as defined by subsection (9)(a) in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer invested the surplus funds.

(e) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement shall provide that the financial institution does not have to repay any principal within the first 24 months after which the investment is made unless the investment is no longer being used to make a qualified agricultural loan as defined by subsection (9)(a), or to the extent the qualified agricultural loan has been repaid.

(f) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement may include incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement.

(2) An investment made under this section is found and declared to be a valid public purpose.

(3) The attorney general shall approve documentation for an investment pursuant to this section as to legal form.

(4) The state treasurer shall deposit before May 1, 2002 up to \$30,000,000.00 of surplus funds with the financial institutions participating in making qualified agricultural loans under this section for the purpose of making those qualified agricultural loans. Not more than \$10,000,000.00 of this deposit shall be allocated to qualified agricultural loans made to businesses under subsection (9)(a)(iii).

(5) Earnings from an investment made pursuant to this section which are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or former section 2, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or former section 2, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) A new investment to which a qualified agricultural loan as defined by subsection (9)(a)(ii) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term which extends beyond October 1, 2007. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(iii) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term extending beyond October 1, 2007. The terms of the qualified agricultural loan as defined by subsection (9)(a) shall provide that zero-interest loans under this section be for a term not more than 5 years and that the first payment made by the recipient occur not later than 24 months after the date of the loan. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(i) is attributed shall not be made with a term extending beyond October 1, 2007.

(7) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the financial institution is in compliance with the terms of the investment agreement and this act.

(8) Before October 1, 2003, the state treasurer shall prepare separate reports to the legislature and the house and senate agriculture appropriations subcommittees regarding the disposition of money invested for purposes of qualified agricultural loans as defined by subsection (9)(a)(i) and for qualified agricultural loans

as defined by subsection (9)(a)(ii) and (iii). The reports for each type of loan shall include all of the following information:

(a) The total number of farmers and the total number of agricultural businesses who have received such a loan.

(b) By county, the total number and amounts of the loans.

(c) The name of each financial institution participating in the loan program and the amount invested in each financial institution for purposes of such loan program.

(d) Any action undertaken by the state treasurer under subsection (15).

(9) As used in this section:

(a) "Qualified agricultural loan" means 1 or more of the following types of loans, as applicable:

(i) Until October 1, 2002, a loan to a natural or corporate person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, who is experiencing financial stress and difficulty in meeting existing or projected debt obligations owed to financial institutions due to an agricultural disaster as requested by the governor at rates commensurate with rates charged by financial institutions for loans of comparable type and terms at the time the loan is to be made, and who certifies to the financial institution that the owner-operator will not have more than \$150,000.00 in outstanding loans otherwise considered qualified agricultural loans under this subparagraph, including the loan for which the owner-operator is applying. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or \$50,000.00, whichever is less. A qualified agricultural loan under this subparagraph may be made for either or both of the following purposes:

(A) Operating capital including, but not limited to, capital necessary for the rental, lease, and repair of equipment or machinery, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

(B) Refinancing all or a portion of a loan entered into before October 1, 2002 for a purpose identified in sub-subparagraph (A).

(ii) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged and intends to remain engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, who has suffered a 25% or more loss in major enterprises or a 50% or more production loss in any 1 crop due to an agricultural disaster on a farm located in this state, as requested by the governor and as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss.

(iii) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged in an agricultural business of buying, exchanging, or selling farm produce, or is engaged in the business of making retail sales directly to farmers and has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e), (f), (g), and (h) of the general sales tax act, 1933 PA 167, MCL 205.54a. Businesses engaged in the buying, exchanging, or selling of farm produce must have suffered a 50% or greater loss in volume of 1 commodity as compared with the average volume of that commodity which the business handled over the last 3 years to qualify for loans under this subparagraph. Businesses engaged in making retail sales directly to farmers must have suffered a 50% or greater reduction in gross retail sales volume subject to the Michigan agricultural sales tax exemption as compared with that business's average retail sales volume subject to that exemption over the last 3 years to qualify for loans under this subparagraph. All losses claimed by businesses attempting to qualify for loans under this subparagraph must be directly attributable to a natural disaster occurring after January 1, 2001, as requested by the governor and as certified by the agricultural business by means of an affidavit demonstrating an accurate and valid loss.

(b) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

(c) "Financial institution" includes, but is not limited to, entities of the farm credit system or a state or federally chartered savings bank. For purposes of this section, entities of the farm credit system or a state or federally chartered savings bank may be qualified as a financial institution eligible to receive an investment under this section notwithstanding that its principal office is not located in this state if the proceeds of the investment will be committed to qualified agricultural loans in this state.

(d) "Corporate person" or "corporation" means, except in relation to a qualified agricultural loan under subdivision (a)(iii), a corporation in which a majority of the corporate stock is owned by persons operating the farm applying for a loan.

(e) "Facility" means a plant designed for receiving or storing farm produce or a retail sales establishment

of a business engaged in making retail sales directly to farmers, which establishment has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e), (f), (g), and (h) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(10) A qualified agricultural loan as defined by subsection (9)(a)(ii) shall be equal to not more than the value of the crop loss as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss. The qualified agricultural loan shall not exceed the lesser of \$200,000.00 or the value of the crop loss minus the amount of any grant under federal disaster assistance or insurance proceeds received by the owner-operator as a result of the same crop loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or \$50,000.00, whichever is less.

(11) A qualified agricultural loan as defined by subsection (9)(a)(iii) shall not exceed the lesser of the following:

(a) \$300,000.00 per facility.

(b) An amount not to exceed the value of the direct loss of the individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan, as determined by the department of treasury under subsection (9)(a)(iii).

(c) \$400,000.00 per individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan.

(12) The financial institutions participating in the loan program pursuant to subsection (9)(a) shall have the option of making state subsidized loans to farmers or to businesses described in subsection (9)(a)(iii) before October 1, 2002, with terms approved by the state treasurer by using their existing deposits for the loans and receiving from the state treasurer an interest rate subsidy equal to 120% of the state treasurer's common cash earnings rate. The state's reimbursement to financial institutions participating in the loan program pursuant to subsection (9)(a) shall not be made before October 1, 2002.

(13) There is hereby appropriated an amount sufficient to make the distributions required under subsections (4) and (12) in the 2001-02 fiscal year for not to exceed \$210,000,000.00 in qualified agricultural loans. For each qualified agricultural loan for which a distribution is made pursuant to subsection (12), the maximum amount of investments authorized by subsection (4) shall be reduced by an amount equal to 100% or more of the qualified agricultural loan, as determined by the department of treasury, for which a distribution is made pursuant to subsection (12).

(14) Any money for purposes of qualified agricultural loans as defined by subsection (9)(a)(ii) that has not been invested by the state treasurer by October 1, 2002, shall increase the maximum amount available under this section for qualified agricultural loans as defined by subsection (9)(a)(i).

(15) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a qualified agricultural loan.

(16) Upon request by the department of treasury, a financial institution shall forward a copy of any affidavits executed and filed under this section to the department of treasury. The financial institution and the department of treasury shall destroy the affidavit or its copy after the qualified agricultural loan is paid off.

(17) If the recipient of a qualified agricultural loan as defined by subsection (9)(a) receives a federal grant after the receipt of a qualified agricultural loan under this section, then any federal grant money remaining after all federal obligations are met shall be allocated by the recipient to payment of the balance of any outstanding loan made under this section.

History: Add. 1985, Act 12, Imd. Eff. May 1, 1985;—Am. 1985, Act 90, Imd. Eff. July 10, 1985;—Am. 1986, Act 242, Imd. Eff. Dec. 3, 1986;—Am. 1987, Act 27, Imd. Eff. May 12, 1987;—Am. 2002, Act 16, Imd. Eff. Feb. 28, 2002;—Am. 2007, Act 176, Imd. Eff. Dec. 21, 2007;—Am. 2018, Act 112, Imd. Eff. Apr. 25, 2018.

21.142b Investment of surplus funds; terms and conditions; valid public purpose; investment agreement; amount of investment; earnings; list of eligible projects; conditions to approval of eligible project; duty of director and state treasurer; definitions; effect of general obligation bonds; use of bond proceeds to promote solid waste management.

Sec. 2b. (1) The state treasurer may invest surplus funds under the state treasurer's control with a financial institution, investment company, insurance company, or other legal entity entitled to receive an investment, which investment may be in the form of a deposit, repurchase agreement, guaranteed investment contract, banker's acceptances, or other security evidencing the obligation of the entity receiving the investments to repay the investment under the terms and conditions contained in an investment agreement, including the rate of return, if any, to be received on the investment.

(2) An investment made under this section is found and declared to be for a valid public purpose.

(3) In addition to the terms and conditions that may be prescribed by the investment agreement, the investment agreement shall also provide for the following:

(a) The character, extent, and nature of security necessary for the investment.

(b) That the investment shall be loaned to the Michigan municipal bond authority for the purpose of the Michigan municipal bond authority investing the proceeds of that loan in a manner consistent with and pursuant to the shared credit rating act, Act No. 227 of the Public Acts of 1985, being sections 141.1051 to 141.1078 of the Michigan Compiled Laws, to produce a return available to the Michigan municipal bond authority solely for the purpose of structuring, assisting, or benefiting an eligible project or to pay principal and interest on any proceeds of an obligation of the Michigan municipal bond authority which are used to benefit an eligible project.

(c) The term of the investment.

(4) The amount of any investment made pursuant to this subsection shall not exceed 10% of the average balance of the state common cash fund during the 30 days preceding the date on which the list of eligible projects is submitted to the joint capital outlay subcommittee, calculated after other investments made pursuant to this section have been deducted.

(5) Earnings from an investment made pursuant to this section in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, or 2a, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, or 2a, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings on the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) Not less than 30 days before an investment is made pursuant to this section the director and the state treasurer shall prepare and submit to the members of the joint capital outlay subcommittee of the appropriations subcommittees of the legislature a list of projects that the director and the state treasurer determine are eligible projects and the local units in which the eligible projects are located. Upon the approval of the joint capital outlay subcommittee, the state treasurer may execute the investment authorized by this section.

(7) A project shall not be approved by the director and the state treasurer as an eligible project unless all of the following conditions are met:

(a) The director determines that the project is located in a county that has an approved solid waste management plan.

(b) The director determines that the project is consistent with the approved solid waste management plan.

(c) The director determines that the project has all the permits that are required by state law that are specifically applicable to the nature of the proposed project.

(d) If the project is a waste to energy facility, the director determines that the facility utilizes the best available control technology and that the resultant ash is tested for toxicity and appropriate disposal is assured.

(e) If the project is a waste to energy facility, the project either includes the recycling of the recyclable portion of the project's projected waste stream, or the project application includes a recycling feasibility analysis or other available information that indicates that recycling is not necessary or feasible, or is only necessary or feasible to a limited extent and that adding such a component to the project would not be economically feasible. If any local unit within a county which has an approved solid waste management plan operates a recycling project or receives funding pursuant to part 191 (clean Michigan fund) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.19101 to 324.19121 of the Michigan Compiled Laws, for a recycling project that included an analysis of the feasibility of recycling in the county in which the project is located, the requirements of this subdivision shall be met for all local units within the planning area.

(f) The state treasurer determines that the project meets the requirements of this section, that the project is economically feasible, and that no similar project that is economically feasible without the expenditure of state funds is proceeding in a timely manner and has made application with the director for any permit or license necessary for construction or operation in the county in which the project is located.

(8) The director and the state treasurer shall work together to assure that eligible projects are economically viable and will assist in developing and encouraging methods for the disposal of solid waste that are environmentally sound and maximize the use and reuse of valuable resources.

(9) As used in this section:

(a) "Authority" means the Michigan municipal bond authority created in Act No. 227 of the Public Acts of 1985.

(b) "Best available control technology" means best available control technology as defined in section 169 of subpart I of part C of title I of the clean air act, chapter 360, 91 stat. 740, 42 U.S.C. 7479.

(c) "Director" means the director of the department of environmental quality or his or her authorized representative.

(d) "Eligible project" means 1 or more of the following projects of a local unit that have been approved by the director and the state treasurer, including costs associated with a project necessary for issuance of evidences of indebtedness to finance the project:

(i) The construction, improvement, acquisition, or enlargement of a waste to energy facility.

(ii) The construction, improvement, acquisition, or enlargement of a solid waste transfer facility.

(iii) The construction, improvement, or enlargement of a recycling project or the acquisition of recycling equipment.

(iv) The construction, improvement, or enlargement of a composting project or the acquisition of composting equipment.

(e) "Local units" means a city, village, township, county, or an authority created by or pursuant to state law, or any combination thereof if authorized by state law to act jointly.

(f) "Composting project", "recycling project", "solid waste", "solid waste transfer facility", and "waste to energy" have the meaning ascribed to them in part 191 of Act No. 451 of the Public Acts of 1994.

(10) Notwithstanding any other provision of this act, the state treasurer shall not invest additional surplus funds in the manner and for the purposes provided in this section after the electors approve the issuance of general obligation bonds in accordance with section 15 of article IX of the state constitution of 1963 and not less than \$250,000,000.00 of the proceeds of those bonds is to be used to promote solid waste management in the state by funding eligible projects or similar solid waste management projects, promoting solid waste reduction, upgrading or closing existing landfills, or providing educational and technical assistance regarding solid waste management.

History: Add. 1987, Act 118, Eff. Oct. 1, 1987;—Am. 1996, Act 31, Imd. Eff. Feb. 26, 1996.

21.142c Investment of surplus funds; public purpose; earnings; losses; limitation.

Sec. 2c. (1) The state treasurer may invest surplus funds under the control of the state treasurer in undivided participating interests in loans the principal of which is in whole or in part guaranteed or otherwise considered an evidence of indebtedness of the United States government or its agencies, to the extent the investment in an undivided participating interest in loans does not exceed that portion of the loan amount guaranteed or otherwise considered an evidence of indebtedness of the United States government or its agencies.

(2) An investment made under this section is found and declared to be for a valid public purpose.

(3) Earnings from an investment made pursuant to this section in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, 2a, or 2b, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1, 2, 2a, or 2b, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings on the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(4) Investments made pursuant to this section shall not be outstanding at any 1 time in an amount in excess of \$100,000,000.00.

History: Add. 1990, Act 360, Imd. Eff. Dec. 27, 1990.

21.142d Investment of surplus funds to facilitate marina dredging loans.

Sec. 2d. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or other instruments of a financial institution qualified under this act to receive deposits or investments of surplus funds for the purpose of facilitating marina dredging loans. The state treasurer shall endeavor to make investments under this subsection in financial institutions such that marina dredging loans will be conveniently available in all geographic regions in this state. The state treasurer may enter into an investment agreement with a financial institution to provide for the investment under this subsection. The investment agreement shall contain all of the following:

(a) The term of the investment which shall be not more than 10 years.

(b) A requirement that the interest accruing on the investment shall not be more than the interest earned by

the financial institution on marina dredging loans made after the date of the investment.

(c) A requirement that the financial institution shall provide good and ample security as the state treasurer requires and shall identify the marina dredging loans and the terms and conditions of those loans that are made after the date of the investment that are attributable to that investment together with other information required by this act.

(d) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be issued at a rate or rates of interest that are established in the investment agreement.

(e) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be made not later than 3 years after the effective date of this section.

(f) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be issued for a loan repayment period of not more than 7 years.

(g) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall not exceed \$75,000.00.

(h) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall not be released by the financial institution unless the loan applicant has certified that it is an eligible marina.

(i) A requirement that to the extent the financial institution has not made marina dredging loans in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer made the investment.

(j) Incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement, if required by the state treasurer.

(k) Other terms as prescribed by the state treasurer.

(2) An investment made under this section is found and declared to be for a valid public purpose.

(3) The attorney general shall approve documentation for an investment under this section as to legal form.

(4) The aggregate amount of investments made under this section shall not exceed \$20,000,000.00.

(5) Upon the determination by the directors of the departments of natural resources and environmental quality that the need to facilitate marina dredging loans has significantly diminished based on changes in Great Lakes water levels, the state treasurer may take actions necessary to ensure that no new marina dredging loans that are attributable to an investment under this section are made. Such a determination shall not affect existing marina dredging loans that are attributable to an investment under this section.

(6) Earnings from an investment made under this section that are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested under section 1, shall be credited to the general fund of the state. If interest from an investment made under this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested under section 1, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made under this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(7) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a marina dredging loan.

(8) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the financial institution is in compliance with the terms of the investment agreement.

(9) The state treasurer shall annually prepare and submit a report to the legislature regarding the disposition of money invested for purposes of facilitating marina dredging loans under this section. The report shall include all of the following information:

(a) The total number of eligible marina owners who have received a marina dredging loan.

(b) By county, the total number and amounts of the marina dredging loans that were issued.

(c) The name of each financial institution participating in the marina dredging loan program and the amount invested in each financial institution for purposes of the loan program.

(10) As used in this section:

(a) "Bottomland" means the land area of a water body that lies below the ordinary high-water mark and that may or may not be covered by water.

(b) "Dredging" means the removal of sediments from bottomland.

(c) "Dredging costs" means the costs associated with dredging that were incurred after January 1, 2000,

including costs of removal, disposal, and testing of sediments, and the costs associated with obtaining necessary permits required to conduct dredging.

(d) "Eligible marina" means a privately owned, commercial facility in this state that meets all of the following requirements:

(i) Extends into or over the Great Lakes and their connecting waters navigable by motorized watercraft from a Great Lake.

(ii) Provides docking, mooring or launching services available to the general public for recreational boating. Marinas that limit their services based on membership or residency requirements are not eligible.

(iii) Provides mooring facilities for no more than 200 recreational watercraft through the use of docks, slips, or broadside mooring.

(iv) Has received the permits required by law from the department of environmental quality and the army corps of engineers for the dredging to be conducted with loan funds.

(e) "Marina dredging loan" means a loan or the refinancing of all or a portion of a loan made to the owner of an eligible marina for dredging costs necessitated by low water levels to accommodate the use of the marina by recreational watercraft.

(f) "Ordinary high-water mark" means either of the following:

(i) For an inland lake or stream, that term as it is defined in section 30101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30101.

(ii) For the Great Lakes, the ordinary high-water mark as described in section 32502 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32502.

(g) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

History: Add. 2000, Act 280, Imd. Eff. July 10, 2000.

21.142e Loan of surplus funds to sugar beet growers' cooperative.

Sec. 2e. (1) The state treasurer may loan not more than \$5,000,000.00 in surplus funds, without interest, to sugar beet growers' cooperatives for the purpose of purchasing the assets of 1 or more agricultural processors if all of the following conditions are met:

(a) The agricultural processor employs at least 300 full-time employees and 1,000 seasonal employees and is in bankruptcy proceedings or was in bankruptcy proceedings at any time during the 1-year period preceding the date of the loan.

(b) The loan amount does not exceed 10% of the total purchase price of the agricultural processor's assets.

(c) The loan is for a period not to exceed 10 years.

(2) In addition to the conditions provided in subsection (1), the state treasurer may prescribe additional terms of a loan issued under this section.

(3) In the case of a loan executed under subsection (1), the state treasurer, as part of the modification of the loan, shall subordinate the loan to the primary loan of the sugar beet growers' cooperative and shall relinquish any enforcement powers or authority that may exist under the current contract or agreement. The modification shall be for not more than a \$5,000,000.00 loan to a sugar beet growers' cooperative for the purpose of purchasing the assets of 1 or more agricultural processors that employ at least 300 full-time employees and 1,000 seasonal employees. However, the modification agreement for the loan extension provided for by the amendatory act that added this sentence shall provide that if a quarterly payment is missed by the borrower after February 15, 2007, the entire loan is in default and is due and payable immediately, in full.

(4) As used in this section, "sugar beet growers' cooperative" means a farmer owned cooperative comprised of sugar beet growers who own the assets of the cooperative and use the cooperative's services or processing equipment.

History: Add. 2001, Act 123, Imd. Eff. Oct. 8, 2001;—Am. 2004, Act 342, Imd. Eff. Sept. 28, 2004;—Am. 2007, Act 4, Imd. Eff. Mar. 22, 2007.

21.142f Investment in loans to land bank fast track authority or brownfield redevelopment authority; terms; definitions.

Sec. 2f. (1) The state treasurer may invest surplus funds in loans to a land bank fast track authority or a brownfield redevelopment authority at the market rate of interest, as determined by the state treasurer, for the purpose of clearing or quieting title to tax reverted property held by or under the control of an authority or for any other purpose that the land bank fast track authority or brownfield redevelopment authority is authorized to undertake with respect to property transferred to a land bank fast track authority or over which a land bank fast track authority may exercise its authority.

(2) A loan made to a land bank fast track authority or a brownfield redevelopment authority under this section shall not be for a period of more than 10 years as determined by the state treasurer. All other terms of the loan, including security required for the loan, if any, shall be prescribed by the state treasurer.

(3) As used in this section:

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

(b) "Land bank fast track authority" means an authority created under the land bank fast track act.

(c) "Tax reverted property" means that term as defined in the land bank fast track act.

History: Add. 2003, Act 262, Imd. Eff. Jan. 5, 2004.

21.143 Financial institution as depository of surplus funds; compliance; location of principal office; security; rate of return; investment and use of surplus funds; disposition of earnings from loans; loss of principal or interest; reduction of earnings; investment in securities of no-load open-end or closed-end management type investment company or investment trust.

Sec. 3. (1) A financial institution shall not be a depository of surplus funds of the state unless the financial institution complies with this act. The state treasurer shall require of a financial institution, before it is made a depository of surplus funds of the state, good and ample security as approved by the state treasurer and the attorney general for the safekeeping and reimbursement of the surplus funds and the payment of the rate of return as the state treasurer, in the treasurer's discretion, considers best for the interest of the state.

(2) The state treasurer may invest surplus funds of the state in the bonds, notes, and other evidences of indebtedness of the United States government and its agencies, in prime commercial paper, and may also use surplus funds in the manner provided in sections 2, 2a, 2b, and 2d and may use each fiscal year not more than that amount of the surplus funds necessary to make loans to municipalities under section 1.

(3) All earnings from loans made under section 1 in excess of the average rate of interest earned on other surplus funds during the same period shall be credited to the general fund of the state. Any loss of principal or interest sustained from loans made under section 1 shall reduce the earnings of the general fund on an amortized basis over the remaining term of the loan.

(4) The investment of surplus state funds in bonds, notes, and other evidences of indebtedness of the United States government and its agencies as provided in subsection (1) may include securities of, or other interests in, a no-load open-end or closed-end management type investment company or investment trust registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, if both of the following are true:

(a) The portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations.

(b) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.

History: 1855, Act 105, Eff. May 15, 1855;—CL 1857, 274;—Am. 1863, Act 200, Eff. June 22, 1863;—CL 1871, 353;—How. 398;—CL 1897, 1189;—CL 1915, 289;—CL 1929, 348;—Am. 1933, Act 15, Imd. Eff. Feb. 27, 1933;—CL 1948, 21.143;—Am. 1967, Act 102, Imd. Eff. June 21, 1967;—Am. 1979, Act 88, Imd. Eff. Aug. 1, 1979;—Am. 1980, Act 30, Imd. Eff. Mar. 8, 1980;—Am. 1980, Act 323, Imd. Eff. Dec. 15, 1980;—Am. 1985, Act 12, Imd. Eff. May 1, 1985;—Am. 1987, Act 118, Eff. Oct. 1, 1987;—Am. 1987, Act 284, Eff. Apr. 11, 1988;—Am. 1990, Act 8, Imd. Eff. Feb. 16, 1990;—Am. 1997, Act 32, Imd. Eff. June 19, 1997;—Am. 2000, Act 280, Imd. Eff. July 10, 2000.

21.144 Liability of state treasurer and his or her bail; loans not subject to certain acts.

Sec. 4. (1) Nothing contained in this act shall be held or considered to change or affect the liability of the state treasurer or his or her bail, on his or her bond to this state.

(2) Loans made under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Loans made under this act are subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

History: 1855, Act 105, Eff. May 15, 1855;—CL 1857, 275;—CL 1871, 354;—How. 399;—CL 1897, 1190;—CL 1915, 290;—CL 1929, 349;—CL 1948, 21.144;—Am. 2003, Act 262, Imd. Eff. Jan. 5, 2004.

21.145 Compliance with divestment from terror act.

Sec. 5. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act.

History: Add. 2008, Act 271, Imd. Eff. Sept. 29, 2008.

Compiler's note: Former MCL 21.145, which pertained to financial institutions failing to comply with certain requirements, was repealed by Act 32 of 1997, Imd. Eff. June 19, 1997.

21.146 Illegal discriminatory lending practice; determination regarding deposit of additional surplus funds; considerations; commencement date and duration of prohibition; determination subject to MCL 24.201 et seq.

Sec. 6. (1) If a financial institution is found by a state or federal agency having jurisdiction over that financial institution, or a court having jurisdiction over that financial institution, to have engaged in an illegal discriminatory lending practice relating to a mortgage loan or home improvement loan application, the commissioner, if the commissioner considers it appropriate, shall within 30 days after receipt of written notice that the finding has become final, initiate a proceeding under this act. The purpose of the proceeding shall be to determine whether additional surplus funds belonging to the state shall be deposited in that financial institution. In making the determination, the commissioner shall consider the nature of the violation, the action taken by the financial institution to insure that the violation shall not be repeated, and the record of the financial institution in complying with laws prohibiting discriminatory lending practices relating to a mortgage loan or a home improvement loan application. The commissioner shall not make a determination adverse to the financial institution based on an unintentional, isolated, or technical illegal discriminatory lending practice. If the commissioner determines that additional surplus funds belonging to the state shall not be deposited in that financial institution, then the commissioner also shall determine during the same proceeding, the commencement date and duration of the prohibition, which shall not exceed 2 years.

(2) The determination of the commissioner under this act shall be subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: Add. 1979, Act 88, Imd. Eff. Aug. 1, 1979.

21.147 Definitions.

Sec. 7. As used in this act:

(a) "Commissioner" means the commissioner of the office of financial and insurance services of the department of consumer and industry services.

(b) "Deposit" includes the purchase of, or investment in, shares of credit unions.

(c) Except as otherwise provided by this subdivision, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States. For the purpose of repurchase agreements, "financial institution" means a state or nationally chartered bank or state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government under the laws of this state or the United States.

History: Add. 1979, Act 88, Imd. Eff. Aug. 1, 1979;—Am. 1993, Act 44, Imd. Eff. May 27, 1993;—Am. 1997, Act 32, Imd. Eff. June 19, 1997;—Am. 2000, Act 280, Imd. Eff. July 10, 2000.

Administrative rules: R 445.1001 et seq. of the Michigan Administrative Code.

OBLIGATIONS DUE STATE
Act 20 of 1842

AN ACT to provide for the withdrawal of treasury notes and for other purposes.

History: 1842, Act 20, Eff. Feb. 21, 1842.

The People of the State of Michigan enact:

21.153 Obligations due state or municipality; payment by check or bank draft, date operative; legal tender.

Sec. 3. Whenever any check or bank draft shall be tendered for the payment of any debt, taxes or other obligation due to the state or to any municipality therein, such check or draft shall operate as a payment made on the date the check or draft was received and accepted by the receiving officer, if it shall be paid on presentation without deduction for exchange or cost of collection. All agencies of the state of Michigan shall request that checks tendered in payment of an obligation due the state shall be made payable to the state of Michigan. No receiving officer shall be required to receive in payment of any debt, taxes or other obligation collectible or receivable by him any tender other than gold or silver coin of the United States, United States treasury notes, gold certificates, silver certificates or federal reserve bank notes.

History: 1842, Act 20, Eff. Feb. 21, 1842;—CL 1857, 233;—CL 1871, 308;—How. 421;—CL 1897, 1179;—Am. 1899, Act 228, Eff. Sept. 23, 1899;—CL 1915, 277;—CL 1929, 339;—CL 1948, 21.153;—Am. 1964, Act 152, Eff. Aug. 28, 1964.

21.154 Public officers; payment of public funds received into treasury; violation, penalty.

Sec. 4. All collecting and disbursing officers, all county and township treasurers, and all other public officers or agents through whose hands public moneys pass, are hereby required to pay into the state, county and township treasuries, as the case may be, or to state, county and township creditors, as the case may be, at the option of such creditors, or to civil and military officers entitled to compensation for public services, at the option of such officers, the same description of funds which they shall have received in the collection of taxes or other public dues, or for freight and charges to passengers on the state railroads. Any of the aforesaid collecting and disbursing officers or agents, who shall violate any of the provisions of this act, or shall appropriate any of the public moneys to his or their own private use, except in pursuance of law; or shall lend to others, or otherwise embezzle any of the said public moneys, he or they shall be prosecuted for said offense, and on conviction thereof, be punished by fine and imprisonment; the fine not to be more than 1,000 dollars, and the imprisonment not to exceed 5 years at the discretion of the court.

History: 1842, Act 20, Eff. Feb. 21, 1842;—CL 1857, 234;—CL 1871, 309;—How. 422;—CL 1897, 1180;—CL 1915, 278;—CL 1929, 340;—CL 1948, 21.154.

GRANTS AND GIFTS TO STATE

Act 145 of 1901

AN ACT to provide for the acceptance and collection of grants, devises, bequests, donations and assignments to the state of Michigan; and to provide for the acceptance of legislative jurisdiction over federal lands or interests therein.

History: 1901, Act 145, Eff. Sept. 5, 1901;—Am. 1976, Act 189, Imd. Eff. July 8, 1976.

The People of the State of Michigan enact:

21.161 Grants and gifts to state; acceptance by governor, report to legislature.

Sec. 1. Whenever any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, shall be made to this state, the governor is hereby directed to receive and accept the same, so that the right and title to the same shall pass to this state; and all such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or thing of value, so received by the state as aforesaid, shall be reported by the governor to the legislature, to the end that the same may be covered into the state treasury or appropriated to the State University, or to the public schools, or to such state charities as may be here after directed by law.

History: 1901, Act 145, Eff. Sept. 5, 1901;—CL 1915, 282;—CL 1929, 341;—CL 1948, 21.161.

21.162 Title of state to grants and gifts, to be protected by attorney general.

Sec. 2. Whenever it shall be necessary to protect or assert the right or title of the state to any property so received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the attorney general is directed to take the necessary and proper proceedings and to bring suit in the name of the state in any court of competent jurisdiction, state or federal, and to prosecute all such suits; and is authorized to employ counsel to be associated with him in such suits and actions, who, with him, shall fully represent the state and shall be entitled to reasonable compensation out of the recoveries or collections in such suits and actions.

History: 1901, Act 145, Eff. Sept. 5, 1901;—CL 1915, 283;—CL 1929, 342;—CL 1948, 21.162.

21.163 Repealed. 1987, Act 199, Imd. Eff. Dec. 14, 1987.

Compiler's note: The repealed section pertained to acceptance of legislative jurisdiction over federal lands or interests therein.

CHILDREN'S TRUST FUND

Act 249 of 1982

AN ACT to establish the state children's trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund.

History: 1982, Act 249, Imd. Eff. Sept. 29, 1982.

Compiler's note: Former MCL 21.171 to 21.175, deriving from Act 200 of 1848 and pertaining to board of fund commissioners, were repealed by Act 209 of 1962.

The People of the State of Michigan enact:

21.171 Children's trust fund; creation as charitable and educational endowment fund; expenditure; credit of amounts; investment; availability for disbursement; accounting of revenues and expenditures; "trust fund" defined.

Sec. 1. (1) The children's trust fund is created as a charitable and educational endowment fund in the department of treasury. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under section 475 of the income tax act of 1967, 1967 PA 281, MCL 206.475, any amounts received under section 811j of the Michigan vehicle code, 1949 PA 300, MCL 257.811j, and section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and any amounts received from civil fines imposed under the playground equipment safety act, 1997 PA 16, MCL 408.681 to 408.687.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this act.

(4) Beginning in fiscal year 2015 and continuing through fiscal year 2017, all money contributed to the fund that year, plus 4.25% of the 12-quarter rolling average of the fund, including unrealized gains and losses, shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609.

(5) Except as otherwise provided in this subsection, on October 1, 2017, provided that the rolling average of the fund for the previous 12 quarters, including unrealized gains and losses, is at least \$23,500,000.00, then, beginning with fiscal year 2018, up to 5% of the 12-quarter rolling average shall be available for disbursement as specified in this subsection. On October 1, 2017, if the rolling average of the fund for the previous 12 quarters, including unrealized gains and losses, is less than \$23,500,000.00, then, beginning with fiscal year 2018, up to 4.25% of the 12-quarter rolling average, including unrealized gains and losses, shall continue to be available for disbursement.

(6) Money granted or received as gifts or donations to the trust fund shall be available for disbursement upon appropriation under section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and funds authorized for expenditure shall not be considered assets of the trust fund for the purposes of subsection (4).

(7) The state treasurer shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall specifically identify the interest and earnings of the trust fund, shall describe how the amount of interest and earnings has been affected by the expanded investment options provided for in subsection (3), and shall identify how the increased interest and earnings, if any, have been expended. This accounting shall be provided to the senate and house of representatives appropriations committees.

(8) As used in this section, "trust fund" means the children's trust fund created in subsection (1).

History: 1982, Act 249, Imd. Eff. Sept. 29, 1982;—Am. 1997, Act 34, Eff. Mar. 31, 1998;—Am. 2000, Act 72, Eff. Mar. 28, 2001;—Am. 2002, Act 1, Imd. Eff. Jan. 23, 2002;—Am. 2005, Act 119, Imd. Eff. Sept. 22, 2005;—Am. 2008, Act 238, Imd. Eff. July 17, 2008;—Am. 2014, Act 306, Imd. Eff. Oct. 10, 2014.

Compiler's note: Former MCL 21.171 to 21.175, deriving from Act 200 of 1848 and pertaining to board of fund commissioners, were repealed by Act 209 of 1962.

21.172 Conditional effective date.

Section 2. This act shall not take effect unless the following House Bills of the 81st Legislature are enacted into law:

(a) House Bill No. 4556 (request no. 00855'81).

(b) House Bill No. 5609 (request no. 04406'81 a*).

History: 1982, Act 249, Imd. Eff. Sept. 29, 1982.

Compiler's note: House Bill No. 4556, referred to in this section, was approved by the Governor on September 29, 1982, and became P.A. 1982, No. 250, Imd. Eff. Sept. 29, 1982. House Bill No. 5609, also referred to in this section, was approved by the Governor on July 2, 1982, and became P.A. 1982, No. 211, Imd. Eff. Sept. 29, 1982.

Former MCL 21.171 to 21.175, deriving from Act 200 of 1848 and pertaining to board of fund commissioners, were repealed by Act 209 of 1962 .

BANK DEPOSIT ACCOUNTS
Act 111 of 1861

AN ACT relating to deposit accounts, and to interest, exchange and commissions received or paid by the state treasurer.

History: 1861, Act 111, Eff. June 15, 1861.

The People of the State of Michigan enact:

21.181 Bank deposit accounts of state moneys; state treasurer; responsibility.

Sec. 1. That it shall be the duty of the state treasurer to keep the accounts of the treasurer with all banks or depositories where any moneys of the state may be kept or deposited upon the regular books of his office so that each item of all such accounts shall appear therein.

History: 1861, Act 111, Eff. June 15, 1861;—CL 1871, 240;—How. 356;—CL 1897, 1191;—CL 1915, 292;—CL 1929, 352;—CL 1948, 21.181.

21.182 Interest accounts.

Sec. 2. All items of interest which may become due the state from banks or otherwise shall be entered on the books of the treasurer when received, in such manner that it shall appear upon what account and for what time such interest accrued.

History: 1861, Act 111, Eff. June 15, 1861;—CL 1871, 241;—How. 357;—CL 1897, 1192;—CL 1915, 293;—CL 1929, 353;—CL 1948, 21.182.

21.183 Repealed. 2002, Act 368, Imd. Eff. May 24, 2002.

Compiler's note: The repealed section pertained to vouchers for disbursements to be furnished before issuance of warrants.

PROCEEDS FROM SALE OF EDUCATIONAL LANDS
Act 22 of 1875

AN ACT to provide for the use of the proceeds of the sale of educational lands in defraying the expenses of the state government.

History: 1875, Act 22, Imd. Eff. Mar. 10, 1875.

The People of the State of Michigan enact:

21.191 Proceeds from sale of educational lands; use.

Sec. 1. That all money received into the state treasury from the sale of lands, and placed to the credit of the university fund, the agricultural college fund, the normal school fund, the primary school fund, or the 5 per cent primary school fund, on and after the first day of March, 1875, shall be used in defraying the expenses of the state government.

History: 1875, Act 22, Imd. Eff. Mar. 10, 1875;—How. 395;—CL 1897, 1194;—CL 1915, 295;—CL 1929, 355;—CL 1948, 21.191.

INTEREST ON EDUCATIONAL FUNDS
Act 181 of 1881

AN ACT to provide for the payment of interest on the educational funds, and to repeal section 10 of chapter 131 of the Compiled Laws of 1871, being compiler's section 3477.

History: 1881, Act 181, Imd. Eff. May 31, 1881.

The People of the State of Michigan enact:

21.201 Interest on educational funds; computation; payment.

Sec. 1. That upon all sums paid into the state treasury upon account of the principal of any of the educational funds, except where the provision is or shall be made by law, the state treasurer shall compute interest from the time of the payment, or from the time of the last computation of interest on the payment, to the first Monday of April in each year, and shall give credit on the interest to each fund, as the case may be; and the interest shall be paid out of the specific taxes.

History: 1881, Act 181, Imd. Eff. May 31, 1881;—How. 5361;—CL 1897, 1195;—CL 1915, 296;—CL 1929, 356;—CL 1948, 21.201;—Am. 2002, Act 106, Imd. Eff. Mar. 27, 2002.

UNIVERSITY INTEREST FUND
Act 143 of 1859

AN ACT relative to the university interest fund.

History: 1859, Act 143, Eff. May 18, 1859.

The People of the State of Michigan enact:

21.211 University interest fund; interest credited; payment to university treasurer.

Sec. 1. That the state treasurer shall credit to the university interest fund interest on the entire amount received by the state for university lands sold or contracted, the state treasurer shall pay that amount to the treasurer of the university upon his or her application, from time to time, as the interest may accrue and be required for the use of the university.

History: 1859, Act 143, Eff. May 18, 1859;—CL 1871, 3888;—How. 5360;—CL 1897, 1196;—CL 1915, 297;—CL 1929, 357;—CL 1948, 21.211;—Am. 2002, Act 169, Imd. Eff. Apr. 23, 2002.

STATE AND LOCAL TAXATION AND REVENUES
Act 34 of 1980

21.221-21.224 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

STATE DISBURSEMENTS TO LOCAL UNITS OF GOVERNMENT

Act 101 of 1979

AN ACT to implement section 29 of article 9 of the state constitution of 1963; to provide a state disbursement to local units of government for costs required to administer or implement certain activities or services required of local units of government by the state; to prescribe the powers and duties of certain state agencies and public officers in relation thereto; and to provide for the administration of this act.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

The People of the State of Michigan enact:

21.231 Meanings of words and phrases.

Sec. 1. For purposes of this act, the words and phrases defined in sections 2 to 4 shall have the meanings ascribed to them in those sections.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: Former MCL 21.231, which pertained to payment of expenses of certain state officers, was repealed by Act 208 of 1962.

21.232 Definitions; A to D.

Sec. 2. (1) "Activity" means a specific and identifiable administrative action of a local unit of government. The provision of a benefit for, or the protection of, public employees of a local unit of government is not an administrative action.

(2) "Board" means the local government claims review board created by this act.

(3) "Court requirement" means a new activity or service or an increase in the level of activity or service beyond that required by existing law which is required of a local unit of government in order to comply with a final state or federal court order arising from the interpretation of the constitution of the United States, the state constitution of 1963, an existing law, or a federal statute, rule, or regulation. Court requirement includes a state law whose enactment is required by a final state or federal court order.

(4) "De minimus cost" means a net cost to a local unit of government resulting from a state requirement which does not exceed \$300.00 per claim.

(5) "Department" means the department of management and budget.

(6) "Director" means the director of the department of management and budget.

(7) "Due process requirement" means a statute or rule which involves the administration of justice, notification and conduct of public hearings, procedures for administrative and judicial review of action taken by a local unit of government or the protection of the public from malfeasance, misfeasance, or nonfeasance by an official of a local unit of government, and which involves the provision of due process as it is defined by state and federal courts when interpreting the federal constitution or the state constitution of 1963.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: Former MCL 21.242, which pertained to payment of expenses of certain state officers, was repealed by Act 208 of 1962.

21.233 Definitions; E to N.

Sec. 3. (1) "Existing law" means a public or local act enacted prior to December 23, 1978, a rule promulgated prior to December 23, 1978, or a court order concerning such a public or local act or rule. A rule initially promulgated after December 22, 1978 implementing for the first time an act or amendatory act in effect prior to December 23, 1978 shall also be deemed to be existing law.

(2) "Federal requirement" means a federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which requires the state to take action affecting local units of government.

(3) "Implied federal requirement" means a federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which does not directly require the state to take action affecting local units of government, but will, according to federal law, result in a loss of federal funds or federal tax credits if state action is not taken to comply with the federal action.

(4) "Legislature" means the house of representatives and the senate of this state.

(5) "Local unit of government" means a political subdivision of this state, including school districts, community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental services for residents in a geographically limited area of this state and has the power to act primarily on behalf of that

area.

(6) "Necessary cost" means the net cost of an activity or service provided by a local unit of government. The net cost shall be the actual cost to the state if the state were to provide the activity or service mandated as a state requirement, unless otherwise determined by the legislature when making a state requirement. Necessary cost does not include the cost of a state requirement if the state requirement satisfies 1 or more of the following conditions:

(a) The state requirement cost does not exceed a de minimus cost.

(b) The state requirement will result in an offsetting savings to an extent that, if the duties of a local unit which existed before the effective date of the state requirement are considered, the requirement will not exceed a de minimus cost.

(c) The state requirement imposes additional duties on a local unit of government which can be performed by that local unit of government at a cost not to exceed a de minimus cost.

(d) The state requirement imposes a cost on a local unit of government that is recoverable from a federal or state categorical aid program, or other external financial aid. A necessary cost excluded by this subdivision shall be excluded only to the extent that it is recoverable.

(7) "New activity or service or increase in the level of an existing activity or service" does not include a state law, or administrative rule promulgated under existing law, which provides only clarifying nonsubstantive changes in an earlier, existing law or state law; or the recodification of an existing law or state law, or administrative rules promulgated under a recodification, which does not require a new activity or service or does not require an increase in the level of an activity or service above the level required before the existing law or state law was recodified.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Constitutionality: Categorical aid to school districts for specific, identifiable programs which the districts are required to provide by statute or agency rule may not be reduced below the proportion paid by the state during the 1978-79 fiscal year, such as by requiring districts to offset any deficiency in categorical aid due by use of unrestricted aid. *Durant v State Board of Education*, 424 Mich 364; 381 NW2d 662 (1985).

21.234 Definitions; S.

Sec. 4. (1) "Service" means a specific and identifiable program of a local unit of government which is available to the general public or is provided for the citizens of the local unit of government. The provision of a benefit for, or the protection of, public employees of a local unit of government is not a program.

(2) "State agency" means a state department, bureau, division, section, board, commission, trustee, authority, or officer which is created by the state constitution of 1963, by statute, or by state agency action, and which has the authority to promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. State agency does not include an agency in the legislative or judicial branch of state government, an agency having direct control over an institution of higher education, or the state civil service commission.

(3) "State financed proportion of the necessary cost of an existing activity or service required of local units of government by existing law" means the percentage of necessary costs specifically provided for an activity or service required of local units of government by existing law and financed by the state on December 23, 1978. For purposes of this definition, necessary costs shall not include costs required of local units of government by an existing law which do not exceed a de minimus cost and costs imposed by existing law on a local unit of government which are recoverable from a federal or state categorical aid program, or other financial aid.

(4) "State law" means a state statute or state agency rule which is not existing law.

(5) "State requirement" means a state law which requires a new activity or service or an increased level of activity or service beyond that required of a local unit of government by an existing law. State requirement does not include any of the following:

(a) A requirement imposed on a local unit of government by a state statute or an amendment to the state constitution of 1963 adopted pursuant to an initiative petition, or by a state law or rule enacted or promulgated to implement such a statute or constitutional amendment.

(b) A requirement imposed on a local unit of government by a state statute or an amendment to the state constitution of 1963, enacted or adopted pursuant to a proposal placed on the ballot by the legislature, and approved by the voters, or by a state law or rule enacted or promulgated to implement such a statute or constitutional amendment.

(c) A court requirement.

(d) A due process requirement.

(e) A federal requirement.

(f) An implied federal requirement.

(g) A requirement of a state law which applies to a larger class of persons or corporations and does not apply principally or exclusively to a local unit or units of government.

(h) A requirement of a state law which does not require a local unit of government to perform an activity or service but allows a local unit of government to do so as an option, and by opting to perform such an activity or service, the local unit of government shall comply with certain minimum standards, requirements, or guidelines.

(i) A requirement of a state law which changes the level of requirements, standards, or guidelines of an activity or service that is not required of a local unit of government by existing law or state law, but that is provided at the option of the local unit of government.

(j) A requirement of a state law enacted pursuant to section 18 of article 6 of the state constitution of 1963.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

21.235 Disbursements to local units of government; appropriation; purpose; schedule of estimated payments; duty of governor; prorating amount appropriated; supplemental appropriation; administration of act; personnel; guidelines; forms.

Sec. 5. (1) The legislature shall annually appropriate an amount sufficient to make disbursements to each local unit of government for the necessary cost of each state requirement pursuant to this act, if not otherwise excluded by this act.

(2) An initial disbursement shall be made in advance in accordance with a schedule of estimated payments established in each state requirement. The schedule of estimated payments shall provide that:

(a) The initial advance disbursement will be made at least 30 days prior to the effective date of the state requirement, and

(b) The first disbursement in each subsequent state fiscal year will be made no later than November 1.

(3) The governor shall include in a report which is to accompany the annual budget recommendation to the legislature, those amounts which the governor determines are required to make disbursements to each local unit of government for the necessary cost of each state requirement for that fiscal year and the total amount of state disbursements required for all local units of government.

(4) If the amount appropriated by the legislature for a state requirement is insufficient to fully fund disbursements for the necessary cost of a state requirement as required by this act, the director shall prorate the amount appropriated proportionately among those local units of government eligible for a disbursement for each state requirement in which the appropriation is insufficient. The director shall recommend a supplemental appropriation to the legislature sufficient to fully fund the disbursements for the necessary costs of each state requirement in which the initial appropriation was insufficient or which was imposed by court interpretation of a state law by requiring a new activity or service or an increase in the level of activity or service beyond that required by existing law. The legislature shall then appropriate the amount required in an appropriation bill introduced as a result of the request.

(5) The department shall administer this act and shall assign sufficient personnel to assure proper and adequate administration. The department shall publish guidelines and furnish forms which shall be available to a local unit of government for submitting a claim for the disbursements required by this act.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

21.236 Fiscal note for rules requiring disbursement; request for appropriation.

Sec. 6. For rules promulgated under a state law which require a disbursement under this act, the state agency promulgating the rules shall prepare and submit a fiscal note to the joint committee on administrative rules and to the director. The fiscal note shall include an estimate of the cost of the rule during the first 3 fiscal years of the rule's operation. The department shall submit a request for an appropriation, if necessary, for all rules approved pursuant to Act No. 306 of the Public Acts of 1969, as amended. The legislature shall then appropriate the amount required in an appropriation bill introduced as a result of the request.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

21.237 Joint rules; establishment; purpose; review of records; requesting audit.

Sec. 7. (1) The legislature shall establish joint rules to provide for a method of identifying whether or not legislation proposes a state requirement as described in this act.

(2) The legislature shall establish joint rules to provide for a method of estimating the amount of a necessary cost required to provide disbursements to a local unit of government for legislation identified to propose a state requirement as described in this act.

(3) The estimate required by this section shall include the total amount estimated to make disbursements to

all local units of government for the necessary costs required to administer or implement a state requirement during the first 3 fiscal years of the legislation's operation.

(4) The legislature may review any records pertaining to a claim or request an audit to be performed by the auditor general to verify the actual amount of the necessary cost of a state requirement.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

21.238 Certification of disbursements; procedure; report on prorated claims; adjustment of prorated claims; payment of disbursements.

Sec. 8. (1) The department shall certify disbursements to each local unit of government for the necessary costs of state requirements from funds appropriated for that purpose.

(2) The department shall certify disbursements to a local unit of government as follows:

(a) Before a state requirement initially takes effect, the department shall notify each local unit to which the state requirement applies not less than 180 days before the effective date of the state requirement. The notice shall include a preliminary claim form for estimating the necessary cost of the state requirement for the initial state fiscal year in which the state requirement takes effect. The notice shall clearly indicate a date by which a claim must be postmarked to qualify for full advance disbursement as provided in subdivision (2)(b) of this section.

(b) To qualify for a full advance disbursement for a state requirement during the initial fiscal year in which a state requirement takes effect, each local unit of government desiring an advance disbursement shall submit the preliminary claim form provided by the department postmarked no later than 90 days before the effective date of the state requirement. If the claim is postmarked between 1 and 89 days before the effective date of the state requirement, the advance disbursement shall be equal to 90% of the estimated amount the unit would otherwise be entitled to.

(c) Each local unit of government shall submit a final claim for full reimbursement or final adjustment on a form provided by the department and postmarked not later than 90 days after the close of the local unit of government's fiscal year. If the final claim is postmarked between 91 days and 24 months after the close of the local unit of government's fiscal year, the director shall make a reimbursement or final adjustment payment equal to 90% of the amount the unit is otherwise entitled to.

(d) In any case, a preliminary or final claim for a de minimus cost shall not be allowed. A final claim postmarked more than 24 months after the close of the fiscal year shall not be allowed.

(e) The department may review the records or request an audit to be performed by the auditor general to verify the actual amount of the necessary cost of a state requirement. The director shall cause to be paid a disbursement for only the necessary cost and shall adjust the payment to correct for any underpayment or overpayment which occurred in the previous state fiscal year.

(f) The provisions of subdivisions (a) and (b) of this section may be waived by a 2/3 majority vote of the members elected and serving in both houses of the legislature, if the legislature determines that an emergency exists necessitating that a state requirement become effective before the provisions of subdivisions (a) and (b) allow. The declaration of an emergency shall be established in each state requirement.

(g) The department shall pay all claims within 45 days after receiving the claim from a local unit of government. The department shall pay all claims pursuant to section 10(4) within 30 days.

(3) If the director prorates claims pursuant to section 5(4), the director immediately shall report this action in writing to the governor and the legislature.

(4) The director shall adjust prorated claims if supplementary funds are appropriated for that purpose.

(5) The state treasurer, upon certification by the director, immediately shall pay all required disbursements directly to the treasurer of the appropriate local unit of government.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: In subsection (2)(d), "de minimus" evidently should read "de minimis."

21.239 Separate accounting for funds; purpose.

Sec. 9. Funds received by a local unit of government under this act shall be separately accounted for to reflect the specific state requirement for which the funds are appropriated.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

21.240 Local government claims review board; creation; duties; appointment, qualifications, and terms of members; majority vote required to approve claim; concurrent resolution approving payment; adoption of procedures; limitations on appeal; powers of board; report.

Sec. 10. (1) The local government claims review board is created in the department and shall advise the

director on the administration of this act and perform other duties as required by this section.

(2) The board shall consist of 9 members appointed by the governor with the advice and consent of the senate. Each member shall be appointed to serve for a 3-year term, except that of the members first appointed, 3 shall be appointed for a term of 3 years, 3 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 1 year.

(3) Not less than 4 members shall be representatives of a local unit of government.

(4) Subject to subsection (6), the board shall hear and decide upon disputed claims or upon an appeal by a local unit of government alleging that the local unit of government has not received the proper disbursement from funds appropriated for that purpose. The board shall not consider or approve a claim for a de minimus cost. A vote of a majority of the board members appointed to and serving on the board shall be required to approve a claim submitted to the board. If a claim is approved by the board, a concurrent resolution approving payment shall be adopted by both houses of the legislature before the claim is paid.

(5) The board shall adopt procedures for receiving claims under this section and for providing a hearing on a claim if a hearing is requested by an affected local unit of government. The procedures shall provide for the presentation of evidence by the claimant, the department, and any other affected state agency.

(6) An appeal submitted under this section for a disbursement for a state-required cost shall be limited to the following:

(a) An appeal alleging that the director has incorrectly reduced payments to a local unit of government pursuant to section 5(4).

(b) An appeal alleging that the director has incorrectly or improperly reduced the amount of a disbursement when a claim was submitted pursuant to section 8(2).

(c) An appeal alleging that the local unit of government has not received a proper disbursement of funds appropriated to satisfy the state financed proportion of the necessary costs of an existing activity or service required of a local unit of government by existing law, pursuant to section 12.

(7) In determining the merits of an appeal made pursuant to subsection 6(a), (b), or (c), the board, after reviewing the evidence presented, may increase or reduce the amount requested by the claimant or may allow or disallow the claim.

(8) Before January 31 of each year, the board shall report to the legislature and the governor on the number and amount of the claims the board has approved or rejected on appeal pursuant to this section.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Constitutionality: Taxpayers have standing to bring actions in the Court of Appeals under article 9 of the Michigan Constitution to enforce the provisions of §§ 25-31, including cases in which there are disputed facts; the local government claims review board has jurisdiction only over appeals under article 9 by local units of government. *Durant v State Board of Education*, 424 Mich 364; 381 NW2d 662 (1985).

Compiler's note: In subsection (4), "de minimus" evidently should read "de minimis."

21.241 Information; collection and tabulation; scope; report to legislature; concurrent resolution; updating report.

Sec. 11. (1) Within 6 months after the effective date of this act the department shall collect and tabulate relative information as to the following:

(a) The state financed proportion of the necessary cost of an existing activity or service required of local units of government by existing law.

(b) The nature and scope of each state requirement which shall require a disbursement under section 5.

(c) The nature and scope of each action imposing a potential cost on a local unit of government which is not a state requirement and does not require a disbursement under this act.

(2) The information shall include:

(a) The identity or type of local unit and local unit agency or official to whom the state requirement or required existing activity or service is directed.

(b) The determination of whether or not an identifiable local direct cost is necessitated by state requirement or the required existing activity or service.

(c) The amount of state financial participation, meeting the identifiable local direct cost.

(d) The state agency charged with supervising the state requirement or the required existing activity or service.

(e) A brief description of the purpose of the state requirement or the required existing activity or service, and a citation of its origin in statute, rule, or court order.

(3) The resulting information shall be published in a report submitted to the legislature not later than January 31, 1980. A concurrent resolution shall be adopted by both houses of the legislature certifying the state financed proportion of the necessary cost of an existing activity or service required of local units of

government by existing law. This report shall be annually updated by adding new state requirements which require disbursements under section 5 and each action imposing a cost on a local unit of government which does not require a disbursement under this act.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: Former MCL 21.241, which pertained to uniform method of payment to state employees, was repealed by Act 256 of 1964.

21.242 State law causing reduction in state financed proportion of necessary costs.

Sec. 12. A state law shall not be enacted, which causes a reduction in the state financed proportion of the necessary costs of an existing activity or service required of local units of government by existing law, unless the existing law requiring an activity or service is repealed.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: Former MCL 21.242, which pertained to uniform method of payment to state employees, was repealed by Act 256 of 1964.

21.243 State laws providing for other forms of state aid, cost-sharing agreements, or methods of making disbursements; MCL 21.234(5)(i) inapplicable to police, fire, or emergency medical transport services.

Sec. 13. This act does not prohibit the legislature from enacting state laws to provide for other forms of state aid, cost-sharing agreements, or specific methods of making disbursements to a local unit of government for a cost incurred pursuant to state laws enacted to which this act applies.

Although not required by article IX, section 29 of the state constitution of 1963, the provisions of section 4(5)(i) shall not apply to any standards, requirements or guidelines which require increased necessary costs for activities and services directly related to police, fire, or emergency medical transport services.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Compiler's note: Former MCL 21.243, which pertained to uniform method of payment to state employees, was repealed by Act 256 of 1964.

21.244 Rules; purpose.

Sec. 14. The department may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to regulate the disbursement of funds appropriated to local units of government, to provide guidelines for identification of funds over which the director has disbursement authority, and to implement and administer this act.

History: 1979, Act 101, Imd. Eff. Aug. 3, 1979.

Administrative rules: R 21.101 et seq. of the Michigan Administrative Code.

GENERAL RULES GOVERNING APPROPRIATIONS Act 95 of 1965

21.251-21.255 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

STATE SPENDING PAID TO LOCAL UNITS OF GOVERNMENT Act 57 of 1979

21.261-21.267 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

REPORTING TAX INFORMATION
Act 72 of 1979

AN ACT to require the governor to report certain tax information with the annual budget message to the legislature.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 2003, Act 38, Imd. Eff. July 8, 2003.

The People of the State of Michigan enact:

21.271 Reporting tax credits, deductions, and exemptions with annual budget message; duty of department of treasury.

Sec. 1. The governor, with the annual budget message to the legislature, shall report, at a minimum, the tax credits, deductions, and exemptions enumerated in this act. The message shall include tax credits, deductions, and exemptions by budget and also shall contain a separate report on tax credits, deductions, and exemptions in total that may be printed as an appendix to the budget. The department of treasury shall furnish these items to the governor for inclusion in the report as required by this act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 2003, Act 38, Imd. Eff. July 8, 2003.

21.272 Reporting pursuant to MCL 206.1 to 206.532.

Sec. 2. The governor shall report the following compiled pursuant to the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532:

- (a) Number and amount of personal exemptions by household or adjusted gross income class.
- (b) Number of special or extra exemptions by household or adjusted gross income class.
- (c) Number and amount of property tax credits by household or adjusted gross income class and by type of claimant.
- (d) Number and amount of city income tax credits by household or adjusted gross income class.
- (e) Number and amount of tax credits under section 260 of the income tax act of 1967, 1967 PA 281, MCL 206.260, by the type and purpose of charitable contribution, and the household or adjusted gross income class.
- (f) Number and amount of solar, wind, or water energy conversion device tax credits by the type of dwelling and the household or adjusted gross income class.
- (g) Number and amount of heating fuel cost tax credits by household or adjusted gross income class.
- (h) Number and amount of gleaning tax credits by household or adjusted gross income class.
- (i) Number of positive checkoffs and the amount checked off for the state campaign fund created pursuant to section 61 of the Michigan campaign finance act, 1976 PA 388, MCL 169.261.
- (j) Amount and type of subtractions from taxable income as provided on the state income tax form.
- (k) To the extent available from published statistical data, estimated cost of the following items not taxed by this state due to federal statute or regulation:
 - (i) Capital gains.
 - (ii) Accelerated depreciation.
 - (iii) Other items generally regarded as income that are not subject to state taxation because of exemption under the internal revenue code.
- (l) Number and amount of credits granted to persons covered by development rights agreements pursuant to part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, by income class.
- (m) Other deductions or credits as provided by law.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983;—Am. 1996, Act 32, Imd. Eff. Feb. 26, 1996;—Am. 2003, Act 38, Imd. Eff. July 8, 2003.

21.273 Fiscal years ending before January 1, 2008; reporting pursuant to single business tax act; fiscal years beginning on or after January 1, 2008; reporting pursuant to Michigan business tax act.

Sec. 3. (1) For fiscal years ending before January 1, 2008, the governor shall report the following compiled pursuant to the single business tax act, 1975 PA 228, MCL 208.1 to 208.145:

- (a) Amount of capital investment write off for real and personal property separately by size of final liability of taxpayer.
- (b) Amount of business loss by size of final liability of taxpayer.
- (c) Amount of carryforward loss by size of final liability of taxpayer.
- (d) Number of taxpayers filing under the gross receipt limitation provided by section 31(2) of the single

business tax act, 1975 PA 228, MCL 208.31, and amount of tax foregone.

(e) Number of taxpayers filing under section 31(4) of the single business tax act, 1975 PA 228, MCL 208.31, and amount of tax foregone.

(f) Number of taxpayers claiming the basic exemption under section 35(1)(a) of the single business tax act, 1975 PA 228, MCL 208.35, and amount of tax foregone.

(g) Number of taxpayers filing for the added exemption for partnerships as provided in section 35(1)(a) of the single business tax act, 1975 PA 228, MCL 208.35, and amount of tax foregone.

(h) Number of claimants and amount of tax foregone under section 35(1)(e) of the single business tax act, 1975 PA 228, MCL 208.35.

(i) Number of claimants and amount of tax foregone under section 35(1)(f) of the single business tax act, 1975 PA 228, MCL 208.35.

(j) Number of claimants and amount of tax foregone under section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35.

(k) Number of claimants by size of final liability and amount of tax foregone under section 36 of the single business tax act, 1975 PA 228, MCL 208.36.

(l) Number of claimants by size of final liability and amount of tax foregone under section 37 of the single business tax act, 1975 PA 228, MCL 208.37.

(m) Number of claimants by size of final liability and amount of tax foregone under section 38 of the single business tax act, 1975 PA 228, MCL 208.38.

(n) Number of claimants by size of final liability and amount of tax foregone under section 39(1) of the single business tax act, 1975 PA 228, MCL 208.39.

(o) Other deductions or credits as provided by law.

(2) For fiscal years beginning on and after January 1, 2008, the governor shall report the following compiled pursuant to the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601:

(a) Amount of capital investment write off for real and personal property separately by size of final liability of taxpayer.

(b) Amount of business loss by size of final liability of taxpayer.

(c) Amount of carryforward loss by size of final liability of taxpayer.

(d) Number of taxpayers claiming an exemption under section 207 of the Michigan business tax act, 2007 PA 36, MCL 208.1207, and amount of tax foregone.

(e) Number of claimants by size of final liability and amount of tax foregone under section 417 of the Michigan business tax act, 2007 PA 36, MCL 208.1417.

(f) Number of claimants by size of final liability and amount of tax foregone under sections 403, 405, 421, 422, and 425 of the Michigan business tax act, 2007 PA 36, MCL 208.1403, 208.1405, 208.1421, 208.1422, and 208.1425.

(g) Number of claimants by size of final liability and amount of tax foregone under section 413 of the Michigan business tax act, 2007 PA 36, MCL 208.1413.

(h) Other deductions or credits as provided by law.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983;—Am. 2003, Act 38, Imd. Eff. July 8, 2003;—Am. 2007, Act 170, Imd. Eff. Dec. 21, 2007.

21.274 Reporting estimated state equalized valuation and amount of tax foregone from exemptions under MCL 211.1 et seq.; exception; specific exemption estimates.

Sec. 4. The governor shall report the estimated state equalized valuation and the amount of tax foregone in each county because of the exemptions granted pursuant to Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws, except for property deriving its exemption from article IX, section 4 of the constitution of the state of Michigan, for which an estimate shall be made only of the actual amount of lands so exempted, expressed solely in terms of acreage, and exclusive of any buildings, fixtures, or personal property thereon, or appurtenances thereto. Where possible, estimates should be made for specific exemptions. The specific exemption estimates shall be made on the basis of informed estimates without requiring local units of government to meet additional reporting standards. If possible, estimates also shall be made of property exempted by statutes other than Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.275 Reporting estimate of amount of tax foregone from exemptions under MCL 205.51 et seq.; reporting estimate of amount of tax foregone pursuant to MCL 205.51(1)(g).

Sec. 5. (1) The governor shall report an estimate, by item, of the amount of tax foregone from the

exemptions granted pursuant to Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Michigan Compiled Laws. The estimate shall include revenue foregone by nontaxation of items not specifically exempted.

(2) The governor shall report an estimate of the amount of tax foregone pursuant to section 1(1)(g) of Act No. 167 of the Public Acts of 1933, being section 205.51 of the Michigan Compiled Laws, from the imposition of the tax at a sale at retail upon the difference between the agreed upon value of a motor vehicle, trailer coach, or titled watercraft used as part payment of the purchase price and the full retail price of the motor vehicle, trailer coach, or titled watercraft being purchased rather than upon the full retail price of the motor vehicle, trailer coach, or titled watercraft.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.276 Reporting estimate of amount of tax forgone from exemptions under the use tax act.

Sec. 6. (1) The governor shall report an estimate, by item, of the amount of tax forgone from exemptions granted under the use tax act, 1937 PA 94, MCL 205.91 to 205.111. The estimate must include revenue foregone by nontaxation of items not specifically exempted.

(2) The governor shall report an estimate of the amount of tax forgone pursuant to section 2(1)(f) of the use tax act, 1937 PA 94, MCL 205.92, from the imposition of the tax on the difference between the agreed-upon value of a motor vehicle, recreational vehicle, or titled watercraft used as part payment of the purchase price and the full retail price of the motor vehicle, recreational vehicle, or titled watercraft being purchased rather than on the full retail price of the motor vehicle, trailer coach, or titled watercraft.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983;—Am. 2023, Act 29, Imd. Eff. May 8, 2023.

21.277 Reporting estimate of revenue foregone from exemptions under MCL 205.131 et seq.

Sec. 7. The governor shall report an estimate, by group, if possible, of revenue foregone from exemptions granted pursuant to Act No. 301 of the Public Acts of 1939, as amended, being sections 205.131 to 205.147 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.278 Reporting estimate of revenue foregone from exemptions under MCL 205.201 et seq.

Sec. 8. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 188 of the Public Acts of 1899, as amended, being sections 205.201 to 205.221 of the Michigan Compiled Laws, including the exemption provided by section 1(6) to (8) of Act No. 188 of the Public Acts of 1899, being section 205.201 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.279 Reporting estimate of revenue foregone from exemption under MCL 205.301 et seq.

Sec. 9. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 48 of the Public Acts of 1929, as amended, being sections 205.301 to 205.317 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.280 Reporting estimate of revenue foregone from exemptions under MCL 205.501 et seq.

Sec. 10. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 265 of the Public Acts of 1947, as amended, being sections 205.501 to 205.522 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.281 Reporting estimate of revenue foregone from exemptions under MCL 207.1 et seq.

Sec. 11. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 282 of the Public Acts of 1905, as amended, being sections 207.1 to 207.21 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.282 Reporting estimate of revenue foregone from exemptions under MCL 207.101 et seq.

Sec. 12. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.202 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.282a Reporting estimate of revenue foregone from exemptions under MCL 207.211 et seq.

Sec. 12a. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 119 of the Public Acts of 1980, being sections 207.211 to 207.235 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: Add. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.283 Reporting estimate of revenue foregone from exemptions under MCL 207.501 et seq.

Sec. 13. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 134 of the Public Acts of 1966, as amended, being sections 207.501 to 207.513 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.284 Reporting estimate of revenue foregone from exemptions under MCL 436.1 et seq., MCL 436.101 et seq., MCL 436.121 et seq., and MCL 436.131 et seq.

Sec. 14. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being sections 436.1 to 436.58 of the Michigan Compiled Laws; Act No. 94 of the Public Acts of 1959, being sections 436.101 to 436.103 of the Michigan Compiled Laws; Act No. 218 of the Public Acts of 1962, being sections 436.121 to 436.125 of the Michigan Compiled Laws; Act No. 213 of the Public Acts of 1972, as amended, being sections 436.131 to 436.133 of the Michigan Compiled Laws.

The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.285 Reporting estimate of revenue foregone from exemptions under MCL 478.1 to 478.6.

Sec. 15. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to article 4 of Act No. 254 of the Public Acts of 1933, as amended, being sections 478.1 to 478.6 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.286 Reporting estimate of revenue foregone from exemptions under MCL 259.203.

Sec. 16. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to section 203 of Act No. 327 of the Public Acts of 1945, as amended, being section 259.203 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.287 Reporting estimate of revenue foregone from exemptions under MCL 257.801 to 257.810.

Sec. 17. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to sections 801 to 810 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.801 to 257.810 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.288 Reporting estimate of revenue foregone from exemptions pursuant to MCL 324.78101 to 324.78112.

Sec.18. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to part 781 (Michigan state waterways commission) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.78101 to 324.78112 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1996, Act 32, Imd. Eff. Feb. 26, 1996.

21.289 Reporting estimate of revenue foregone from exemptions granted pursuant to MCL 324.80101 to 324.80124.

Sec. 19. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to sections 80101 to 80124 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80124 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1996, Act 32, Imd. Eff. Feb. 26, 1996.

21.290 Reporting estimate of revenue foregone from exemptions under MCL 141.501 et seq.

Sec. 20. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 284 of the Public Acts of 1964, as amended, being sections 141.501 to 141.787 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.291 Reporting estimate of revenue foregone from exemptions under MCL 141.801 et seq.

Sec. 21. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 198 of the Public Acts of 1970, as amended, being sections 141.801 to 141.837 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.292 Reporting estimate of revenue foregone from exemptions under MCL 141.851 et seq.

Sec. 22. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 232 of the Public Acts of 1971, being sections 141.851 to 141.855 of the Michigan Compiled Laws and Act No. 263 of the Public Acts of 1974, being sections 481.861 to 481.867 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

Compiler's note: The reference in this section to "sections 481.861 to 481.867" evidently should read to "sections 141.861 to 141.867".

21.293 Reporting estimate of revenue foregone from exemptions under MCL 431.101 et seq.

Sec. 23. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 205 of the Public Acts of 1939, as amended, being sections 431.101 to 431.126 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.294 Reporting estimate of revenue foregone from exemptions under MCL 431.61 et seq.

Sec. 24. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to Act No. 327 of the Public Acts of 1980, as amended, being sections 431.61 to 431.88 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979;—Am. 1983, Act 7, Imd. Eff. Mar. 16, 1983.

21.295 Reporting estimate of revenue foregone from exemptions under MCL 450.2062.

Sec. 25. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to section 1062 of Act No. 284 of the Public Acts of 1972, as amended, being section 450.2062 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

21.296 Reporting estimate of revenue foregone from exemptions under MCL 500.440 to 500.466.

Sec. 26. The governor shall report an estimate of revenue foregone from exemptions granted pursuant to sections 440 to 446 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.440 to 500.466 of the Michigan Compiled Laws. The estimate shall include revenue foregone by any deductions or credits

granted under the act.

History: 1979, Act 72, Imd. Eff. July 31, 1979.

DIVISION OF AUTOMOTIVE CONTROL
Act 260 of 1947

21.301-21.311 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: Section 21.302 was expired by Act 450 of 1976.

COUNTER-CYCLICAL BUDGET AND ECONOMIC STABILIZATION FUND
Act 76 of 1977

21.401-21.412 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

THE STATE ACCOUNTING AND FISCAL RESPONSIBILITY ACCOUNT ACT
Act 14 of 1983

21.421-21.425 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

WORKING CAPITAL RESERVE ACCOUNT
Act 153 of 1982

21.451-21.454 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

REGULATION OF APPROPRIATIONS, ALLOCATIONS, AND EXPENDITURES
Act 18 of 1981

21.501-21.533 Repealed. 1983, Act 132, Imd. Eff. July 18, 1983;—1984, Act 431, Eff. Mar. 29, 1985.

MICHIGAN INFRASTRUCTURE COUNCIL ACT
Act 323 of 2018

AN ACT to create the Michigan infrastructure council; and to prescribe the powers and duties of certain state and local agencies and officials.

History: 2018, Act 323, Imd. Eff. July 2, 2018.

The People of the State of Michigan enact:

21.601 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan infrastructure council act".

History: 2018, Act 323, Imd. Eff. July 2, 2018.

21.602 Definitions.

Sec. 2. As used in this act:

(a) "Asset" means infrastructure related to drinking water, wastewater, stormwater, transportation, energy, or communications, including, but not limited to, drinking water supply systems, wastewater systems, stormwater systems, drains, roads, bridges, broadband and communication systems, and electricity and natural gas networks.

(b) "Asset class" means a single type of asset including its network and all associated appurtenances critical to its performance.

(c) "Asset management" means an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment and investment to achieve performance goals.

(d) "Asset management plan" means a set of procedures to manage assets through their life cycles, based on principles of life cycle costing. An asset management plan may be used as a tool to help an asset owner implement its asset management program.

(e) "Asset owner" means a person that owns or operates an asset.

(f) "Department" means the department of treasury.

(g) "Performance goals" means standards of system performance that reflect asset management principles for asset preservation and sustainability, operations, capacity consistent with local needs, and identified levels of service.

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

(i) "Region" means the geographic jurisdiction of any of the following:

(i) A regional planning commission created pursuant to 1945 PA 281, MCL 125.11 to 125.25.

(ii) A regional economic development commission created pursuant to 1966 PA 46, MCL 125.1231 to 125.1237.

(iii) A metropolitan area council formed pursuant to the metropolitan councils act, 1989 PA 292, MCL 124.651 to 124.729.

(iv) A metropolitan planning organization established pursuant to federal law.

(v) An agency directed and funded by section 822f of article VIII of 2016 PA 268, to engage in joint decision-making practices related, but not limited to, community development, economic development, talent, and infrastructure opportunities.

(j) "Transportation asset management council" means the transportation asset management council created in section 9a of 1951 PA 51, MCL 247.659a.

(k) "Water asset management council" means the water asset management council created in section 5002 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5002.

History: 2018, Act 323, Imd. Eff. July 2, 2018.

21.603 Michigan infrastructure council; creation; membership; terms of members; removal; quorum; department of technology, management, and budget central data storage agency.

Sec. 3. (1) The Michigan infrastructure council is created within the department.

(2) The Michigan infrastructure council consists of the following:

(a) Nine voting members appointed pursuant to subsection (3) who are representative of 1 or more of the following:

(i) Asset management experts from the public and private sectors with knowledge of and expertise in the areas of planning, design, construction, management, operations and maintenance for drinking water,

wastewater, stormwater, transportation, energy, and communications.

(ii) Financial and procurement experts from the public or private sector.

(iii) Experts in regional asset management planning across jurisdictions and infrastructure sectors.

(b) The following nonvoting members:

(i) The chairperson of the water asset management council or his or her designee.

(ii) The chairperson of the transportation asset management council or his or her designee.

(iii) The director of the department of agriculture and rural development or his or her designee.

(iv) The director of the department of environmental quality or his or her designee.

(v) The director of the department of natural resources or his or her designee.

(vi) The director of the department of technology, management, and budget or his or her designee.

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

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

(ix) The chairperson of the Michigan public service commission or his or her designee.

(3) Voting members of the Michigan infrastructure council under subsection (2)(a) shall be appointed as follows:

(a) Five by the governor.

(b) One by the senate majority leader.

(c) One by the speaker of the house of representatives.

(d) One by the senate minority leader.

(e) One by the house minority leader.

(4) The voting members first appointed to the Michigan infrastructure council must be appointed within 60 days after the effective date of this act.

(5) The voting members of the Michigan infrastructure council serve for terms of 3 years or until a successor is appointed, whichever is later, except as follows:

(a) Of the members first appointed under subsection (3)(a), 1 shall serve for 2 years, 1 shall serve for 1 year, and 3 shall serve for 3 years.

(b) Of the members first appointed under subsection (3)(b), (c), (d), and (e), 2 shall serve for 2 years and 2 shall serve for 1 year.

(6) A vacancy on the Michigan infrastructure council shall be filled for the unexpired term in the same manner as the original appointment.

(7) A member of the Michigan infrastructure council may be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the office for whom the appointment was made.

(8) The governor shall call the first meeting of the Michigan infrastructure council within 90 days after the effective date of this act. At the first meeting, the Michigan infrastructure council shall elect from among its members a chairperson and other officers as it considers appropriate. After the first meeting, the Michigan infrastructure council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members.

(9) A majority of the voting members of the Michigan infrastructure council and a majority of the nonvoting members of the Michigan infrastructure council constitute a quorum for the transaction of business at a meeting of the Michigan infrastructure council. An affirmative vote of a majority of the voting members of the Michigan infrastructure council is required for official action of the Michigan infrastructure council.

(10) The Michigan infrastructure council shall perform its business at a public meeting of the Michigan infrastructure council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(11) A writing created by the Michigan infrastructure council in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) Members of the Michigan infrastructure council serve without compensation. However, members of the Michigan infrastructure council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the Michigan infrastructure council.

(13) The departments of agriculture and rural development; environmental quality; natural resources; technology, management, and budget; transportation; and treasury shall provide qualified administrative and technical staff to the Michigan infrastructure council.

(14) The department of technology, management, and budget shall serve as the central data storage agency for the statewide database provided for in this act.

History: 2018, Act 323, Imd. Eff. July 2, 2018.

21.604 Michigan infrastructure council; duties; annual report; statewide asset management system.

Sec. 4. (1) The Michigan infrastructure council shall do all of the following:

(a) Develop a multiyear program, work plan, budget, and funding recommendation for asset management; update these every year; and provide these to the governor and the legislature by September 30 every year.

(b) Ensure that the work plan in subdivision (a) includes an emphasis on coordination and integration across asset classes and regions.

(c) Prepare an annual report on the current statewide asset management assessment that tracks progress on established performance goals.

(d) Undertake research and advise on matters relating to asset management, including all of the following:

(i) Funding and financing models.

(ii) Best practices.

(iii) Information technology advancements.

(iv) Emerging technology to advance smart systems.

(v) Right sizing and cost-efficiencies.

(vi) Impediments to delivery.

(vii) Opportunities for greater coordination and collaboration across asset classes and asset owners.

(viii) Align and link state incentives to asset performance improvement goals, including cost control, asset management, operational efficiency, and cost-effective regional solutions.

(e) Within 180 days after its first meeting, evaluate the regional infrastructure asset management pilot program created under Executive Directive 2017-1, and the findings of the 21st Century Infrastructure Commission created in Executive Order No. 2016-5, and develop and publish a 3-year strategy for establishing a statewide integrated asset management system. The initial multiyear program, work plan, budget, and funding recommendation under subdivision (a) must include development of the strategy for establishing a statewide integrated asset management system. The strategy must also include, at a minimum, all of the following:

(i) A determination of appropriate assets within the asset classes.

(ii) Consistent data standards and definitions for each asset class.

(iii) Identify and designate a process to plan, analyze, and coordinate asset management across assets and asset owners at the regional level. This process may be implemented through regional planning agencies, the regional prosperity initiative regions, or another approach, which may vary among regions, that ensures all areas of the state are included and efforts are consistent with state and federal requirements. Regions shall be responsible for maintaining and managing the statewide database at a regional level.

(iv) Procedures for data storage, collecting, updating, and reporting.

(v) Recommendations related to the appropriate level of financial support for local asset data collection, local development of asset management plans, regional review and collaboration, and participation in an integrated statewide asset management system.

(vi) A process to coordinate the planning efforts of the transportation asset management council, the water asset management council, the Michigan public service commission, and the Michigan economic development corporation, with other state-required asset management planning requirements. In coordinating planning efforts under this subparagraph, the Michigan infrastructure council shall endeavor to provide efficiencies to the planning process and to reduce any unnecessary duplication of effort.

(vii) Coordination with the transportation asset management council and the water asset management council to ensure that training and education programs that address all of the following are coordinated across assets:

(A) Asset management principles and plan development.

(B) The use of the statewide database.

(C) Ongoing user support.

(D) State department asset management requirements.

(viii) Develop statewide performance goals for appropriate assets within each asset class and identify regional and statewide progress toward meeting performance goals.

(ix) Protocols that ensure data security and accuracy at the local, regional, and state levels.

(x) Development of consistent and coordinated state department, transportation asset management council, and water asset management council asset management plan components and requirements including, but not limited to:

(A) Asset inventory, condition assessment, and uniform data.

(B) Performance goals.

(C) Revenue structure, investment strategy, and capital improvement plan.

(D) Asset criticality and risk analysis.

(E) Public engagement and transparency.

- (F) Self-assessment of asset management maturity.
- (G) Reports at an asset owner, regional, and statewide level. Reporting levels should take into account the size and complexity of the network or system. Priority should be placed on the largest systems.
- (H) A resolution by the appropriate governing body approving the plan.
- (I) Certification that asset management is being coordinated to the asset owners' best ability across asset classes and regionally.
- (f) Beginning 3 years after the effective date of this act, start the second phase of the statewide system for asset management implementation and include, at a minimum, all of the following:
 - (i) Predictive analytics to forecast asset condition.
 - (ii) A public dashboard of state, regional, and local system performance across asset classes, including the appropriate and secure level of geospatial data and aggregated reporting.
 - (iii) Develop and publish a 30-year integrated infrastructure strategy that is updated every 5 years and includes all of the following:
 - (A) Current statewide condition assessment and infrastructure priorities across asset classes, tracked progress on established performance goals, and net changes in asset value.
 - (B) Investment needs to reach targeted overall system ratings and performance goals, with a goal of leveling annual investments to long-term predictable amounts.
 - (C) Network intelligence in asset management planning and monitoring. Retrofit technologies should be considered, pursued, and incorporated as they become available for upgrades and maintenance activities to existing and future assets.
- (2) The multiyear programs, work plans, budgets, and funding recommendations required in subsection (1)(a), the annual reports required by subsection (1)(c), the 3-year strategy for establishing a statewide integrated asset management system required by subsection (1)(e), and the second phase of the statewide system for asset management implementation required in subsection (1)(f) shall comply with both of the following:
 - (a) Not propose, recommend, or fund any government-owned broadband or telecommunications network to provide service to residential or commercial premises, except that this prohibition does not apply to state expenditures for a transportation purpose, connected vehicle communication technologies, or other transportation-related activities.
 - (b) To the extent government funding is proposed or recommended to subsidize non-government-owned broadband networks to expand service to residential or commercial premises, require that the proposals and recommendations must be limited to areas unserved by broadband, must be technology neutral, and include a competitive bid process that results in the award of the subsidy based on objective and efficient procedures.

History: 2018, Act 323, Imd. Eff. July 2, 2018.

21.605 Michigan infrastructure council; limitations; telecommunications services, broadband services, or wireless services; exempt from disclosure.

Sec. 5. (1) This act does not authorize the Michigan infrastructure council to place any obligations or requirements on providers of telecommunications services, broadband services, or wireless services.

(2) Any network or financial information provided to the Michigan infrastructure council by a provider of telecommunications services, broadband services, or wireless services is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243, provided that it is marked as confidential or commercial information. The Michigan infrastructure council shall preserve the confidentiality of this information.

History: 2018, Act 323, Imd. Eff. July 2, 2018.

21.606 Funding.

Sec. 6. Funding necessary to support the activities described in this act shall be provided through funds as provided by law.

History: 2018, Act 323, Imd. Eff. July 2, 2018.