The People of the State of Michigan enact:

333.17708 Definitions; P.

Sec. 17708. (1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

(3) "Prescription" means an order for a drug or device written and signed or transmitted by other means of communication by a prescriber to be filled, compounded, or dispensed. Prescribing is limited to a prescriber. An order transmitted in other than written form shall be recorded or written and immediately dated by the pharmacist, and that record constitutes the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient's chart constitutes for the purposes of this definition the original prescription. Subject to section 17751(2), prescription includes, but is not limited to, an order for a drug, not including a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), written and signed or transmitted by other means of communication by a physician prescriber licensed to practice in a state other than Michigan.

(4) "Prescription drug" means 1 or more of the following:

(a) A drug dispensed pursuant to a prescription.

(b) A drug bearing the federal legend "CAUTION: federal law prohibits dispensing without prescription".

(c) A drug designated by the board as a drug that may only be dispensed pursuant to a prescription.

333.17751 Dispensing prescription drug; requirements.

Sec. 17751. (1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board.

(2) A pharmacist may dispense a prescription written and signed or transmitted by other means of communication by a physician prescriber in a state other than Michigan, but not including a prescription for a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), only if the pharmacist in the exercise of his or her professional judgment determines all of the following:

(a) That the prescription was issued pursuant to an existing physician-patient relationship.

(b) That the prescription is authentic.

(c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

(3) A pharmacist or a prescriber shall dispense a prescription only if the prescription falls within the scope of practice of the prescriber.

(4) A pharmacist shall not knowingly dispense a prescription after the death of the prescriber or patient.

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(d) Promoting a prescription drug to the public in any manner.

(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed or transmitted by a physician prescriber in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

This act is ordered to take immediate effect.
Approved July 19, 2005.
Filed with Secretary of State July 19, 2005.

[No. 86]

(HB 4322)

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

regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 17766f.

The People of the State of Michigan enact:

333.17766f Possession of products containing ephedrine or pseudoephedrine; prohibited conduct; violation; penalty; sign; requirements; affirmative defense; rebuttal; conflict of local requirements with section; effective date of subsections (1) through (5) and (7) through (9).

Sec. 17766f. (1) A person who possesses products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall not knowingly do any of the following:

(a) Sell any product described under this subsection to an individual under 18 years of age.

(b) Sell in a single over-the-counter sale more than 2 packages, or 48 tablets or capsules, of any product described under this subsection to any individual.

(c) Sell in a single over-the-counter sale more than 2 personal convenience packages containing 2 tablets or capsules each of any product described under this subsection to any individual.

(2) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(3) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $50.00 for each violation.

(4) A person described under subsection (1) shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of community health that includes the following statement:

"The sale of any product that contains any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to a minor under 18 years of age is prohibited by law. In order to purchase a product described above, you must provide the retailer with an official Michigan operator's or

chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the individual. The retailer may require you to sign a log or other type of record detailing the sale of that product. State law further prohibits in a single over-the-counter transaction the sale of more than 2 packages, or 48 tablets or capsules, of any product described above.".

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

(6) The department of community health shall produce the sign required under subsection (4) and, beginning November 1, 2005, make the sign available to licensed retailers described in subsection (1) on the department's internet website free of charge. Licensed retailers described in subsection (1) shall obtain the sign from the department's internet website and provide copies of the sign free of charge, upon request, to persons who are subject to subsection (4).

(7) It is an affirmative defense to a citation issued pursuant to subsection (1)(a) that the defendant had in force at the time of the citation and continues to have in force a written policy for employees to prevent the sale of products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the hearing date.

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

(9) Notwithstanding any other provision of law, beginning December 15, 2005, a city, township, village, county, other local unit of government, or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale of a product described under subsection (1) that is contrary to, or in any way conflicting with, this section. This subsection does not invalidate or otherwise restrict a requirement or prohibition described in this subsection existing on December 15, 2005.

(10) Subsections (1) through (5) and (7) through (9) take effect December 15, 2005.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 189 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 19, 2005.
Filed with Secretary of State July 20, 2005.

Compiler's note: Senate Bill No. 189, referred to in enacting section 1, was filed with the Secretary of State July 20, 2005, and became 2005 PA 87, Eff. Dec. 15, 2005.

[No. 87]

(SB 189)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 17766e.

The People of the State of Michigan enact:

333.17766e Sale of ephedrine or pseudoephedrine; requirements of retail distributor; exceptions; violation; fine; report.

Sec. 17766e. (1) Except as otherwise provided under this section, a person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall maintain all products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine in accordance with 1 of the following:

(a) Behind a counter where the public is not permitted.

(b) Within a locked case so that a customer wanting access to the product must ask a store employee for assistance.

(c) Within 20 feet of a counter that allows the attendant to view the products in an unobstructed manner or utilize an antitheft device on those products that uses special package tags and detection alarms designed to prevent theft along with constant video surveillance as follows:

(*i*) The video camera is positioned so that individuals examining or removing those products are visible.

(*ii*) The video camera is programmed to record, at a minimum, a 1-second image every 5 seconds.

(*iii*) The video images must be maintained for a minimum of 6 months and made available to any law enforcement agency upon request.

(*iv*) The retailer shall prominently display a sign indicating that the area is under constant video surveillance in a conspicuous location, clearly visible to the public.

(2) If the products described under subsection (1) are maintained within 20 feet of a counter and that counter is not staffed by 1 or more employees at all times, then the retail distributor shall utilize antitheft devices and video surveillance as provided under subsection (1)(c) when the counter is not staffed. If all of the products described under subsection (1) are maintained behind the counter or within a locked case, then the retailer is not required to maintain a log or any other type of record detailing the sale of those products.

(3) A person who sells a product described in subsection (1) shall do each of the following:

(a) Require the purchaser of a product described under subsection (1) to produce a valid photo identification that includes the individual's name and date of birth.

(b) Except as otherwise provided under subsection (2), maintain a log or some type of record detailing the sale of a product described under subsection (1), including the date of the sale, the name and date of birth of the buyer, and the amount and description of the product sold. The log or other means of recording the sale as required under this subdivision shall be maintained for a minimum of 6 months and made available to only a law enforcement agency upon request. The log or other means of recording the sale is not a public record and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A person shall not sell or provide a copy of the log or other means of recording the sale to another for the purpose of surveys, marketing, or solicitations.

(4) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(5) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $50.00 for each violation.

(6) By December 15, 2006, the department of state police shall submit a written report to the legislature regarding the impact and effectiveness of the amendatory act that added this section and section 17766f, including, but not limited to, the number of clandestine methamphetamine lab incidents before and after this legislation.

Effective date.

Enacting section 1. This amendatory act takes effect December 15, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4322 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 19, 2005.

Filed with Secretary of State July 20, 2005.

Compiler's note: House Bill No. 4322, referred to in enacting section 2, was filed with the Secretary of State July 20, 2005, and became 2005 PA 86, Imd. Eff. July 20, 2005.

[No. 88]

(HB 4607)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 627a (MCL 257.627a), as amended by 2000 PA 110.

The People of the State of Michigan enact:

257.627a "Regularly scheduled school session," "school," and "school zone" defined; prima facie speed limit in school zone; signs; applicability of section to walkway; location of school; school in session year-round.

Sec. 627a. (1) As used in this section and section 629:

(a) "Regularly scheduled school session" means that part of a day of student instruction that is followed by a break for lunch or by a final dismissal of the student body for that day.

(b) "School" means an educational institution operated by a local school district or by a private, denominational, or parochial organization. School does not include an educational institution that the department of education determines has its entire student population in residence at the institution.

(c) "School zone" means school property on which a school building is located and the area adjacent to the school property that is designated by the signs required under subsection (2). Except as otherwise provided in subsection (5), the school zone extends not more than 1,000 feet from the property line of the school in each direction.

(2) Except as provided in subsection (4), the prima facie speed limit in a school zone, which shall be in force not less than 30 minutes but not more than 1 hour before the first regularly scheduled school session until school commences and from dismissal until not less than 30 minutes but not more than 1 hour after the last regularly scheduled school session, and during a lunch period when students are permitted to leave the school, shall be 25 miles an hour, if permanent signs designating the school zone and the speed limit in the school zone are posted at the request of the school superintendent. The signs shall conform to the Michigan manual of uniform traffic control devices.

(3) This section does not apply to a limited access highway or to that portion of a street or highway over which a pedestrian overhead walkway is erected, if the walkway is adjacent to school property and is designed and located so as to be used, and is being used, as the principal means by which students of a school that has property adjacent to the walkway travel to and from the school.

(4) Local authorities may increase or decrease the prima facie speed limit within a school zone under their jurisdiction pursuant to section 629.

(5) Notwithstanding the requirements for a school zone as defined in subsection (1)(c), if a school is located in an area that requires school children to cross a state trunk line highway or county highway that has a speed limit of 35 miles per hour or more to attend that school, the school superintendent may submit a request to the state transportation commission, county road commission, or local authority having jurisdiction over the roadway, as applicable, for a school crossing as permitted under section 613a. If, based on the traffic engineering studies, the road authority determines the need for a lower speed limit, the road authority may designate the crossing as a school zone. Before submitting a request, the school superintendent shall have completed a school route plan as prescribed by section 7A-1 of the Michigan manual of uniform traffic control devices.

(6) Notwithstanding the 25-mile-per-hour prima facie speed limit established by subsection (2), the prima facie speed limit for any street in a school zone that has sidewalks along at least 1 side of the street, which shall be in force during the same periods that a 25-mile-per-hour speed limit provided by subsection (2) would otherwise be effective, shall be set at the limit requested by the superintendent of schools with jurisdiction over the school within the school zone, but this limit shall neither be more than 15 miles per hour below the regularly posted speed limit for that street nor less than 25 miles per hour. Permanent signs designating the school zone and the speed limit in the school zone shall be posted. These signs shall conform to the Michigan manual of uniform traffic control devices.

(7) If appropriate, the school superintendent may request that a sign be erected in the school zone indicating that a school is in session year-round. A sign erected under this subsection shall be posted on the same signpost as the school zone sign and immediately below the school zone sign. The sign shall read "Year-Round School" and shall conform to the Michigan manual of uniform traffic control devices.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

[No. 89]

(HB 4821)

AN ACT to amend 1967 PA 270, entitled "An act to provide for the release of certain information or data relating to health care research or education, health care entities, practitioners, or professions, or certain governmentally funded programs; to limit the liability with respect to the release of certain information or data; and to safeguard the confidential character of certain information or data," by amending section 1 (MCL 331.531), as amended by 2002 PA 600.

The People of the State of Michigan enact:

331.531 Providing information or data to review entity regarding physical condition, psychological condition, health care of person, or qualifications of provider; "review entity" defined; liability; disciplinary actions to be reported to department of community health.

Sec. 1. (1) A person, organization, or entity may provide to a review entity information or data relating to the physical or psychological condition of a person, the necessity, appropriateness, or quality of health care rendered to a person, or the qualifications, competence, or performance of a health care provider.

(2) As used in this section, "review entity" means 1 of the following:

(a) A duly appointed peer review committee of 1 of the following:

(*i*) The state.

(*ii*) A state or county association of health care professionals.

(*iii*) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(*iv*) A health care association.

(*v*) A health care network, a health care organization, or a health care delivery system composed of health professionals licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or composed of health facilities licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or both.

(*vi*) A health plan qualified under the program for medical assistance administered by the department of community health under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(b) A professional standards review organization qualified under federal or state law.

(c) A foundation or organization acting pursuant to the approval of a state or county association of health care professionals.

(d) A state department or agency whose jurisdiction encompasses the information described in subsection (1).

(e) An organization established by a state association of hospitals or physicians, or both, that collects and verifies the authenticity of documents and other data concerning the qualifications, competence, or performance of licensed health care professionals and that acts as a health facility's agent pursuant to the health care quality improvement act of 1986, title IV of Public Law 99-660, 42 USC 11101 to 11152.

(f) A professional corporation, limited liability partnership, or partnership consisting of 10 or more allopathic physicians, osteopathic physicians, or podiatric physicians and surgeons licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, who regularly practice peer review consistent with the requirements of article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(g) An organization established by a state association of pharmacists, that collects and verifies the authenticity of documents and other data concerning the qualifications, competence, or performance of licensed pharmacists and pharmacies.

(3) A person, organization, or entity is not civilly or criminally liable:

(a) For providing information or data pursuant to subsection (1).

(b) For an act or communication within its scope as a review entity.

(c) For releasing or publishing a record of the proceedings, or of the reports, findings, or conclusions of a review entity, subject to sections 2 and 3.

(4) The immunity from liability provided under subsection (3) does not apply to a person, organization, or entity that acts with malice.

(5) An entity described in subsection (2)(a)(*v*) or (*vi*) that employs, contracts with, or grants privileges to a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, shall report each of the following to the department of community health not more than 30 days after it occurs:

(a) Disciplinary action taken by the entity against a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, based on the health professional's professional competence, disciplinary action that results in a change of the health professional's employment status, or disciplinary action based on conduct that adversely affects the health professional's clinical privileges for a period of more than 15 days. As used in this subdivision, "adversely affects" means the reduction, restriction, suspension, revocation, denial, or failure to renew the clinical privileges of a health professional by an entity described in subsection (2)(a)(*v*) or (*vi*).

(b) Restriction or acceptance of the surrender of the clinical privileges of a health professional under either of the following circumstances:

(*i*) The health professional is under investigation by the entity.

(*ii*) There is an agreement in which the entity agrees not to conduct an investigation into the health professional's alleged professional incompetence or improper professional conduct.

(c) A case in which a health professional resigns or terminates a contract or whose contract is not renewed instead of the entity taking disciplinary action against the health professional.

(6) Upon request by another entity described in subsection (2) seeking a reference for purposes of changing or granting staff privileges, credentials, or employment, an entity described in subsection (2) that employs, contracts with, or grants privileges to health professionals licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, shall notify the requesting entity of any disciplinary or other action reportable under subsection (5) that it has taken against a health professional employed by, under contract to, or granted privileges by the entity.

(7) For the purpose of reporting disciplinary actions under subsection (5), an entity described in subsection (2)(a)(*v*) or (*vi*) shall include only the following in the information provided:

(a) The name of the health professional against whom disciplinary action has been taken.

(b) A description of the disciplinary action taken.

(c) The specific grounds for the disciplinary action taken.

(d) The date of the incident that is the basis for the disciplinary action.

(8) For the purpose of reporting disciplinary actions under subsection (6), an entity described in subsection (2) shall include in the report only the information described in subsection (7)(a) to (d).

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

[No. 90]

(SB 302)

AN ACT to amend 1988 PA 112, entitled "An act to provide competitive opportunity in state procurements of goods, services, and construction for businesses owned by persons with disabilities; to provide powers and duties of the governor; to prescribe powers and duties of certain state departments and agencies; and to provide penalties," by amending section 3 (MCL 450.793), as amended by 1998 PA 73.

The People of the State of Michigan enact:

450.793 Departmental goals; review of progress; recommendations; changes in programs; consideration of subcontracts and joint ventures; consideration in meeting requirements of subsections (1) and (3); award of contract to lowest qualified bidder; report.

Sec. 3. (1) It shall be the goal of each department to award each year not less than 3% of its total expenditures for construction, goods, and services, less expenditures to sole source vendors, to businesses owned by persons with disabilities.

(2) Each year, the department of management and budget shall review the progress of the departments in meeting the 3% goal with input from the business community, including businesses owned by persons with disabilities, and shall make recommendations to each house of the legislature regarding continuation, increases or decreases in the percentage goal. The recommendations shall be based upon the number of businesses that are owned by persons with disabilities and on the continued need to encourage and promote businesses owned by persons with disabilities. The department of management and budget may combine the recommendations described in this subsection with the report required under subsection (8).

(3) It shall be the goal of each department or agency that does not meet the goal provided in subsection (1) to award each year to businesses owned by persons with disabilities not less than 150% of the actual expenditures it awarded to businesses owned by persons with disabilities in the preceding year until not less than 3% of total expenditures is achieved as provided in subsection (1).

(4) To assist in reaching the goals set in subsections (1) and (3), the governor shall recommend to the legislature changes in programs to assist businesses owned by persons with disabilities.

(5) To assist in meeting the goals set forth in subsections (1) and (3), each department shall include provisions for the consideration of subcontracts and joint ventures. The provisions shall require a bidder to indicate the extent of participation of a business owned by persons with disabilities.

(6) Only the portion of a prime contract that reflects participation of a business owned by persons with disabilities shall be considered in meeting the requirements of subsections (1) and (3).

(7) Except as otherwise provided by statute, if the bidders for any contract for construction, goods, or services do not include a qualified business owned by persons with disabilities, the contract shall be awarded to the lowest bidder qualified to perform the contract.

(8) In addition to the recommendations described in subsection (2), each year each department shall report to each house of the legislature on all of the following for the immediately preceding 12-month period:

(a) The number of businesses owned by persons with disabilities who submitted a bid for a state procurement contract.

(b) The number of businesses owned by persons with disabilities who entered into procurement contracts with this state and the total value of those procurement contracts.

(c) Whether the department achieved the goal described in this subsection.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 303 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

Compiler's note: Senate Bill No. 303, referred to in enacting section 1, was filed with the Secretary of State July 20, 2005, and became 2005 PA 91, Imd. Eff. July 20, 2005.

[No. 91]

(SB 303)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 261 (MCL 18.1261), as amended by 1993 PA 46.

The People of the State of Michigan enact:

18.1261 Supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and other items.

Sec. 261. (1) The department shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items as needed by state agencies for which the legislature has not otherwise expressly provided. In all purchases made by the department, all other things being equal, preference shall be given to products manufactured or

services offered by Michigan-based firms, if consistent with federal statutes. The department shall solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet the state's needs. The department shall first determine that competitive solicitation of bids in the private sector is not appropriate before it shall use any other procurement method for an acquisition.

(2) The department shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of state contracts.

(3) The department shall utilize competitive bidding for all purchases authorized pursuant to subsection (1) unless the department has determined that another procurement method is in the state's best interests.

(4) The department may delegate its procurement authority to other state agencies within dollar limitations and for designated types of procurements. The department may withdraw delegated authority upon a finding that a state agency did not comply with departmental procurement directives.

(5) The department may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law.

(6) The department shall issue directives for the procurement, receipt, inspection, and storage of supplies, materials, and equipment, and for printing and services needed by state agencies. The department shall provide standard specifications and standards of performance applicable to purchases.

(7) The department may enter into a cooperative purchasing agreement with 1 or more other states or public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for state programs.

(8) In awarding a contract under this section, the department shall give a preference of up to 10% of the amount of the contract to a qualified disabled veteran. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the department shall enter into a procurement contract with the qualified disabled veteran under this act. If 2 or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the qualified disabled veteran with the lowest bid shall be awarded the contract under this act.

(9) It is the goal of the department to award each year not less than 3% of its total expenditures for construction, goods, and services to qualified disabled veterans. The department may count toward its 3% yearly goal described in this subsection that portion of all procurement contracts in which the business entity that received the procurement contract subcontracts with a qualified disabled veteran. Each year, the department shall report to each house of the legislature on all of the following for the immediately preceding 12-month period:

(a) The number of qualified disabled veterans who submitted a bid for a state procurement contract.

(b) The number of qualified disabled veterans who entered into procurement contracts with this state and the total value of those procurement contracts.

(c) Whether the department achieved the goal described in this subsection.

(d) The recommendations described in subsection (10).

(10) Each year, the department shall review the progress of all state agencies in meeting the 3% goal with input from statewide veterans service organizations and from the business community, including businesses owned by qualified disabled veterans, and

shall make recommendations to each house of the legislature regarding continuation, increases, or decreases in the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified disabled veterans and on the continued need to encourage and promote businesses owned by qualified disabled veterans.

(11) To assist the department in reaching the goal described in subsection (9), the governor shall recommend to the legislature changes in programs to assist businesses owned by qualified disabled veterans.

(12) As used in this section:

(a) "Qualified disabled veteran" means a business entity that is 51% or more owned by 1 or more veterans with a service-connected disability.

(b) "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16).

(c) "Veteran" means a person who served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

[No. 92]

(SB 406)

AN ACT to prescribe the procedures, terms, and conditions for the qualification or approval of school bonds and other bonds; to authorize this state to make loans to certain school districts for the payment of certain bonds and to authorize schools to borrow from this state for that purpose; to prescribe the terms and conditions of certain loans to school districts; to prescribe the powers and duties of certain state agencies and certain state and local officials; to provide for certain fees; to prescribe certain penalties; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

388.1921 Short title.

Sec. 1. This act shall be known and may be cited as the "school bond qualification, approval, and loan act".

388.1922 Purpose of act.

Sec. 2. The purpose of this act is to implement section 16 of article IX of the state constitution of 1963 and to provide for loans to school districts.

388.1923 Definitions.

Sec. 3. As used in this act:

(a) "Computed millage" means the number of mills in any year, not less than 7 mills and not more than 13 mills, determined on the date of issuance of the order qualifying the bonds or on a later date if requested by the school district and approved by the state treasurer, that, if levied by the school district, will generate sufficient annual proceeds to

pay principal and interest on all the school district's qualified bonds plus principal and interest on all loans related to those qualified bonds no later than the date specified in the note and repayment agreement entered into by the school district under this act.

(b) "Qualified bond" means a bond that is qualified under this act for state loans as provided in section 16 of article IX of the state constitution of 1963. A qualified bond includes the interest amount required for payment of a school district's net interest obligation under an interest rate exchange or swap, hedge, or other agreement entered into pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, but does not include a termination payment or similar payment related to the termination or cancellation of an interest rate exchange or swap, hedge, or other similar agreement. A qualified bond may include a bond issued to refund loans owed to the state under this act.

(c) "Qualified loan" means a loan made under this act or 1961 PA 108, MCL 388.951 to 388.963, from this state to a school district to pay debt service on a qualified bond.

(d) "Revolving loan fund" means the school loan revolving fund created under section 16c of the shared credit rating act, 1985 PA 227, MCL 141.1066c.

(e) "School district" means a general powers school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a school district of the first class as described in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, having the power to levy ad valorem property taxes.

(f) "State treasurer" means the state treasurer or his or her duly authorized designee.

(g) "Superintendent of public instruction" means the superintendent of public instruction appointed under section 3 of article VIII of the state constitution of 1963.

(h) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

388.1924 Qualification of new bonds; terms and conditions applicable to outstanding qualified bonds; application for prequalification.

Sec. 4. (1) A school district may issue and market bonds as qualified bonds if the state treasurer has issued an order granting qualification under this act.

(2) Except with regard to qualification of new bonds, nothing in this act shall be construed to alter the terms and conditions applicable to outstanding qualified bonds issued in accordance with 1961 PA 108, MCL 388.951 to 388.963, and the loans associated with those qualified bonds. Unless otherwise amended as permitted by this act, outstanding qualified loans incurred in association with outstanding qualified bonds described in this subsection shall continue to bear interest and be due and payable as provided in the repayment agreements entered into between the school district and the state before the effective date of this act.

(3) The state treasurer may qualify bonds for which the state treasurer has received an application for prequalification on or before May 25, 2005 without regard to the requirements of section 5(2)(f) if the electors of the school district approve the bonds at an election held during 2005.

388.1925 Preliminary qualification; application.

Sec. 5. (1) A school district may apply to the state treasurer for preliminary qualification of a proposed school bond issue by filing an application in the form and containing the information required by this act.

(2) An application for preliminary qualification of a school bond shall contain all of the following information:

(a) The proposed ballot language to be submitted to the electors.

(b) A description of the project or projects proposed to be financed.

(c) A pro forma debt service projection showing the estimated mills the school district will levy to provide revenue the school district will use to pay the qualified bonds. For the purpose of the pro forma debt service projection, the school district may assume for the first 5 years following the date of the application the average growth in taxable value for the 5 years preceding the date of the application and the lesser of that average growth rate or 3% for the remaining term of the proposed bonds.

(d) Evidence that the rate of utilization of each project to be financed will be at least 85% for new buildings and 60% for renovated facilities. If the projected enrollment of the district would not otherwise support utilization at the rates described in this subsection, the school district may include an explanation of the actions the school district intends to take to address the underutilization, including, if applicable, actions to close school buildings or other actions designed to assure continued assured use of the facilities being financed.

(e) Evidence that the cost per square foot of the project or projects will be reasonable in light of economic conditions applicable to the geographic area in which the school district is located.

(f) Evidence that the school district will repay all outstanding qualified loans at the times described in section 9.

(g) The weighted average age of all school buildings in the school district based on square footage.

(h) The overall utilization rate of all school buildings in the school district, excluding special education purposes.

(i) The taxable value per pupil.

(j) The total bonded debt outstanding of the school district and the total taxable value of property in the school district for the school district fiscal year in which the application is filed.

(k) A statement describing any environmental or usability problems to be addressed by the project or projects.

(*l*) An architect's analysis of the overall condition of the facilities to be renovated or replaced as a part of the project or projects.

(m) An amortization schedule demonstrating that the weighted average maturity of the qualified bond issue does not exceed 120% of the average reasonably expected useful life of the facilities, excluding land and site improvements, being financed or refinanced with the proceeds of the qualified bonds, determined as of the later of the date on which the qualified bonds will be issued or the date on which each facility is expected to be placed in service.

388.1926 Disposition of fees; carrying forward unexpended funds.

Sec. 6. The state treasurer shall prequalify bonds of a school district if the state treasurer determines all of the following:

(a) The issuance of additional qualified bonds will not prevent the school district from repaying its outstanding qualified loans on the earlier of the dates described in section 9.

(b) The form of the ballot conforms with the requirements of this act.

388.1927 Qualification of bonds; determination by state treasurer; order; specifications; loan agreement; reapplication; qualification of refunding bonds.

Sec. 7. (1) The state treasurer shall qualify bonds of a school district if the state treasurer determines all of the following:

(a) A majority of the school district electors have approved the bonds.

(b) The terms of the bond issue comply with applicable provisions of the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(c) The school district is in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(d) The weighted average maturity of the qualified bond issue does not exceed 120% of the average reasonably expected useful life of the facilities, excluding land and site improvements, being financed or refinanced with the proceeds of the bonds, determined as of the later of the date on which the qualified bonds will be issued or the date on which each facility is expected to be placed in service.

(e) The school district has filed any information necessary to update the contents of the original application to reflect changes in any of the information approved in the preliminary qualification process.

(f) The school district has paid a qualification fee of not less than $3,000.00 or the amount determined by the state treasurer, which shall be approximately equal to the amount required to pay the estimated administrative expenses incurred under this act for the fiscal year in which the state treasurer imposes the fee.

(2) An order qualifying bonds shall specify the principal and interest payment dates for all the bonds, the maximum principal amount of and maximum interest rate on the bonds, the computed millage, if any, the final repayment date for any loans made with respect to those bonds, and other matters as the state treasurer shall determine or as are required by this act.

(3) If the application for prequalification demonstrates that the school district will borrow from this state in accordance with this act, the state treasurer and the school district shall enter into a loan agreement setting forth the terms and conditions of any qualified loans to be made to the school district under this act.

(4) If a school district does not issue its qualified bonds within 180 days after the date of the order qualifying bonds, the school district may reapply for qualification by filing an application and information necessary to update the contents of the original application for prequalification or qualification.

(5) The state treasurer shall qualify refunding bonds issued to refund qualified bonds if the state treasurer finds that the refunding bonds comply with the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

388.1928 Submission of ballot to electors; notice of requirement to continue levy of mills.

Sec. 8. A ballot submitted to the school electors of a school district after November 8, 2005 requesting authorization to issue unlimited tax general obligations that will be guaranteed by this state in accordance with section 16 of article IX of the state constitution of 1963 shall inform the electors that if the school district borrows from this state to pay debt service on the bonds, the school district may be required to continue to levy mills beyond the term of the bonds to repay this state.

388.1929 Amount of borrowing; limitation; payment date for outstanding qualified loans; order; debt service; maintenance of separate accounts for each school district; duration of mills levy; amended and restated repayment agreements; waiver of portion of millage levy; findings; interest.

Sec. 9. (1) Except as otherwise provided in this act, a school district may borrow from the state an amount not greater than the difference between the proceeds of the school district's computed millage and the amount necessary to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies.

(2) For school districts having qualified loans outstanding as of the effective date of this act, the state treasurer shall review information relating to each school district regarding the taxable value of the school district and the actual debt service of outstanding qualified bonds as of the effective date of this act and shall issue an order establishing the payment date for all those outstanding qualified loans and any additional qualified loans expected to be incurred by those school districts related to qualified bonds issued before the effective date of this act. The payment date shall be not later than 72 months after the date on which the qualified bonds most recently issued by the school district are due and payable.

(3) For qualified loans related to qualified bonds issued after the effective date of this act, the qualified loans shall be due not later than 72 months after the date on which the qualified bonds for which the school borrowed from this state are due and payable. This section does not preclude early repayment of qualified bonds or qualified loans.

(4) Except with regard to qualified loans described in subsection (2), each loan made or considered made to a school district under this act shall be for debt service on only a specific qualified bond issue. The state treasurer shall maintain separate accounts for each school district on the books and accounts of this state noting the qualified bond, the related qualified loans, the final payment date of the bonds, the final payment date of the qualified loans, and the interest rate accrued on the loans.

(5) For qualified loans relating to qualified bonds issued after the effective date of this act, a school district shall continue to levy the computed mills until it has completely repaid all principal and interest on its qualified loans.

(6) For qualified loans relating to qualified bonds issued before the effective date of this act, a school district shall continue to comply with the levy and repayment requirements imposed before the effective date of this act. Not less than 90 days after the effective date of this act, the state treasurer and the school district shall enter into amended and restated repayment agreements to incorporate the levy and repayment requirements applicable to qualified loans issued before the effective date of this act.

(7) Upon the request of a school district made before June 1 of any year, the state treasurer annually may waive all or a portion of the millage required to be levied by a school district to pay principal and interest on its qualified bonds or qualified loans under this section if the state treasurer finds all of the following:

(a) The school board of the school district has applied to the state treasurer for permission to levy less than the millage required to be levied to pay the principal and interest on its qualified bonds or qualified loans under subsection (1).

(b) The application specifies the number of mills the school district requests permission to levy.

(c) The waiver will be financially beneficial to this state, the school district, or both.

(d) The waiver will not reduce the millage levied by the school district to pay principal and interest on qualified bonds or qualified loans under this act to less than 7 mills.

(e) The board of the school district, by resolution, has agreed to comply with all conditions that the state treasurer considers necessary.

(8) Except as otherwise provided in this act, loans shall bear interest at the greater of 3% or the average annual cost of funds computed annually on the basis of all state general obligations issued under section 16 of article IX of the state constitution of 1963.

388.1930 Certificates of qualification or approval; file; delivery.

Sec. 10. The state treasurer shall keep all certificates of qualification or approval in a permanent file and shall deliver copies of the certificates to the school district.

388.1931 Rules.

Sec. 11. The state treasurer shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

388.1932 Failure to apply for prequalification, qualification, or approval of bond before issuance.

Sec. 12. If a school district does not apply for prequalification or qualification or approval of a bond issue before the issuance of those bonds, the state treasurer shall not approve or qualify those bonds as qualified bonds under this act.

388.1933 School district owing revolving loan fund; filing annual loan activity application required; borrowing for debt service on qualified bonds; draw request; duties of state treasurer upon receipt of qualified loan confirmation; filing loan activity statement; statement of repayment amount; remittance.

Sec. 13. (1) If a school district owes a balance due to the revolving loan fund or has been identified as a potential borrower, the school district shall file an annual loan activity application with the state treasurer no less than 60 days before certifying its annual tax levy. The annual loan activity application shall be submitted in a format prescribed by the state treasurer and shall provide the taxable value, debt service, and any other information necessary to determine the proper required millage levy required under this act. The application shall contain a resolution passed by the local school board authorizing a designated school district official to complete all necessary documents to obtain a loan from the revolving loan fund or for making repayment to the revolving loan fund for the year.

(2) If a school district is eligible to borrow for debt service on qualified bonds, the school district shall file a draw request with the state treasurer not less than 30 days before each date on which the school district owes the debt service. The draw request shall include all of the following:

(a) A statement of the debt service owed in the next 6 months.

(b) A copy of the most recent bank statement showing the amount on hand in the debt service accounts for all qualified bonds.

(c) A statement of any revenue received for payment of the debt service since the date of the bank statement.

(d) A statement of any withdrawals made from the debt service account since the date of the bank statement.

(3) Not more than 7 days before the date established by the state treasurer for making qualified loans, the school district shall confirm in writing the final qualified loan amount to be drawn on a certificate in the form prescribed by the state treasurer.

(4) Upon receipt of a qualified loan confirmation described in subsection (3), the state treasurer shall determine the amount of the draw, which shall be the difference between the funds on hand in all debt service accounts and the amount of the debt service, and shall make a qualified loan in that amount to the school district no later than 6 days before the date the debt service is due.

(5) When a school district's computed millage is sufficient to pay principal and interest on its qualified bonds, a school district shall file a loan activity statement with the state treasurer no later than 30 days before the date set for payment of the qualified bonds setting forth all of the following:

(a) A statement of the debt service owed in the next 6 months.

(b) A copy of the most recent bank statement showing the amount on hand in the debt service account for the qualified bonds.

(c) A statement of any revenue received for payment of the debt service since the date of the bank statement.

(d) A statement of any withdrawals made from the debt service account since the date of the bank statement.

(6) Within 30 days after receipt of the loan activity statement under subsection (5), the state treasurer shall send an invoice to the school district for the amount of repayment the school district owes on its outstanding qualified loans, which shall be the difference between the debt service payable or paid to bondholders and the funds on hand at the school district, less a reasonable amount of funds on hand, as determined by the state treasurer, to cover minimum balance requirements or potential tax disputes. The school district shall remit the amount specified in the invoice within 30 days after the dated date of the invoice.

388.1934 Failure of school district to pay principal and interest due on qualified bonds; notice; payment by state treasurer; billing of school district for amount paid; remittance.

Sec. 14. (1) If any paying agent for a school district's qualified bonds notifies the state treasurer that the school district has failed to deposit sufficient funds to pay principal and interest due on the qualified bonds when due, or if a bondholder notifies the state treasurer that the school district has failed to pay principal or interest on qualified bonds when due, whether or not the school district has filed a draw request with the state treasurer, the state treasurer shall promptly pay the principal or interest on the qualified bond when due.

(2) If the state treasurer pays any amount described in this section, the state treasurer shall bill the school district for the amount paid and the school district shall immediately remit the amount to the state treasurer. If the school district would have been eligible to borrow the debt service in accordance with the terms of this act, the school district shall enter into a loan agreement establishing the terms of the qualified loan as provided in this act. If the state treasurer directs the Michigan municipal bond authority to pay any amount described in this section, the state treasurer shall cause the Michigan municipal bond authority to bill the school district for the amount paid and the school district shall immediately remit the amount to the Michigan municipal bond authority.

388.1935 Default; repayment.

Sec. 15. (1) If a school district that owes this state loan repayments relating to qualified bonds fails to levy at least the computed millage upon its taxable value for debt

retirement purposes for qualified bonds and for repayment of a qualified loan made under this act while any part of the qualified loan is unpaid or defaults in its agreement to repay a qualified loan or any installment of a qualified loan, the school district shall increase its debt levy in the next succeeding year to obtain the amount necessary to repay this state the amount of the default plus a late charge of 3% and shall pay that amount to this state together with any other amounts owed during the next tax year. The school district may use other funds to repay this state including a transfer of general funds of the school district, if approved by the state treasurer. The state treasurer shall not disburse state school aid to the school district until the school district has made satisfactory arrangements with the state treasurer for the payment of the amount in default.

(2) If a school district fails to process any report, application, confirmation, or repayment as required under this act, the state treasurer may withhold a school district's state aid funds until the school district complies with the requirements under this act.

388.1936 Disposition of fees.

Sec. 16. The state treasurer shall deposit all fees collected under this act into a separate fund established within the state treasury, and shall use the proceeds of the fees solely for the purpose of administering and enforcing this act. The unexpended and unobligated balance of this fund at the end of each state fiscal year shall be carried forward over to the succeeding state fiscal year and shall not lapse to the general fund but shall be available for reappropriation for the next state fiscal year.

388.1937 False statement or unauthorized use of proceeds; violation as felony; penalty.

Sec. 17. A person who knowingly makes a false statement or conceals material information for the purpose of obtaining qualification of a bond issue under this act or for the purpose of obtaining a qualified loan under this act, or who knowingly uses all or part of the proceeds of a qualified loan obtained under this act for any purpose not authorized by this act, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

388.1938 Use of remaining proceeds.

Sec. 18. If a school district has completed the projects approved by the school electors of the school district to be funded from proceeds of qualified bonds, a school district may use any remaining proceeds of the qualified bonds as follows:

(a) To pay for enhancements to the projects approved by the school electors as described in the ballot proposing the qualified bonds.

(b) To pay debt service on the qualified bonds.

(c) To repay this state.

388.1939 Actions by designee.

Sec. 19. The state treasurer may designate in writing a person or persons to take any actions required to be taken by the state treasurer under this act. The signature of any designee shall have the same force and effect as the signature of the state treasurer for all purposes of this act.

Repeal of MCL 388.951 to 388.963.

Enacting section 1. 1961 PA 108, MCL 388.951 to 388.963, is repealed.

Conditional effective date.

Enacting section 2. This act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 407.

(b) Senate Bill No. 408.

(c) Senate Bill No. 410.

(d) Senate Bill No. 411.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 407 was filed with the Secretary of State July 20, 2005, and became 2005 PA 93, Imd. Eff. July 20, 2005.
Senate Bill No. 408 was filed with the Secretary of State July 20, 2005, and became 2005 PA 94, Imd. Eff. July 20, 2005.
Senate Bill No. 410 was filed with the Secretary of State July 20, 2005, and became 2005 PA 95, Imd. Eff. July 20, 2005.
Senate Bill No. 411 was filed with the Secretary of State July 20, 2005, and became 2005 PA 96, Imd. Eff. July 20, 2005.

[No. 93]

(SB 407)

AN ACT to amend 1985 PA 227, entitled "An act to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including the creation and management of investments; to impose conditions on, grant certain powers to political subdivisions of the state and water suppliers regarding, and allow certain agreements regarding obligations of political subdivisions of this state and water suppliers purchased by the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest on its bonds and notes from certain taxes; to grant powers and impose duties on officers and agencies of the state, political subdivisions of this state, and water suppliers; to accept and expend certain appropriations; and to repeal acts and parts of acts," by amending the title and sections 3, 7, and 8 (MCL 141.1053, 141.1057, and 141.1058), the title and sections 3 and 7 as amended by 2000 PA 416 and section 8 as amended by 2003 PA 109, and by adding section 16c.

The People of the State of Michigan enact:

TITLE

An act to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including the creation and management of investments; to impose conditions on, grant certain powers to political subdivisions of this state and water suppliers regarding, and allow certain agreements regarding obligations of this state, political subdivisions of this state, and water suppliers purchased by the authority or assigned to the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest

on its bonds and notes from certain taxes; to grant powers and impose duties on officers and agencies of this state, political subdivisions of this state, and water suppliers; to accept and expend certain appropriations; and to repeal acts and parts of acts.

141.1053 Definitions.

Sec. 3. As used in this act:

(a) "Authority" means the Michigan municipal bond authority created in section 4.

(b) "Board" means the board of trustees of the authority established in section 5.

(c) "Bonds" means bonds of the authority issued under this act with a maturity greater than 3 years.

(d) "Capitalization grant" means the federal grant made to this state by the United States environmental protection agency for either of the following purposes:

(*i*) For the purpose of establishing a state water pollution control revolving fund, as provided in title VI of the federal water pollution control act, 33 USC 1381 to 1387.

(*ii*) For the purpose of establishing a state drinking water revolving fund, as provided in section 1452 of the public health service act, 42 USC 300j-12.

(e) "Community water supply" means a community water supply as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(f) "Federal safe drinking water act" means title XIV of the public health service act, chapter 373, 88 Stat. 1660.

(g) "Federal water pollution control act" means 33 USC 1251 to 1387.

(h) "Fully marketable form" means a municipal obligation duly executed and accompanied by all of the following:

(*i*) An approving legal opinion of a bond counsel approved by the authority and of nationally recognized standing in the field of municipal law.

(*ii*) Closing documents in a form and substance satisfactory to the authority. The executed municipal obligation need not be printed or lithographed nor be in more than 1 denomination.

(*iii*) Evidence that the pledge for payment of the municipal obligation will be sufficient to pay the principal of and interest on the municipal obligation when due.

(*iv*) For purposes of a project funded under section 16a, an order of approval issued by the department of environmental quality under part 53 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301 to 324.5316. The order shall state that the project proposed by the governmental unit has been approved for assistance by the department of environmental quality.

(*v*) For purposes of a community water supply or a noncommunity water supply funded under section 16b, an order of approval issued by the department of environmental quality under part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418. The order shall state that the community water supply or the noncommunity water supply proposed by the governmental unit has been approved for assistance by the department of environmental quality.

(i) "Governmental unit" means this state, a county, city, township, village, school district, intermediate school district, community college, public university, authority, district, any other body corporate and politic or other political subdivision, any agency or instrumentality of the foregoing, or any group self-insurance pool formed pursuant to 1951 PA 35, MCL 124.1 to 124.13. For purposes of a project funded under section 16a, governmental unit

includes an Indian tribe that has jurisdiction over construction and operation of a project qualifying under 33 USC 1329. For purposes of a community water supply or a noncommunity water supply funded under section 16b, governmental unit includes a community water supplier. A governmental unit does not include a self-insurance pool unless the self-insurance pool has filed a certification by an independent actuary that the reserves set aside under section 7a of 1951 PA 35, MCL 124.7a, are adequate for the payment of claims. A school district shall include a public school academy established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. Funds loaned to a public school academy or a school district may not be used to finance the purchase, construction, lease, or renovation of property owned, directly or indirectly, by any officer, board member, or employee of that public school.

(j) "Municipal obligation" means a bond or note or evidence of debt issued by a governmental unit for a purpose authorized by law. A municipal obligation includes loan repayment obligations from a school district to this state with respect to a qualified loan made under a school loan act that is assigned or otherwise transferred by this state to the authority.

(k) "Noncommunity water supply" means a noncommunity water supply as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(*l*) "Notes" means an obligation of the authority issued as provided in this act, including commercial paper, with a maturity of 3 years or less.

(m) "Project" means a sewage treatment works project or a nonpoint source project, or both, as defined in part 53 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301 to 324.5316.

(n) "Reserve fund" means a bond reserve fund or note reserve fund created and established under section 16.

(o) "Revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal obligations and other investments, gifts, grants, contributions, and all other income derived or to be derived by the authority under this act.

(p) "School loan act" means an act to implement section 16 of article IX of the state constitution of 1963, including, but not limited to, 1961 PA 108, MCL 388.951 to 388.963, 1961 PA 112, MCL 388.981 to 388.985, and the school bond qualification, approval, and loan act. For a qualified bond, as defined in 1961 PA 108, MCL 388.951 to 388.963, with a certificate of qualification from the state treasurer issued prior to the effective date of the amendatory act that added this subdivision, "school loan act" means 1961 PA 108, MCL 388.951 to 388.963. For a qualified bond as defined in the school bond qualification, approval, and loan act with a certificate of qualification or approval issued by the state treasurer after the effective date of the school bond qualification, approval, and loan act, school loan act means the school bond qualification, approval, and loan act.

(q) "Water supplier" means a water supplier as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

141.1057 Powers of board generally.

Sec. 7. The board has all of the following powers:

(a) To adopt bylaws for the regulation of its affairs.

(b) To adopt an official seal.

(c) To maintain a principal office at a place within this state.

(d) To sue and be sued in its own name and to plead and be impleaded.

(e) To loan money to a governmental unit, or to a nonprofit corporation, trust, or similar entity for the benefit of a public school academy, at a rate or rates as the authority determines and to purchase and sell, and to commit to purchase and sell, municipal obligations pursuant to this act.

(f) To borrow money and issue negotiable revenue bonds and notes pursuant to this act.

(g) To make and enter into contracts and other instruments necessary or incidental to the performance of its duties and the exercise of its powers. By rotating the services of legal counsel, the authority shall seek to increase the pool of nationally recognized bond counsel.

(h) To receive and accept from any source grants or contributions of money, property, or other things of value, excluding appropriations from the general fund of this state except for appropriations to be used for the benefit of public schools, except for appropriations to a reserve fund established under section 16, except for appropriations to the state water pollution control revolving fund established under section 16a and except for appropriations to the state drinking water revolving fund established under section 16b, and except for appropriations to the school loan revolving fund established under section 16c, to be used, held, and applied only for the purposes for which the grants and contributions were made.

(i) To do all acts necessary or convenient to carry out the powers expressly granted.

(j) To require that final actions of the board are entered in the journal for the board and that all writings prepared, owned, used, in the possession of, or retained by the board in the performance of an official function be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(k) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(*l*) To investigate and assess the infrastructure needs of this state, current methods of financing infrastructure rehabilitation and improvements, and resources and financing options currently available and potentially useful to improve this state's infrastructure and lower the costs of those improvements.

(m) To indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(n) To investigate and assess short-term and long-term borrowing requirements for operating, capital improvements, and delinquent taxes.

(o) To provide assistance, as that term is defined in section 5301 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301, to any municipality for a revolving fund project and to perform all functions necessary or incident to providing that assistance and to the operation of the state water pollution control revolving fund established under section 16a.

(p) To enter into agreements with the federal government to implement the establishment and operation of the state water pollution control revolving fund established under section 16a pursuant to the provisions of the federal water pollution control act and the rules and regulations promulgated under that act.

(q) To provide assistance, as that term is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418, to any governmental unit for a revolving fund community water supply or noncommunity water

supply and to perform all functions necessary or incident to providing that assistance and to the operation of the state drinking water revolving fund established under section 16b, including, but not limited to, using funding allocated in the federal safe drinking water act for any of the purposes authorized in section 5417(c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5417.

(r) To enter into agreements with the federal government to establish and operate the state drinking water revolving fund under section 16b pursuant to the provisions of the federal safe drinking water act and the rules and regulations promulgated under that act.

(s) To enter into agreements with the state treasurer to act as this state's agent to implement the establishment and operation of the school loan revolving fund established under section 16c, including provisions relating to the return to this state of contributions made by this state for deposit in the school loan revolving fund that are no longer needed for school loan revolving fund purposes.

141.1058 Purchase of municipal obligations by authority; bonds or notes of authority; expenses; preferential treatment in rate of interest; forgiving or relinquishing interest or principal of obligation; purchase of qualified bonds of school district; additional purchase.

Sec. 8. (1) The authority may lend money to a governmental unit through the purchase by the authority of municipal obligations of the governmental unit in fully marketable form. The authority may authorize and issue its bonds or notes payable solely from the revenues or funds available to the authority, and to otherwise assist governmental units.

(2) Bonds and notes of the authority shall not be in any way a debt or liability of this state and shall not create or constitute any indebtedness, liability, or obligations of this state or be or constitute a pledge of the faith and credit of this state but all authority bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal of and the interest on the bond or note only from revenues or funds of the authority and that this state is not obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the bond or note.

(3) All expenses incurred in carrying out this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act, and nothing in this act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by this state.

(4) Unless approved by a concurrent resolution of the legislature and except as permitted by section 16a, 16b, or 16c, the authority shall not provide preferential treatment in the rate of interest for a particular municipal obligation purchased by the authority that is based upon other than financial and credit considerations and shall not forgive or relinquish all or part of the interest or principal of a particular municipal obligation or of municipal obligations of a particular purpose.

(5) The authority may purchase bonds issued by school districts that are qualified bonds under a school loan act. Except as provided in subsection (6), the principal amount of the qualified bonds purchased by the authority in any calendar year shall not exceed 7.5% of the principal amount of qualified bonds issued by school districts in the immediately preceding calendar year. The authority may also purchase or accept by assignment from

this state municipal obligations that are loan repayment obligations from a school district on a qualified loan made by this state under a school loan act. Municipal obligations acquired by the authority under this subsection are not required to be in fully marketable form.

(6) In addition to qualified bonds purchased under subsection (5), the authority may purchase qualified bonds issued by school districts not later than September 30, 2004 to obtain funds to repay all or a portion of the outstanding balance of a loan under 1961 PA 108, MCL 388.951 to 388.963, on the terms and conditions and subject to the requirements provided by or pursuant to a resolution of the authority. Bonds issued by the authority to purchase school district qualified bonds under this subsection shall be issued in an amount sufficient to provide and pay the reasonable costs of issuance incurred by the school districts as determined by or pursuant to a resolution of the authority.

141.1066c School loan revolving fund.

Sec. 16c. The authority shall establish a school loan revolving fund and shall establish accounts and subaccounts with the school loan revolving fund as it determines is necessary or appropriate to operate the school loan revolving fund. The authority may fund the school loan revolving fund with proceeds of bonds or notes issued by the authority, revenues of the authority, contributions from this state including contributions resulting from the assignment of the right to receive loan repayments on qualified loans made or authorized by this state under a school loan act, or repayments of loans made from the school loan revolving fund. Funds deposited in the school loan revolving fund may be used only by the authority to make qualified loans to school districts at the times and in the amounts approved by this state under the provisions of a school loan act, for the purpose of funding a reserve fund established by the authority, for the purpose of securing bonds or notes issued by the authority to provide funds for the school loan revolving fund, for the purpose of acting as a surety for the payment of bonds or notes that provide direct or indirect state sponsorship or support to a school district, and for the purpose of paying the costs of the authority to administer the fund. Loans to school districts from the school loan revolving fund with respect to qualified bonds as defined in a school loan act shall be treated as state loans as described in section 16 of article IX of the state constitution of 1963.

Conditional effective date.

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

(a) Senate Bill No. 406.

(b) Senate Bill No. 408.

(c) Senate Bill No. 410.

(d) Senate Bill No. 411.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 406 was filed with the Secretary of State July 20, 2005, and became 2005 PA 92, Imd. Eff. July 20, 2005.
Senate Bill No. 408 was filed with the Secretary of State July 20, 2005, and became 2005 PA 94, Imd. Eff. July 20, 2005.
Senate Bill No. 410 was filed with the Secretary of State July 20, 2005, and became 2005 PA 95, Imd. Eff. July 20, 2005.
Senate Bill No. 411 was filed with the Secretary of State July 20, 2005, and became 2005 PA 96, Imd. Eff. July 20, 2005.

[No. 94]

(SB 408)

AN ACT to amend 1961 PA 112, entitled "An act to authorize and provide for the issuance, sale, and refunding of bonds, notes, or commercial paper of the state; to provide funds for making loans to school districts for payment of principal and interest on certain school bonds; to provide for use of moneys repaid to the state by school districts; and to make an appropriation," by amending sections 2 and 4 (MCL 388.982 and 388.984), section 2 as amended by 2000 PA 245 and section 4 as amended by 1991 PA 64.

The People of the State of Michigan enact:

388.982 School loan revolving fund; disposition of proceeds payment.

Sec. 2. The proceeds of sale of refunding bonds, notes, or commercial paper issued under this act shall be applied as determined by the state administrative board. The proceeds of sale of other bonds, notes, or commercial paper issued under this act shall be deposited in the school loan revolving fund created in section 16c of the shared credit rating act, 1985 PA 227, MCL 141.1066c, and shall be paid out in no other manner or for any other purpose than provided in section 16 of article IX of the state constitution of 1963 and laws enacted pursuant to that section.

388.984 Money repaid by school districts on loans from school loan revolving fund; deposit; exception.

Sec. 4. Any money repaid by school districts on loans made from the school loan revolving fund created in section 16c of the shared credit rating act, 1985 PA 227, MCL 141.1066c, shall be deposited in the school loan revolving fund. Unless amounts on deposit in the school loan revolving fund are insufficient for the purpose of making loans to school districts, the state treasurer may satisfy the requirements of section 16 of article IX of the state constitution of 1963 and laws enacted pursuant to that section by causing loans to be made from the school loan revolving fund. The state treasurer may assign repayments on loans previously made from the school bond loan fund before the effective date of the amendatory act amending this section to require the deposit of proceeds of sale to the school loan revolving fund.

Conditional effective date.

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

(a) Senate Bill No. 406.

(b) Senate Bill No. 407.

(c) Senate Bill No. 410.

(d) Senate Bill No. 411.

This act is ordered to take immediate effect.
Approved July 20, 2005.
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Senate Bill No. 410 was filed with the Secretary of State July 20, 2005, and became 2005 PA 95, Imd. Eff. July 20, 2005.
Senate Bill No. 411 was filed with the Secretary of State July 20, 2005, and became 2005 PA 96, Imd. Eff. July 20, 2005.

[No. 95]

(SB 410)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending section 17a (MCL 388.1617a), as amended by 2002 PA 71.

The People of the State of Michigan enact:

388.1617a Withholding payment district or intermediate district entitled to receive under act; extent; plan for financing outstanding obligation defaulted upon by district or intermediate district; use of amounts withheld; agreement assigning or pledging payment; statement; "trustee of a pooled arrangement" defined.

Sec. 17a. (1) The department may withhold all or part of any payment that a district or intermediate district is entitled to receive under this act to the extent the withholdings are a component part of a plan, developed and implemented pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or other statutory authority, for financing an outstanding obligation upon which the district or intermediate district defaulted. Amounts withheld shall be used to pay, on behalf of the district or intermediate district, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the district or intermediate district defaulted.

(2) The state treasurer may withhold all or part of any payment that a district or intermediate district is entitled to receive under this act to the extent authorized or required under section 15 of the school bond qualification, approval, and loan act.

(3) Under an agreement entered into by a district or intermediate district assigning all or a portion of the payment that it is eligible to receive under this act to the Michigan municipal bond authority or to the trustee of a pooled arrangement or pledging the amount for payment of an obligation it incurred with the Michigan municipal bond authority or with the trustee of a pooled arrangement, the state treasurer shall transmit to the Michigan municipal bond authority or a trustee designated by the authority or to the trustee of a pooled arrangement the amount of the payment that is assigned or pledged under the agreement. Notwithstanding the payment dates prescribed by this act for distributions under this act, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a district or intermediate district and the Michigan municipal bond authority, the payment that the district or intermediate district is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan municipal bond authority. This subsection does not require the state to make an appropriation to any school district or intermediate school district and shall not be construed as creating an indebtedness of the state, and any agreement made pursuant to this subsection shall contain a statement to that effect. As used in this subsection, "trustee of a pooled arrangement" means the trustee of a trust approved by the state treasurer and, subject to the conditions and

requirements of that approval, established for the purpose of offering for sale, as part of a pooled arrangement, certificates representing undivided interests in notes issued by districts or intermediate districts under section 1225 of the revised school code, 1976 PA 451, MCL 380.1225. If a trustee applies to the state treasurer for approval of a trust for the purposes of this subsection, the state treasurer shall approve or disapprove the trust within 10 days after receipt of the application.

Conditional effective date.

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

(a) Senate Bill No. 406.

(b) Senate Bill No. 407.

(c) Senate Bill No. 408.

(d) Senate Bill No. 411.

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

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Senate Bill No. 408 was filed with the Secretary of State July 20, 2005, and became 2005 PA 94, Imd. Eff. July 20, 2005.
Senate Bill No. 411 was filed with the Secretary of State July 20, 2005, and became 2005 PA 96, Imd. Eff. July 20, 2005.

[No. 96]

(SB 411)

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

provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13p of chapter XVII (MCL 777.13p), as amended by 2004 PA 418.

The People of the State of Michigan enact:

CHAPTER XVII

777.13p Applicability of chapter to certain felonies; MCL 338.823 to 388.1237.

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
338.823	Pub trst	F	Private detective license act violation	4
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subsequent offense	4
338.3471(1)(b)	Pub trst	G	Michigan immigration clerical assistant act violation — subsequent offense	2
380.1816	Pub trst	F	Improper use of bond proceeds	4
388.936	Pub trst	F	Knowingly making false statement — school district loans	4
388.962	Pub trst	F	Knowingly making false statement — school district loans	4
388.1237	Pub trst	F	Making false statement or concealing material information to obtain qualification of school bond issue or improperly using proceeds of school bonds	4

Conditional effective date.

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

(a) Senate Bill No. 406.

(b) Senate Bill No. 407.

(c) Senate Bill No. 408.

(d) Senate Bill No. 410.

This act is ordered to take immediate effect.
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Senate Bill No. 408 was filed with the Secretary of State July 20, 2005, and became 2005 PA 94, Imd. Eff. July 20, 2005.
Senate Bill No. 410 was filed with the Secretary of State July 20, 2005, and became 2005 PA 95, Imd. Eff. July 20, 2005.

[No. 97]

(SB 257)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending sections 525, 531, and 543 (MCL 436.1525, 436.1531, and 436.1543), section 525 as amended by 2004 PA 266 and sections 531 and 543 as amended by 2004 PA 191.

The People of the State of Michigan enact:

436.1525 License fee; filing completed application; issuance of license within certain period of time; report; "completed application" defined.

Sec. 525. (1) Except as otherwise provided for in this section, the following license fees shall be paid at the time of filing applications or as otherwise provided in this act:

(a) Manufacturers of spirits, but not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, $1,000.00.

(b) Manufacturers of beer, $50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of $1,000.00, and in addition $50.00 for each motor vehicle used in delivery to retail licensees. A fee increase does not apply to a manufacturer of less than 15,000 barrels production per year.

(c) Outstate seller of beer, delivering or selling beer in this state, $1,000.00.

(d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, $100.00. The small wine maker license fee is $25.00.

(e) Outstate seller of wine, delivering or selling wine in this state, $300.00.

(f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, $300.00.

(g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, $100.00 per train.

(h) Wholesale vendors other than manufacturers of beer, $300.00 for the first motor vehicle used in delivery to retail licensees and $50.00 for each additional motor vehicle used in delivery to retail licensees.

(i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of $100.00 and a maximum fee of $500.00 per year computed on the basis of $1.00 per person per passenger capacity.

(j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, $100.00 for each location regardless of the fact that the location may be a part of a system or chain of merchandising.

(k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, $150.00 per year, and an additional fee of $3.00 for each $1,000.00 or major fraction of that amount in excess of $25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.

(*l*) Hotels of class A selling beer and wine, a minimum fee of $250.00 and, for all bedrooms in excess of 20, $1.00 for each additional bedroom, but not more than $500.00.

(m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of $600.00 and, for all bedrooms in excess of 20, $3.00 for each additional bedroom. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, the fee entitles the hotel to sell in only 1 public bar, other than a bedroom, and a license shall be secured for each additional public bar, other than a bedroom, the fee for which is $350.00.

(n) Taverns, selling beer and wine, $250.00.

(o) Class C license selling beer, wine, mixed spirit drink, and spirits, $600.00. If a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of $350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of $100.00 shall be paid for each additional bar.

(p) Clubs selling beer, wine, mixed spirit drink, and spirits, $300.00 for clubs having 150 or fewer duly accredited members and $1.00 for each additional member. The membership list for the purpose only of determining the license fees to be paid under this subdivision shall be the accredited list of members as determined by a sworn affidavit 30 days before the closing of the license year. This subdivision does not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members is not required of a club paying the maximum fee. The maximum fee shall not exceed $750.00 for any 1 club.

(q) Warehousers, to be fixed by the commission with a minimum fee for each warehouse of $50.00.

(r) Special licenses, a fee of $50.00 per day, except that the fee for that license or permit issued to any bona fide nonprofit association, duly organized and in continuous existence for 1 year before the filing of its application, is $25.00. Not more than 5 special licenses may be granted to any organization, including an auxiliary of the organization, in a calendar year.

(s) Airlines licensed to carry passengers in this state that sell, offer for sale, provide, or transport alcoholic liquor, $600.00.

(t) Brandy manufacturer, $100.00.

(u) Mixed spirit drink manufacturer, $100.00.

(v) Brewpub, $100.00.

(w) Class G-1, $1,000.00.

(x) Class G-2, $500.00.

(2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license. Notwithstanding subsection (1), the initial license fee for any licenses issued under section 531(3) and (4) is $20,000.00. The renewal

license fee shall be the amount described in subsection (1). However, the commission shall not impose the $20,000.00 initial license fee for applicants whose license eligibility was already approved on the effective date of the amendatory act that added this sentence.

(3) Beginning July 23, 2004, and except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), and (5) and a license issued under section 521, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the commission, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled under any of the following circumstances:

(a) Notice sent by the commission of a deficiency in the application until the date all of the requested information is received by the commission.

(b) The time period during which actions required by a party other than the applicant or the commission are completed that include, but are not limited to, completion of construction or renovation of the licensed premises; mandated inspections by the commission or by any state, local, or federal agency; approval by the legislative body of a local unit of government; criminal history or criminal record checks; financial or court record checks; or other actions mandated by this act or rule or as otherwise mandated by law or local ordinance.

(4) If the commission fails to issue or deny a license within the time required by this section, the commission shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the commission to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The commission shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(5) Beginning October 1, 2005, the chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (3).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (4).

(6) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

436.1531 Public licenses and resort licenses; on-premise escrowed licenses; limitations and quotas; additional licenses for certain establishments; license for certain events at public university; economic development factors; exceptions as to certain veterans and airports; special state census of local governmental unit; rules; availability of transferable licenses held in escrow; on-premise escrowed or quota license; issuance of available licenses; report; hotels; definitions.

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premises escrowed licenses issued under this subsection may be transferred subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in a county in which the escrowed license was located. However, beginning July 8, 2004, and until July 1, 2009, if the on-premises escrowed license was issued to a location within a city with a population of over 190,000 but under 300,000, the on-premises escrowed license shall not be transferred to an applicant whose proposed operation is located within any other local governmental unit in the county in which that city is located and, in addition, an escrowed license located within any local governmental unit in that county is not transferable into the city with a population of over 190,000 but under 300,000. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premise licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 5 additional licenses per year to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not for the sale of alcoholic liquor, and whose capital investment in real property, leasehold improvement, and fixtures for the premises to be licensed is $75,000.00 or more. Further, the commission shall issue 1 license under this subsection per year to an applicant located in a rural area that has a poverty rate, as defined by the latest decennial census, greater than the statewide average, or that is located in a rural area that has an unemployment rate higher than the statewide average for 3 of the 5 preceding years. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11) and subject to subsection (16) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities

to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 15 resort economic development licenses per year. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of $1,500,000.00.

(d) The establishment does not allow or permit casino gambling on the premises.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by section 533, has been exhausted, the commission may issue not more than a total of 10 additional specially designated distributor licenses per year to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location. A specially designated distributor license issued pursuant to section 533 may be located within 2,640 feet of a specially designated distributor license issued pursuant to this subsection.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be $50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section are not applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is submitted for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(13) The person signing the application for an on-premise resort or resort economic development license shall state and verify that he or she attempted to secure an on-premise escrowed license or quota license and that, to the best of his or her knowledge, an on-premise escrowed license or quota license is not readily available within the county in which the applicant for the on-premise resort or resort economic development license proposes to operate, except that until July 1, 2009, and in the case involving a city with a population of over 190,000 but under 300,000 that verification is not required.

(14) The commission shall not issue an on-premise resort or resort economic development license if the county within which the resort or resort economic development license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate, except until July 1, 2009, in the case involving a city with a population of over 190,000 but under 300,000. The commission may waive the provisions of this subsection upon a showing of good cause.

(15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.

(16) The commission shall not require a class A hotel or a class B hotel licensed pursuant to subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(17) Subject to the limitation and quotas of subsection (1) and to local legislative approval under section 501(2), the commission may approve the transfer of ownership and location of an on-premises escrowed license within the same county to a class G-1 or class G-2 license or may approve the reclassification of an existing on-premises license at the location to be licensed to a class G-1 license or to a class G-2 license, subject to subsection (1). Resort or economic development on-premises licenses created under subsection (3) or (4) may not be issued as, or reclassified to, a class G-1 or class G-2 license.

(18) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(*i*) The fair market value of the license, if determinable.

(*ii*) The size and scope of the proposed operation.

(*iii*) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

436.1543 Disposition and use of retailers' license and license renewal fees; special fund; "license fee enhancement" defined.

Sec. 543. (1) Quarterly, upon recommendation of the commission, the state shall pay pursuant to appropriation in the manner prescribed by law to the city, village, or township in which a full-time police department or full-time ordinance enforcement department is maintained or, if a police department or full-time ordinance enforcement department is not maintained, to the county, to be credited to the sheriff's department of the county in which the licensed premises are located, 55% of the amount of the proceeds of the retailers' license fees and license renewal fees collected in that jurisdiction, for the specific purpose of enforcing this act and the rules promulgated under this act. Forty-one and one-half percent of the amount of the proceeds of retailers' license and license renewal fees collected shall be deposited in a special fund to be annually appropriated to the commission for carrying out the licensing and enforcement provisions of this act. Any unencumbered or uncommitted money in the special fund shall revert to the general fund of the state 12 months after the end of each fiscal year in which the funds were collected. The legislature shall appropriate 3-1/2% of the amount of the proceeds of retailers' license and license renewal fees collected to be credited to a special fund in the state treasury for

the purposes of promoting and sustaining programs for the prevention, rehabilitation, care, and treatment of alcoholics. This subsection does not apply to retail license fees collected for railroad or Pullman cars, watercraft, or aircraft, or to the transfer fees provided in section 529.

(2) All license and license renewal fees, other than retail license and license renewal fees, shall be credited to the grape and wine industry council created in section 303, to be used as provided in section 303. Money credited to the grape and wine industry council shall not revert to the state general fund at the close of the fiscal year, but shall remain in the account to which it was credited to be used as provided in section 303.

(3) All retail license fees collected for railroad or Pullman cars, watercraft, or aircraft, and the transfer fees provided in section 529 shall be deposited in the special fund created in subsection (1) for carrying out the licensing and enforcement provisions of this act.

(4) The license fee enhancement imposed for licenses issued under section 531(3) and (4) shall be deposited into a special fund to be annually appropriated to the commission for enforcement and other related projects determined appropriate by the commission. The money representing that amount of the license fees for identical licenses not issued under section 531(3) and (4) shall be allocated and appropriated under subsection (1).

(5) As used in this section, "license fee enhancement" means the money representing the difference between the license fee imposed for a license under section 525(1) and the additional amount imposed for resort and resort economic development licenses under section 525(2).

This act is ordered to take immediate effect.
Approved July 20, 2005.
Filed with Secretary of State July 20, 2005.

[No. 98]

(SB 279)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 11, 11a, 11j, 22a, 22b, 51a, and 51c (MCL 388.1611, 388.1611a, 388.1611j, 388.1622a, 388.1622b, 388.1651a, and 388.1651c), sections 11 and 51a as amended by 2004 PA 518, section 11a as added by 2003 PA 158, and sections 11j, 22a, 22b, and 51c as amended by 2004 PA 351.

The People of the State of Michigan enact:

388.1611 Appropriations.

Sec. 11. (1) For the fiscal year ending September 30, 2005, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum

of $10,907,222,200.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of $41,100,000.00 from the proceeds of capitalization of the school bond loan fund revolving fund, and the sum of $165,200,000.00 from the general fund. In addition, available federal funds are appropriated for each fiscal year.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall be deposited into the school aid stabilization fund created in section 11a.

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 11j, 22a, 26a, 31d, 51a(2), 51a(12), 51c, 53a, and 56 shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or $5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). Subject to subsection (5), if proration is necessary after 2002-2003, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, or if the department of treasury determines that further proration is required under this subsection after an initial proration has already been made for a fiscal year, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) Subject to subsection (5), if proration is necessary, the department shall calculate the proration in district and intermediate district payments that is required under subsection (3) as follows:

(a) The department shall calculate the percentage of total state school aid allocated under this act for the affected fiscal year for each of the following:

(*i*) Districts.

(*ii*) Intermediate districts.

(*iii*) Entities other than districts or intermediate districts.

(b) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*i*) for districts

by reducing payments to districts. This reduction shall be made by calculating an equal dollar amount per pupil as necessary to recover this percentage of the proration amount and reducing each district's total state school aid from state sources, other than payments under sections 11f, 11g, 11j, 22a, 26a, 31d, 51a(2), 51a(12), 51c, and 53a, by that amount.

(c) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*ii*) for intermediate districts by reducing payments to intermediate districts. This reduction shall be made by reducing the payments to each intermediate district, other than payments under sections 11f, 11g, 26a, 51a(2), 51a(12), 53a, and 56, on an equal percentage basis.

(d) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(*iii*) for entities other than districts and intermediate districts by reducing payments to these entities. This reduction shall be made by reducing the payments to each of these entities, other than payments under sections 11j and 26a, on an equal percentage basis.

(5) Beginning in 2004-2005, if a district has an emergency financial manager in place under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, payments to that district are not subject to proration under this section.

(6) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a.

388.1611a School aid stabilization fund; deposit; expenditure; investment; money remaining at close of fiscal year; shortfall; full funding.

Sec. 11a. (1) The school aid stabilization fund is created as a separate account within the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(2) The state treasurer may receive money or other assets from any source for deposit into the school aid stabilization fund. The state treasurer shall deposit into the school aid stabilization fund all of the following:

(a) Unexpended and unencumbered state school aid fund revenue for a fiscal year that remains in the state school aid fund as of the bookclosing for that fiscal year.

(b) Money statutorily dedicated to the school aid stabilization fund.

(c) Money appropriated to the school aid stabilization fund.

(3) Money available in the school aid stabilization fund may not be expended without a specific appropriation from the school aid stabilization fund. Money in the school aid stabilization fund shall be expended only for purposes for which state school aid fund money may be expended.

(4) The state treasurer shall direct the investment of the school aid stabilization fund. The state treasurer shall credit to the school aid stabilization fund interest and earnings from fund investments.

(5) Money in the school aid stabilization fund at the close of a fiscal year shall remain in the school aid stabilization fund and shall not lapse to the unreserved school aid fund balance or the general fund.

(6) If the maximum amount appropriated under section 11 from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, there is appropriated from the school aid stabilization fund to the state school aid fund an amount equal to the projected shortfall as determined by the department of treasury, but not to exceed available money in the school aid stabilization fund. If the money in the school aid stabilization fund is insufficient to fully fund an amount equal to the projected shortfall, the state budget director shall notify the legislature

as required under section 11(3) and state payments in an amount equal to the remainder of the projected shortfall shall be prorated in the manner provided under section 11(4).

(7) For 2004-2005, there is transferred from the school aid stabilization fund to the state school aid fund the amount necessary to fully fund the allocations under this act.

388.1611j School loan bond redemption fund; allocation.

Sec. 11j. From the appropriation in section 11 from the proceeds of capitalization of the school bond loan fund revolving fund, there is allocated an amount not to exceed $41,100,000.00 for 2004-2005 for payments to the school loan bond redemption fund in the department of treasury on behalf of districts and intermediate districts. Notwithstanding section 11 or any other provision of this act, funds allocated under this section are not subject to proration and shall be paid in full.

388.1622a Allocation for 2004-2005; payments to districts, university schools, and public school academies; definitions.

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $6,615,000,000.00 for 2004-2005 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than $6,500.00, the state payment under this subsection shall be the sum of the amount calculated under subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus $6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the

negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership.

(3) Beginning in 2003-2004, for pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than $6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(*i*) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(*ii*) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

388.1622b Allocations for 2004-2005; discretionary nonmandated payments; administration of standardized assessment; payments for litigation costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed $2,923,200,000.00 for 2004-2005 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3. Also, if the revised school code is amended to require annual assessments at additional grade levels, in order to receive an allocation under this section each district shall comply with that requirement.

(4) From the allocation in subsection (1), the department shall pay up to $1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity receiving funds under this act that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(7) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds $10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(8) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002, 2002-2003, or 2003-2004, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003, 2003-2004, and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v.

388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2004-2005 an amount not to exceed $896,383,000.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education

act, 20 USC 1411 to 1419, estimated at $329,850,000.00 plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2002-2003 may be distributed in accordance with the flexible funding provisions of the individuals with disabilities education act, title VI of Public Law 91-230, including, but not limited to, 34 CFR 300.234 and 300.235. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $175,500,000.00 for 2004-2005, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, and that district's per pupil allocation under section 20j(2).

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $3,000,000.00, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to

that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations or services between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations or services shall be made in a manner determined by the department and shall include adjustments for program or service shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed $3,500,000.00 may be allocated by the department for 2004-2005 to districts or intermediate districts on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed $2,200,000.00 for 2004-2005 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program.

(b) Beginning with the 2004-2005 fiscal year, a district or intermediate district that employed special education support services staff to provide special education support services in 2003-2004 or in a subsequent fiscal year and that in a fiscal year after 2003-2004 receives the same type of support services from another district or intermediate district shall report the cost of those support services for special education reimbursement purposes under this act. This subdivision does not prohibit the transfer of special education classroom teachers and special education classroom aides if the pupils counted in membership associated with those special education classroom teachers and special education classroom aides are transferred and counted in membership in the other district or intermediate district in conjunction with the transfer of those teachers and aides.

(c) Reimbursement for ancillary and other related services, as defined by R 340.1701c of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated for 2004-2005 an amount not to exceed $15,313,900.00 to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated for 2004-2005 the amount necessary, estimated at $7,000,000.00, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00 minus $200.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal

year and $5,000.00 minus $200.00, and that district's per pupil allocation under section 20j(2). This subsection applies to all of the following pupils:

(a) Pupils described in section 53a.

(b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.

(c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

(a) 100% of the reimbursement required under section 53a.

(b) 100% of the reimbursement required under subsection (6).

(c) 100% of the payment required under section 54.

(d) 100% of the payment required under subsection (3).

(e) 100% of the payment required under subsection (8).

(f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

388.1651c Reimbursement for percentage of special education and special education transportation costs.

Sec. 51c. As required by the court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492, from the allocation under section 51a(1), there is allocated for 2004-2005 the amount necessary, estimated at $642,000,000.00, for payments to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 22b in order to fully fund those calculated allocations for the same fiscal year.

Total state spending; payments to local units of government.

Enacting section 1. In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2004-2005 in this amendatory act, 2004 PA 518, 2004 PA 351, and 2004 PA 185 is estimated at $11,113,522,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at $11,050,922,200.00.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

[No. 99]

(SB 306)

AN ACT to authorize the department of management and budget to convey certain parcels of state owned property in Eaton county; to prescribe conditions for the conveyances;

to provide for certain powers and duties of the department of management and budget in implementing those conveyances; to provide for disposition of revenue derived from the conveyances; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Conveyance of property to Grand Ledge school district; consideration; jurisdiction; location; description; parcels A and B.

Sec. 1. The department of management and budget, on behalf of the state, may convey to the Grand Ledge school district, for consideration of $1.00, 2 parcels of real property now under the jurisdiction of the department of management and budget and located in Eaton county, Michigan, and more particularly described as:

Parcel A

Beginning at a point 16 rods North from the Southeast corner of the North 1/2 of the Southwest 1/4 of Section 11, T4N, R4W; thence West 80 rods; thence North 8 rods; thence East 80 rods; thence South 8 rods to the point of beginning.

Parcel B

Beginning at the Southeast corner of the North 1/2 of the Southwest 1/4 of Section 11, T4N, R4W; thence West 80 rods; thence North on the eighth line 16 rods; thence East 80 rods; thence South on the quarter line 16 rods to the point of beginning.

Conveyance of property to Grand Ledge school district; consideration; jurisdiction; location; description; parcel C.

Sec. 2. The department of management and budget, on behalf of the state, may convey to the Grand Ledge school district in exchange for a lump sum cash payment of not less than the fair market value, a certain parcel of real property now under the jurisdiction of the department of management and budget and located in Eaton county, Michigan, and more particularly described as:

Parcel C

That part of the Southwest 1/4 of Section 11, T4N, R4W, City of Grand Ledge, Eaton County, Michigan, beginning at the Northwest corner of Lot 180, SUPERVISOR'S PLAT NO. 2, City of Grand Ledge, Eaton County, Michigan, recorded in Liber 2 of Plats, Page 42, Eaton County Records; thence along the Northerly projection of the West line of said lot 180, 20.00 feet; thence parallel with the North line of said Lot 180 Easterly 150.00 feet; thence parallel with said West line of Lot 180 Southerly 20.00 feet to said North line of Lot 180; thence Westerly 150.00 feet to the point of beginning.

Descriptions subject to adjustment.

Sec. 3. The descriptions of the parcels in this act are approximate and for purposes of the conveyance are subject to adjustment as the state administrative board or the attorney general considers necessary by survey or other legal description.