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ARTICLE VI  
ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII  
GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII  
STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with,

this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

## ARTICLE IX

### INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rule-making, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

## ARTICLE X

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

## ARTICLE XI

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

#### C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
  - a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
  - b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
  - c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the “Model State Administrative Procedure Act,” of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission’s authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

### ARTICLE XIII

#### OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

##### A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination - If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state’s legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

#### C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

### ARTICLE XIV

#### FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.



D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## ARTICLE XV

### MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

## ARTICLE XVI

### WITHDRAWAL AND DISSOLUTION

#### A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

#### B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

## ARTICLE XVII

### SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

## ARTICLE XVIII

### BINDING EFFECT OF COMPACT AND OTHER LAWS

#### A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

#### B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

### **3.1042 Appointment of representative by governor; qualifications; "armed forces of the United States" defined.**

Sec. 2. (1) Subject to subsection (2), the governor shall appoint this state's representative to the interstate commission on educational opportunity for military children created in section 1.

(2) The governor shall appoint as this state's representative under subsection (1) a person who meets all of the following or a person who meets subdivisions (a) and (b) and is the spouse or child of a person who meets subdivisions (c) and (d):

(a) Is a resident of this state.

(b) Is a person of good moral character.

(c) Has been honorably discharged from the armed forces of the United States after at least 15 years of active duty service.

(d) While engaged in active duty service in the armed forces of the United States, had at least 1 minor child enrolled in elementary or secondary school.

(3) As used in this section, “armed forces of the United States” means the armed forces of the United States and their reserve components and the United States coast guard.

This act is ordered to take immediate effect.

Approved June 11, 2008.

Filed with Secretary of State June 11, 2008.

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**[No. 161]**

**(HB 5936)**

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 720, 723, 724, 728, and 734 (MCL 339.720, 339.723, 339.724, 339.728, and 339.734), sections 720 and 724 as added by 1997 PA 10, sections 723 and 734 as amended by 2005 PA 278, and section 728 as amended by 2000 PA 334, and by adding sections 727a and 734a.

*The People of the State of Michigan enact:*

**339.720 Definitions; practice of public accounting.**

Sec. 720. (1) As used in this article:

(a) “Attest” means providing the following financial statement services:

(i) Any audit or other engagement to be performed in accordance with the statements on auditing standards.

(ii) Any review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.

(iii) Any examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements.

(iv) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(b) “Certified public accountant” means an individual who is either of the following:

(i) Qualified by education, examination, and experience to engage or offer to engage in the practice of public accounting as evidenced by the issuance of a certificate as a certified public accountant under section 725 or 726 and a license or registration issued under section 727.

(ii) An individual whose principal place of business is not in this state and who satisfies the requirements set forth in section 727a.

(c) “Client” means a person or entity that engages a licensee or licensee’s employer to receive any service in the practice of public accounting.

(d) “Compilation” means providing a service to be performed in accordance with statements on standards for accounting and review services that are presenting, in the form of financial statements, information that is the representation of management or owners without undertaking to express any assurance on the statements.

(e) “Firm” means a corporation, partnership, limited liability company, unincorporated association, sole proprietorship operating under an assumed name, or other legal entity.

(f) “Home office” means the location specified by the client as the address to which a service described in subdivision (a) or (d) is directed.

(g) Subject to subsection (2), “practice of public accounting” means rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that financial information as set forth presents fairly the condition of the entity reviewed or audited, in regard to an entity embracing 1 or more of the following:

(i) Financial information.

(ii) Facts respecting compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation.

(iii) The scope of the accounting procedures rendered in connection with the presentation of a financial statement.

(h) “Principal place of business” means the office location designated by the licensee for the purposes of substantial equivalency and reciprocity.

(i) “Report”, when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes, or is accompanied by, any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor or from the language of the report itself. Report includes any form of language which disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply that assurance or special knowledge and competence, or both.

(2) In addition to the definition set forth in subsection (1)(g), practice of public accounting includes 1 or more of the following activities when performed or offered to be performed by a person holding himself or herself out as a certified public accountant for a client or a potential client:

(a) The issuance of reports on financial statements.

(b) One or more kinds of management advisory, financial advisory, or consulting services.

(c) The preparation of tax returns.

(d) The furnishing of advice on tax matters.

**339.723 Use of title, terms, or abbreviations indicating person is certified public accountant; prohibited conduct; display or uttering of certain instrument or device as prima facie evidence that person caused or procured display; use of certain designations in connection with firm name; violation; fine; investigation and enforcement.**

Sec. 723. (1) Each individual having complied with the requirements described in section 720(1)(b) shall be known as a certified public accountant and any other person shall not use that title or the abbreviation “CPA” or any other word, words, letters, or figures to indicate that the person using them is a certified public accountant unless the use is specifically approved by the board. Use of the terms “certified accountant”, “chartered accountant”,

“public accountant”, and “registered accountant” and the abbreviations “C.A.”, “P.A.”, and “R.A.” is specifically prohibited as being prima facie misleading to the public.

(2) Except as provided in section 724, a person shall not engage in the practice of public accounting either in the person’s own name, under an assumed name, or as a member of a firm or as an employee, unless the person holds a Michigan license as a certified public accountant issued under this article or is practicing public accounting in this state pursuant to section 727a.

(3) Unless use of a term is specifically approved by the board, the display or uttering by a person of a card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device bearing a person’s name in conjunction with a title described in subsection (1) shall be prima facie evidence that the person whose name is so displayed caused or procured the display or uttering of the card, sign, advertisement, directory listing, or other printed, engraved, or written instrument or device. Evidence of the commission of a single act prohibited by this section is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

(4) Each licensed firm may use the designation “certified public accountants” in connection with the firm name, except that a licensed firm having only 1 member may use only the designation “certified public accountant”. An unlicensed firm shall not use the designation “certified public accountants”, “certified accountants”, “chartered accountants”, “public accountants”, or “registered accountants” or the abbreviation “C.P.A.”, “CPA”, “CPAs”, “C.A.”, “P.A.”, or “R.A.” in connection with the firm name unless the firm is licensed under the laws of another licensing jurisdiction and is permitted to practice in this state without obtaining a license as described in section 728.

(5) A person that violates this section or a rule or order promulgated or issued under or related to this section is liable for an administrative fine payable to the department of not more than \$25,000.00 per violation.

(6) The department may conduct an investigation and proceed under article 5 to enforce this section.

### **339.724 Conduct not prohibited by article.**

Sec. 724. This article does not prohibit the following:

(a) An individual who is not a certified public accountant from serving as an employee of, or an assistant to, a certified public accountant or firm composed of certified public accountants licensed to practice under this article if the individual does not issue an accounting or financial statement over his or her name.

(b) A licensed certified public accountant of another licensing jurisdiction who does not meet the requirements of section 727a, or an accountant who is licensed in a foreign country for the practice of public accounting in that country, from temporarily and periodically engaging in the practice of public accounting in this state if all of the following requirements are met:

(i) The individual is conducting a regular practice of public accounting in another licensing jurisdiction or foreign country.

(ii) The temporary practice is conducted in conformity with section 736 and applicable rules promulgated by the director, if any.

(iii) The individual secures a temporary permit from the department to conduct the practice in this state.

(c) A practicing attorney from preparing reports or presenting records customarily prepared by an attorney in connection with the attorney’s professional work.

(d) A person from preparing a financial report or tax return, not requiring the expression of an opinion on the report or return, for filing with a federal, state, or local governmental unit.

(e) An officer, employee, partner, or principal of an organization from signing a statement or report in reference to the financial affairs of the organization with wording designating the position, title, or office which the officer, employee, partner, or principal of an organization holds in that organization.

(f) An act of a public official or public employee in the performance of that individual's official duties.

(g) An individual who may be employed by more than 1 person or firm from keeping books, making trial balances or statements, and preparing audits or reports, if the audits or reports are not used or issued by the employer as having been prepared by a certified public accountant.

(h) A firm that does not hold a valid license under section 728 and that does not have an office in this state from providing its professional services in this state in the practice of public accountancy and from using the certified public accountant designation so long as it complies with the requirements of section 728(5) or (6), whichever is applicable.

### **339.727a Individual whose principal place of business is outside of state; practice without need to obtain certificate, license, or temporary practice permit; requirements; practice privileges.**

Sec. 727a. (1) An individual whose principal place of business is not in this state shall be considered to have qualifications substantially equivalent to this state's requirements, shall have all the privileges of licensees of this state, and may practice public accountancy without the need to obtain a certificate, license, or temporary practice permit under this article, if the individual meets either or both of the following:

(a) Holds a valid license as a certified public accountant from another licensing jurisdiction that requires, as a condition of licensure, that the individual meets all of the following:

(i) Has at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university.

(ii) Achieves a passing grade on the uniform certified public accountant examination.

(iii) Possesses at least 1 year of experience including providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which may be obtained through government, industry, academic, or public practice as verified by a licensee.

(b) Holds a valid license as a certified public accountant from another licensing jurisdiction that does not meet the requirements of subdivision (a), but such individual's certified public accountant qualifications are substantially equivalent to those requirements. Any individual who passed the uniform certified public accountant examination and holds a valid license issued by another licensing jurisdiction prior to January 1, 2012 is exempt from the education requirement in subdivision (a)(i) for purposes of this subdivision.

(2) Notwithstanding any other provision of law, an individual who offers or renders professional services, whether in person or by mail, telephone, or electronic means under this section shall be granted practice privileges in this state, and no notice, fee, or other submission shall be required of any such individual. Such an individual is subject to the requirements of section 734a.

**339.728 License to engage in practice of public accounting; application by firm; requirements; change of address; practice of public accounting under subsection (1); conditions; other professional services practiced without license.**

Sec. 728. (1) A firm organized for the practice of public accounting shall apply for and obtain a Michigan license under this article in order to engage in the practice of public accounting in this state if either of the following apply:

(a) The firm establishes or maintains an office in this state.

(b) An individual representing the firm performs any engagement described in section 720(1)(a)(i), (iii), or (iv) for any client having its home office in this state.

(2) Reports produced pursuant to engagements in subsection (1)(b) may be supervised or signed, or the report's signature may be authorized for the firm, by an individual practicing public accounting in Michigan pursuant to section 727a.

(3) A firm applying for licensure under this article shall meet all of the following requirements:

(a) At least a simple majority of the equity and voting rights of the firm are held directly or beneficially by individuals who are licensed in good standing as certified public accountants of this or another state or the equivalent in another licensing jurisdiction acceptable to the board. Owners who are not certified public accountants as defined by section 720(1)(b) must be active individual participants in the firm or its affiliated entities. An individual with practice privileges under section 727a who performs services for which a firm permit is required under this section is not required to obtain a certificate under section 726 or a registration or license under section 727.

(b) The principal officer of the firm and each officer or director having authority for the practice of public accounting by the firm are licensed in good standing as certified public accountants in this or another state or the equivalent in another licensing jurisdiction acceptable to the board.

(c) Has filed the required certificate of authority with the department pursuant to the business corporations act, 1972 PA 284, MCL 450.2001 to 450.2098, if applicable.

(4) A firm shall provide a change in address to the department within 30 days of the change.

(5) A firm not required to obtain a Michigan license under subsection (1) may perform a review engagement in accordance with the statements on standards for accounting and review services or a compilation for a client having its home office in this state, may use the title "CPA" or "CPA firm", and may practice public accountancy as authorized in this section without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It has met the requirements in subsection (3)(a) and (b) and section 729(2).

(b) It performs such services through an individual with practice privileges under section 727a.

(6) A firm not required to obtain a Michigan license under subsection (1) and that is not seeking to practice under subsection (5) may perform other professional services within the practice of public accountancy while using the title "CPA" or "CPA firm" in this state without a license issued under subsection (1) only if it meets both of the following conditions:

(a) It performs such services through an individual with practice privileges under section 727a.

(b) It can lawfully do so in the licensing jurisdiction where such individuals with practice privilege have their principal place of business.

### **339.734 Prohibited conduct; penalties; report to department.**

Sec. 734. (1) A holder of a certificate, registration, or license as a certified public accountant or an individual exercising the practice privilege granted under section 727a and the firm employing that individual is subject to the penalties of section 602 for 1 or more of the following:

(a) Fraud or deceit in obtaining a certificate or registration as a certified public accountant, a license to practice public accounting, or a practice privilege under this article.

(b) Dishonesty, fraud, or negligence in the practice of public accounting.

(c) Violation of a rule of professional conduct promulgated under this article.

(d) Conviction of a felony under the laws of this or another state or the United States or conviction of a crime, an element of which is dishonesty, fraud, or negligence, under the laws of this or another state or of the United States, including, but not limited to, the failure to file a personal federal, state, or local income tax return.

(e) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant by another state for a cause other than failure to pay a licensure or other required fee in that state.

(f) Suspension or revocation for cause of the right to engage in the practice of public accounting before a state or federal agency.

(g) Conduct discreditable to the public accounting profession.

(h) Determination of mental incompetency by a court of law.

(i) A violation of this article or a rule promulgated under this article.

(j) A violation of the provisions of section 604.

(k) A violation of professional standards regarding the issuance of reports on financial statements; 1 or more kinds of management advisory, financial advisory, or consulting services; the preparation of tax returns; or the furnishing of advice on tax matters.

(2) Notwithstanding section 602(e), a person that violates this article or a rule or order promulgated or issued under or related to this article is liable for an administrative fine payable to the department of not more than \$25,000.00 per violation.

(3) Within 30 days after a final determination rendered by a federal or state administrative agency or a judgment or conviction issued by a federal court, a state court, or any other court of record, a licensee or registrant shall report to the department in writing or electronically a determination, order, judgment, or conviction regarding a violation in which dishonesty, fraud, or negligence is an element of that determination, order, judgment, or conviction.

### **339.734a Exercise of privilege granted by MCL 339.727a; conditions; disciplinary action for act committed in another licensing jurisdiction; prima facie evidence of violation.**

Sec. 734a. (1) An individual, having met the requirements of, and exercising the practice privilege granted by, section 727a, and the firm employing that individual, simultaneously consent to all of the following as a condition of the exercise of that privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board and the department.

(b) To comply with this act and the applicable rules.



(c) In the event the license from the licensing jurisdiction of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm.

(d) To the appointment of the state board or other licensing authority issuing his or her license as the agent upon whom process may be served in any action or proceeding by this board against the individual or the firm employing that individual.

(2) An individual having met the requirements as described by section 727a may perform an engagement described in section 720(1)(a)(i), (iii), or (iv) for an entity with its home office in this state only through a firm that has obtained a license under section 728.

(3) A licensee of this state offering or rendering services or using the certified public accountant title in another licensing jurisdiction or before a state or federal agency is subject to the disciplinary action in this state for an act committed in another licensing jurisdiction or before a state or federal agency for which the licensee would be subject to discipline for an act committed in another licensing jurisdiction or before a state or federal agency. The department is required to examine any complaint made by the state board or other licensing jurisdictional authority and may accept, as prima facie evidence of a violation of this act, the final order of violation issued by another state board or other licensing jurisdictional authority.

This act is ordered to take immediate effect.

Approved June 11, 2008.

Filed with Secretary of State June 11, 2008.

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**[No. 162]**

**(HB 5476)**

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 435 (MCL 206.435), as added by 2007 PA 133.

*The People of the State of Michigan enact:*

**206.435 Contribution designations; duration; cessation by department; insufficient refund to make contribution; appropriation.**

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant

act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(d) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(e) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(f) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(g) The Michigan law enforcement officers memorial monument fund created in section 3 of the Michigan law enforcement officers memorial act, 2004 PA 177, MCL 28.783.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after the effective date of the amendatory act that added this section shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

This act is ordered to take immediate effect.

Approved June 16, 2008.

Filed with Secretary of State June 16, 2008.

**[No. 163]****(SB 752)**

AN ACT to amend 1967 PA 150, entitled “An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal acts and parts of acts,” by amending section 237 (MCL 32.637).

*The People of the State of Michigan enact:*

**32.637 Certificates of discharge; discharge before expiration of term; presentment to home counties for recording.**

Sec. 237. (1) Enlisted personnel discharged from service in the national guard shall receive certificates of discharge in writing as prescribed by the laws or regulations of the United States or this state for the national guard. In time of peace, a discharge may be given prior to the expiration of the term of enlistment under prescribed regulations, subject to the restrictions of federal law or regulations.

(2) The department of military and veterans affairs shall present to the home counties of enlisted personnel for recording pursuant to 1867 PA 83, MCL 35.31 to 35.35, all discharge certificates for enlisted personnel discharged from service in the national guard.

This act is ordered to take immediate effect.

Approved June 19, 2008.

Filed with Secretary of State June 19, 2008.

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**[No. 164]****(SB 296)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 81129 (MCL 324.81129), as amended by 2003 PA 111.

*The People of the State of Michigan enact:*

**324.81129 Operation of ORV by child; operation of ATV by child; requirements; ORV information, safety education, and training program; course instruction; ORV safety certificates; rules; exceptions; report.**

Sec. 81129. (1) Subject to subsections (2), (3), (17), and (18), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(2) Subject to subsection (18), a parent or legal guardian of a child less than 12 years of age shall not permit the child to operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsections (5), (6), (17), and (18), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(5) Subject to subsection (18), the owner or person in charge of a 4-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 12 years of age, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability except as provided in section 81131.

(8) The department shall implement a comprehensive ORV information, safety education, and training program that shall include the training of operators and the preparation and dissemination of information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training provided under the program and may include separate instruction for each type of ORV.

(9) In implementing a program that is established pursuant to this section, the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a person it considers qualified to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10) and (18).

(12) Subject to subsections (13), (14), (17), and (18), a child who is less than 16 years of age may operate an ORV if the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this section or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(13) Subject to subsection (18), a child who is less than 12 years of age shall not operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) Subject to subsection (18), when operating an ORV under subsection (12), a child shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a highway or street. An operator who is not less than 12 years of age but less than 16 years of age may cross a highway or street or operate on the right-of-way or shoulder of designated access routes pursuant to section 81131 if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement of possession or presentation of an ORV safety certificate under this section does not apply until implementation of the program for the vehicle proposed to be operated required by subsection (8).

(18) The requirement that a child possess an ORV safety certificate to operate an ORV, and the requirement that a child who is less than 12 years of age not operate a 4-wheeled ATV unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child, do not apply if all of the following requirements are met:

(a) The child is participating in an organized ORV riding or racing event held on land not owned by this state.

(b) The child's parent or legal guardian has provided the event organizer with written permission for the child to participate in the event.

(c) The event organizer has not less than \$500,000.00 liability insurance coverage for the event.

(d) A physician or physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a paramedic or emergency medical technician licensed under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979, is present at the site of the event or available on call.

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn ORV riders if another ORV rider is injured or an ORV is inoperable in the ORV operating area.

(f) Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.

(g) If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface in the ORV operating area is otherwise properly prepared.

(h) Three-wheeled ATVs are not used by participants.

(i) Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and the tether is used by all participants.

(j) Each participant in the event wears a crash helmet approved by the United States department of transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.

(k) Any other applicable requirements of this part or rules promulgated under this part are met.

(19) If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event shall, within 30 days after the event, submit to the department a report on a form developed by the department. The report shall include all of the following, as applicable:

(a) Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate under this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(d) The type of ORV operated.

(e) A description of the accident and injury.

(20) By December 31 of each year, the department shall submit to the legislature a report that summarizes reports received under subsection (19) during the preceding calendar year. In the report, the department may recommend amendments to this part to improve the safety of children less than 16 years of age participating in organized ORV riding or racing events.

This act is ordered to take immediate effect.  
Approved June 19, 2008.  
Filed with Secretary of State June 19, 2008.

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**[No. 165]**

**(HB 5221)**

AN ACT to provide for a capital outlay program; to set forth the provisions for its implementation within the budgetary process; to make appropriations for planning and construction at state institutions and the acquisition of land; to provide for the elimination of fire hazards at the institutions; to provide for certain special maintenance, remodeling, alteration, renovation, or demolition of and additions to projects at state institutions; to provide for elimination of occupational safety and health hazards at state agencies and institutions; to provide for the award of contracts; to provide for expenditures under the supervision of the director of the department of management and budget and the state administrative board; to provide for certain advances from the general fund; to prescribe powers and duties of certain state officers and agencies; to require certain reports, plans, and agreements; to provide for leases; to prescribe standards and conditions relating to the appropriations; to make appropriations for the fiscal year ending September 30, 2008; and to provide for the expenditure of the appropriations.

*The People of the State of Michigan enact:*

PART 1

LINE-ITEM APPROPRIATIONS FOR  
FISCAL YEAR 2007-2008

**Appropriations; capital outlay.**

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for certain capital outlay projects at the various state agencies and institutions for the fiscal year ending September 30, 2008, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**CAPITAL OUTLAY  
APPROPRIATION SUMMARY**

GROSS APPROPRIATION ..... \$ 183,191,300

	For Fiscal Year Ending Sept. 30, 2008
Interdepartmental grant revenues:	
Total interdepartmental grants and intradepartmental transfers.....	\$ 0
ADJUSTED GROSS APPROPRIATION .....	\$ 183,191,300
Federal revenues:	
Total federal revenues .....	162,867,600
Special revenue funds:	
Total local revenues.....	15,209,400
Total private revenues.....	0
Total other state restricted revenues .....	5,114,300
State general fund/general purpose .....	\$ 0

**Department of transportation - airport improvement programs.**

**Sec. 102. DEPARTMENT OF TRANSPORTATION -**

**AIRPORT IMPROVEMENT PROGRAMS**

Airport safety, protection, and improvement program .....	\$ 183,191,300
GROSS APPROPRIATION .....	\$ 183,191,300
Appropriated from:	
Federal revenues:	
DOT, federal aviation administration.....	162,867,600
Special revenue funds:	
Local aeronautics match.....	15,209,400
State aeronautics fund.....	5,114,300
State general fund/general purpose .....	\$ 0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

**Total state spending; payments to local units of government.**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2007-2008 is \$5,114,300.00 and state spending from state resources to be paid to local units of government for fiscal year 2007-2008 is \$5,114,300.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

**CAPITAL OUTLAY**

Department of transportation – airport safety, protection and improvement program .....	\$ 5,114,300
TOTAL.....	\$ 5,114,300

**Appropriations subject to MCL 18.1101 to 18.1594.**

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

**STATE TRANSPORTATION DEPARTMENT****Construction and improvement of publicly used airports and landing fields; contracts awarded on behalf of local government; limitation; allocation of local money; matching federal money.**

Sec. 901. (1) From federal-state-local project appropriations contained in part 1 for the purpose of assisting political entities and subdivisions of this state in the construction and improvement of publicly used airports and landing fields within this state, the state transportation department may permit the award of contracts on behalf of units of local government for the authorized locations not to exceed the indicated amounts, of which the state allocated portion shall not exceed the amount appropriated in part 1.

(2) Political entities and subdivisions shall provide not less than 2.5% of the cost of any project under this section, unless a total nonfederal share greater than 5% is otherwise specified in federal law. State money shall not be allocated until local money is allocated. State money for any 1 project shall not exceed 1/3 of the total appropriation in part 1 from state funds for airport improvement programs.

(3) The Michigan aeronautics commission may take those steps necessary to match federal money available for airport construction and improvement within this state and to meet the matching requirements of the federal government. Whether acting alone or jointly with another political subdivision or public agency or with this state, a political subdivision or public agency of this state shall not submit to any agency of the federal government a project application for airport planning or development unless it is authorized in this act and the project application is approved by the governing body of each political subdivision or public agency making the application and by the Michigan aeronautics commission.

**Project status; report to JCOS.**

Sec. 902. Before the end of each fiscal year, the state transportation department shall report to JCOS the status of projects funded in part 1 with the estimated dollars allocated for each project. If there has to be a delay in reporting, the state transportation department shall notify JCOS in writing of the date the report will be received.

**Availability of appropriation; lapse.**

Sec. 903. (1) A planning project or construction project appropriated for the airport program shall be made available for no more than 2 fiscal years following the fiscal year in which the original appropriation was made.

(2) Any remaining balance from allocations made in this section shall lapse to the fund from which it was appropriated pursuant to the lapsing of funds as provided in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

This act is ordered to take immediate effect.

Approved June 19, 2008.

Filed with Secretary of State June 19, 2008.

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**[No. 166]**

**(SB 1256)**

AN ACT to amend 2006 PA 152, entitled “An act to allow the requiring of a permit before demonstrating outside of locations in which a funeral service is being held; to allow local units of government to prohibit certain conduct at or near the locations in which a funeral service is being held; to prescribe the powers and duties of certain local governments and officials; and to provide for penalties,” by amending section 3 (MCL 123.1113).



*The People of the State of Michigan enact:*

**123.1113 Ordinance; additional provisions.**

Sec. 3. The ordinance authorized under section 1 may also include such other provisions the local unit of government considers necessary, including, but not limited to, prohibiting any person from doing any of the following within 500 feet of the property line of a building or other location where a funeral, memorial service, burial, or viewing of a deceased person is being conducted or within 500 feet of a funeral procession in the hour immediately before, or during, or in the 2 hours immediately following:

- (a) Making loud and raucous noise and continuing to do so after being asked to stop.
- (b) Making any statement or gesture that would make a reasonable person under the circumstances feel intimidated, threatened, or harassed.
- (c) Engaging in any other conduct that the person knows or should reasonably know will disturb, disrupt, or adversely affect the funeral, memorial service, viewing of the deceased person, funeral procession, or burial.

This act is ordered to take immediate effect.

Approved June 26, 2008.

Filed with Secretary of State June 26, 2008.

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**[No. 167]**

**(HB 5383)**

AN ACT to provide for the member-regulation of electric cooperatives; to prescribe the powers and duties of certain state agencies and officials; and to provide for certain penalties and remedies.

*The People of the State of Michigan enact:*

**460.31 Short title.**

Sec. 1. This act shall be known and may be cited as the “electric cooperative member-regulation act”.

**460.32 Definitions.**

Sec. 2. As used in this act:

- (a) “Board of directors” or “board” means the group of members democratically elected by the members of a cooperative electric utility to manage the business and affairs of the cooperative electric utility.
- (b) “Commission” means the Michigan public service commission.
- (c) “Cooperative” or “cooperative electric utility” means an electric utility organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, serving primarily members of the cooperative electric utility.
- (d) “Electric utility” means a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity the commission regulates under 1909

PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 460.10cc. Electric utility does not include a municipal utility, affiliated transmission company, or independent transmission company.

(e) “Member” means a person, partnership, corporation, association, or other legal entity that purchases electricity from a cooperative electric utility as a member of the cooperative.

(f) “Member-regulation” means the board of directors of the cooperative is charged with establishing, maintaining, and applying all rates, charges, accounting standards, billing practices, and terms and conditions of service.

### **460.33 Cooperative electric utilities; purpose of act.**

Sec. 3. Cooperative electric utilities, which are owned by the members they serve, are regulated by their members acting through democratically elected boards of directors. It is declared that member-regulation by a cooperative in the areas of rates, charges, accounting standards, billing practices, and terms and conditions of service may be more efficient and cost-effective. The purpose of this act is to allow the board of directors to elect member-regulation for rates, charges, accounting standards, billing practices, and terms and conditions of service.

### **460.34 Proposal by board of directors to become member-regulated; procedures.**

Sec. 4. To become member-regulated under this act, the board of directors shall comply with the following procedures:

(a) A director may propose to become member-regulated at any properly convened meeting of the board of directors. The board may not act on the proposal until 90 days has passed from the date the proposal was made.

(b) The board may only act on the proposal to become member-regulated at a meeting of the board for which written notice of the time and place of the meeting has been provided to all members of the cooperative. Notice to the members shall be written and delivered not less than 21 or more than 60 days before the date of the meeting and shall contain a copy of the proposal. Notice may be sent by first-class mail or may be published in a periodical issued by an association of cooperative electric utilities and mailed to each member of record of the cooperative.

(c) The meeting of the board of directors at which the proposal is to be acted upon shall be open to all members of the cooperative. The board shall allow members of the cooperative reasonable time to address the board prior to its acting upon the proposal.

(d) A roll call vote of the board of directors with 2/3 of the members voting in support of the proposal to become member-regulated is necessary for adoption of the proposal.

(e) The minutes of the meeting at which the proposal is acted upon, including the roll call vote, shall be provided to the members of the cooperative within 60 days from the date of the meeting in the same manner as the notice of the meeting at which the proposal was acted upon.

(f) The cooperative shall notify the commission in writing of the action of the board of directors on the proposal to become member-regulated within 10 days after the date of the action, and the cooperative shall become member-regulated as provided for in this act 90 days following the date of the notice to the commission.

(g) The board of directors may vote to rescind the proposal once adopted by following the same procedures that were followed in the adoption of the proposal.

**460.35 Election to become member-regulated; overturn of proposal by members.**

Sec. 5. The members of a cooperative that has elected to become member-regulated may overturn the proposal adopted by the board of directors by complying with the following:

(a) An election to overturn the vote by the board of directors to be member-regulated shall be called not less than 120 days after receipt of a valid petition signed by 5% or 750 members of the cooperative, whichever is less.

(b) The proposition to overturn the vote by the board of directors to be member-regulated shall be presented to a meeting of the members of the cooperative, the notice of which shall set forth the proposition for member-regulation and the time and place of the meeting. The cooperative shall deliver written notice to members not less than 21 days or more than 60 days before the date of the meeting. Notice shall be sent in the same manner as the notice for the meeting at which the proposal was acted upon. The cooperative shall pay the costs to notify the members of an election under this subdivision.

(c) Voting on the proposition to overturn the vote by the board of directors to be member-regulated shall be by mail ballot, and internet, provided members attending the meeting provided for in subdivision (b) may execute and deliver their ballot to the cooperative during or at the conclusion of the meeting. Proxy voting shall not be permitted.

(d) If the proposition to overturn the vote by the board of directors to be member-regulated is approved by the affirmative vote of not less than 2/3 of the members voting on the proposition, and at least 10% of the total number of members cast a vote, the cooperative shall notify the commission in writing of the results within 10 days after the date of the election, and the cooperative shall no longer be member-regulated as provided for in this act 90 days following the date of the notice to the commission.

(e) A cooperative's members may vote no more than once every 24 months to overturn the vote by the board of directors to be member-regulated as provided in this act.

(f) If the proposition to overturn the vote by the board of directors to be member-regulated is approved by the members in accordance with this section, the board of directors may not act on a proposal to member-regulate as provided for under section 4 until 36 months from the date notice of the election to overturn the vote of the board of directors was provided to the commission under subdivision (d).

**460.36 Rates, charges, accounting standards, billing practices, and terms and conditions of service; jurisdiction and control by commission; scope.**

Sec. 6. (1) A cooperative electing to be member-regulated under this act shall, by board action, establish, maintain, and apply all rates, charges, accounting standards, billing practices, and terms and conditions of service in accordance with this act.

(2) Notwithstanding the provisions of this act, the commission shall retain jurisdiction and control over all member-regulated cooperatives for matters involving safety, interconnection, code of conduct including, but not limited to, all relationships between a member-regulated cooperative and an affiliated alternative electric supplier, customer choice including, but not limited to, the ability of customers to elect service from an alternative electric supplier under 1939 PA 3, MCL 460.1 to 460.10cc, and the member-regulated cooperative's rates, terms, and conditions of service for customers electing service from an alternative electric supplier, service area, distribution performance standards, and quality of service, including interpretation of applicable commission rules and resolution of complaints and disputes, except any penalties pertaining to performance standards and quality of service shall be established by the cooperative's members when voting on the proposition for member-regulation or at an annual meeting of the cooperative.

**460.37 Establishment, maintenance, and applicability of rates and charges; adoption, amendment, repeal, or addition to billing practices and service rules; availability of electronic copy; notice of rate increase or other changes.**

Sec. 7. (1) A cooperative electric utility that is member-regulated under this act shall determine how rates and charges for service provided are to be established, maintained, and applied. The rates and charges shall reasonably reflect the costs of providing service and shall be uniform within the classes of service provided by the cooperative.

(2) The board of directors of a cooperative electric utility that is member-regulated may adopt, amend, repeal, or add to the cooperative's billing practices and service rules provided it has given written notice to members at least 30 days prior to the effective date of any action taken.

(3) Each cooperative which has elected to be member-regulated shall maintain and make available to the public an electronic copy of its rates, charges, accounting standards, billing practices and service rules, and terms and conditions of service on a website and shall maintain a paper copy at all offices of the cooperative for review by the general public. In addition, the cooperative shall provide a copy of the same to the commission as well as a copy of the cooperative's most recent audited financial statement.

(4) If a cooperative is member-regulated under this act, the board shall give at least 10 days' notice to all members of the cooperative of the time and place of any meeting of the board at which an increase in rates affecting at least 5% of the members or substantive changes in billing practices and service rules or terms and conditions of service are to be discussed and voted on. Any such meeting shall be open to all members. Notice under this subsection shall be sent by first-class mail to all members or may be published in a periodical issued by an association of cooperative electric utilities and mailed to each member of record of the cooperative electric utility.

**460.38 Notice of rate change or other changes; time period; publication.**

Sec. 8. (1) A cooperative electric utility that is member-regulated shall publish notice of any rate change or any change in billing practices and service rules or terms and conditions of service at least 30 days prior to the effective date of the change.

(2) The notice under this section shall be sent by first-class mail to all members or may be published in a periodical issued by an association of cooperative electric utilities and mailed to each member of record of the cooperative electric utility.

**460.39 Areas served and line extension disputes involving member-regulated cooperative electric utility and electric utility; jurisdiction of commission; procedures.**

Sec. 9. (1) The commission shall retain jurisdiction over all areas served and line extension disputes involving a cooperative electric utility that is member-regulated under this act and a regulated electric utility. This act does not limit the commission's jurisdiction over areas served and line extension disputes granted to the commission under any other law or statute. A cooperative electric utility that is member-regulated under this act shall operate in compliance with R 460.3411 of the Michigan administrative code, regarding extension of electric service in areas served by 2 or more utilities. The commission shall continue to possess all jurisdiction and authority necessary to administer and enforce the provisions of 1929 PA 69, MCL 460.501 to 460.506, and R 460.3411 of the Michigan administrative code with respect to member-regulated cooperative electric utilities.

(2) When a member-regulated cooperative is required to give notice to the commission and any affected electric utility of its intention to extend service to a prospective customer as required under R 460.3411 of the Michigan administrative code, the notice shall also include the charge to extend service, if any, and the rate or rates for the service offered.

(3) If the electric utility, after being notified under R 460.3411 of the Michigan administrative code, believes that a cooperative that is member-regulated under this act either proposes to unlawfully extend service to a prospective customer or has offered an unjustly preferential charge for extension of service or unjust rate to a prospective customer and that prospective customer could otherwise be served by the electric utility pursuant to the commission's rules for extension of electric service, the affected electric utility may file an objection with the commission. Any objection allowed under this subsection shall be filed within 60 days from the date notice of the intent to extend service was provided by the cooperative. If an objection is filed by the utility notified under R 460.3411 of the Michigan administrative code, the commission shall first determine whether the complaining utility or the cooperative, or both, have the lawful right to provide service to the prospective customer and then, if necessary, determine whether the charges or rates offered by the cooperative are just and reasonable based on the cooperative's cost of service. That determination shall be made at a contested case proceeding conducted pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. A cooperative's charges or rates offered to a prospective customer shall be considered just and reasonable upon a showing by the cooperative that the charges to extend service to a prospective customer and the rates offered are equivalent to the cooperative's charges to extend service and rates charged to other similarly situated customers served by the cooperative. If the cooperative does not provide service to other similarly situated customers, the cooperative shall demonstrate that its charges to extend service and the rates offered to the prospective customer are just and reasonable based on the cooperative's cost of providing service to the prospective customer, consistent with industry practice. At the choice of the customer, either the electric utility or the member-regulated cooperative may provide service to the prospective customer until the commission determines the appropriate service provider.

(4) A municipally owned utility that has entered into a service area agreement with a cooperative in accordance with section 10y(6) of 1939 PA 3, MCL 460.10y, may file an action in the circuit court in the district where the cooperative's main office is located alleging that a rate or charge offered by the cooperative is unjust and unreasonable. An action filed under this subsection shall be filed within 60 days after the municipally owned utility becomes aware of the rate or charge. In determining whether a rate or charge is just and reasonable, the circuit court shall use the standards set forth in subsection (3) for determinations made by the commission. If the circuit court determines that the rate or charge offered to the prospective customer is unjust or unreasonable, the court shall order the cooperative to assess the appropriate rate or charge to the prospective customer. Notwithstanding any law to the contrary, if the circuit court issues an order under this subsection, any prospective customer directly affected by the order shall be permitted by the cooperative to switch service to the objecting municipally owned utility, if the affected customer has given the cooperative written notice of the customer's intent to switch within 60 days from the date of the court's order and the objecting municipally owned utility agrees to pay the cooperative the reasonable value, as determined by the circuit court, of its facilities that will continue to be used to serve the customer by the objecting municipally owned utility.

(5) If the commission finds that an electric utility or cooperative providing temporary service to a customer under this act is not a lawful service provider for that customer, the commission shall order service to that customer transferred to the lawful provider. That order shall require the provider acquiring the customer to pay for the reasonable cost of the facilities, as determined by the commission, constructed to serve the transferred customer, which will be used by the acquiring provider to serve the transferred customer.

(6) If the commission finds that the cooperative is a lawful service provider but the cooperative's charges to extend service, if any, or the rates offered to the prospective customer are unjust or unreasonable, the commission shall order the cooperative to assess the appropriate charges to extend service and assess the appropriate rates to the prospective customer. Notwithstanding rules to the contrary, if the commission issues an order under this subsection, any prospective customer directly affected by the commission's order shall be permitted by the cooperative to switch service to the objecting electric utility, if the affected customer has given the cooperative written notice of the customer's intent to switch within 60 days from the date of the commission's order and the objecting electric utility agrees to pay the cooperative the reasonable value, as determined by the commission, of its facilities that will continue to be used to serve the customer by the objecting electric utility.

This act is ordered to take immediate effect.

Approved June 26, 2008.

Filed with Secretary of State June 26, 2008.

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**[No. 168]**

**(HB 5893)**

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," by amending sections 201 and 203 (MCL 208.1201 and 208.1203), section 201 as amended by 2007 PA 145.

*The People of the State of Michigan enact:*

**208.1201 Business income tax; imposition; adjustments; "book-tax difference," "qualifying asset," and "business loss" defined; residential rental units; definitions.**

Sec. 201. (1) Except as otherwise provided in this act, there is levied and imposed a business income tax on every taxpayer with business activity within this state unless prohibited by 15 USC 381 to 384. The business income tax is imposed on the business income tax base, after allocation or apportionment to this state, at the rate of 4.95%.

(2) The business income tax base means a taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustments in subsections (5), (6), and (7) after allocation or apportionment:

(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.

(b) Add all taxes on or measured by net income and the tax imposed under this act to the extent the taxes were deducted in arriving at federal taxable income.

(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.

(d) To the extent included in federal taxable income, deduct dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 964 of the internal revenue code.

(e) To the extent included in federal taxable income, add the loss or subtract the income from the business income tax base that is attributable to another entity whose business activities are taxable under this section or would be subject to the tax under this section if the business activities were in this state.

(f) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary business group. The addition of any royalty, interest, or other expense described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose other than avoidance of this tax, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and satisfies 1 of the following:

(i) Is a pass through of another transaction between a third party and the related person with comparable rates and terms.

(ii) Results in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.

(iii) Is unreasonable as determined by the treasurer, and the taxpayer agrees that the addition would be unreasonable based on the taxpayer's facts and circumstances.

(g) To the extent included in federal taxable income, deduct interest income derived from United States obligations.

(h) To the extent included in federal taxable income, deduct any earnings that are net earnings from self-employment as defined under section 1402 of the internal revenue code of the taxpayer or a partner or limited liability company member of the taxpayer except to the extent that those net earnings represent a reasonable return on capital.

(i) Subject to the limitation provided under this subdivision, if the book-tax differences for the first fiscal period ending after July 12, 2007 result in a deferred liability for a person subject to tax under this act, deduct the following percentages of the total book-tax difference for each qualifying asset, for each of the successive 15 tax years beginning with the 2015 tax year:

(i) For the 2015 through 2019 tax years, 4%.

(ii) For the 2020 through 2024 tax years, 6%.

(iii) For the 2025 through 2029 tax years, 10%.

(3) The deduction under subsection (2)(i) shall not exceed the amount necessary to offset the net deferred tax liability of the taxpayer as computed in accordance with generally accepted accounting principles which would otherwise result from the imposition of the business income tax under this section and the modified gross receipts tax under section 203 if the deduction provided under this subdivision were not allowed. The deduction under subsection (2)(i) is intended to flow through and reduce the surcharge imposed and levied under section 281. For purposes of the calculation of the deduction under subsection (2)(i), a book-tax difference shall only be used once in the calculation of the deduction arising from the taxpayer's business income tax base under this section and once in the calculation of the deduction arising from the taxpayer's modified gross receipts tax base under section 203. The adjustment under subsection (2)(i) shall be calculated without regard to the federal effect of

the deduction. If the adjustment under subsection (2)(i) is greater than the taxpayer's business income tax base, any adjustment that is unused may be carried forward and applied as an adjustment to the taxpayer's business income tax base before apportionment in future years. In order to claim this deduction, the department may require the taxpayer to report the amount of this deduction on a form as prescribed by the department that is to be filed on or after the date that the first quarterly return and estimated payment are due under this act. As used in subsection (2)(i) and this subsection:

(a) "Book-tax difference" means the difference, if any, between the person's qualifying asset's net book value shown on the person's books and records for the first fiscal period ending after July 12, 2007 and the qualifying asset's tax basis on that same date.

(b) "Qualifying asset" means any asset shown on the person's books and records for the first fiscal period ending after July 12, 2007, in accordance with generally accepted accounting principles.

(4) For purposes of subsections (2) and (3), the business income of a unitary business group is the sum of the business income of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any items of income and related deductions arising from transactions including dividends between persons included in the unitary business group.

(5) Deduct any available business loss incurred after December 31, 2007. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or apportionment. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned business income tax base, then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first, but for not more than 10 taxable years after the loss year.

(6) Deduct any gain from the sale of any residential rental units in this state to a qualified affordable housing project that enters an agreement to operate the residential rental units as rent restricted units for a minimum of 15 years. If the qualified affordable housing project does not agree to operate all of the residential rental units as rent restricted units, the deduction under this subsection is limited to an amount equal to the gain from the sale multiplied by a fraction, the numerator of which is the number of those residential rental units purchased that are to be operated as a rent restricted unit and the denominator is the number of all residential rental units purchased. In order to claim this deduction, the department may require the taxpayer and the qualified affordable housing project to report the amount of this deduction on a form as prescribed by the department that is to be signed by both the taxpayer and the qualified affordable housing project and filed with the taxpayer's annual return. The department shall record a lien against the property subject to the operation agreement for the total amount of the deduction allowed under this subsection. The department shall notify the qualified affordable housing project of the maximum amount of the lien that the qualified affordable housing project may be liable for if the qualified affordable housing project fails to qualify and operate as provided in the operation agreement within 15 years after the purchase. The lien shall become payable in an amount as provided under this subsection to the state by the qualified affordable housing project if the qualified affordable housing project fails to qualify as a qualified affordable housing project and fails to operate all or some of the residential rental units as rent restricted units in accordance with the operation agreement entered upon the purchase of those units within 15 years after the deduction is claimed by a taxpayer under this subsection. An amount equal to the product of 100% of the amount of the deduction allowed under this subsection multiplied by a fraction, the numerator of which is the difference between 15 and the number of years the affordable housing project qualified and operated rent restricted units in accordance with the agreement and the denominator is 15, shall be added back to the tax liability of the qualified



affordable housing project for the tax year that the qualified affordable housing project fails to comply with the agreement.

(7) Subject to the limitations provided in this subsection, for a person that is a qualified affordable housing project, deduct an amount equal to the product of that person's taxable income that is attributable to residential rental units in this state owned by the qualified affordable housing project multiplied by a fraction, the numerator of which is the number of rent restricted units in this state owned by that qualified affordable housing project and the denominator of which is the number of all residential rental units in this state owned by the qualified affordable housing project. The amount of the deduction calculated under this subsection shall be reduced by the amount of limited dividends or other distributions made to the partners, members, or shareholders of the qualified affordable housing project. Taxable income that is attributable to residential rental units does not include income received by the management, construction, or development company for completion and operation of the project and those rental units.

(8) If a qualified affordable housing project no longer meets the requirements of subsection (9)(b) or fails to operate those residential rental units as rent restricted units in accordance with the operation agreement and the requirements of subsection (9)(c), the taxpayer is entitled to the deductions under subsections (6) and (7) as long as the qualified affordable housing project continues to offer some of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

(9) For purposes of subsections (6), (7), and (8) and this subsection:

(a) "Limited dividend housing association" means a limited dividend housing association, corporation, or cooperative organized and qualified pursuant to chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496.

(b) "Qualified affordable housing project" means a person that is organized, qualified, and operated as a limited dividend housing association that has a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and has received funding, subsidies, grants, operating support, or construction or permanent funding through 1 or more of the following sources and programs:

(i) Mortgage or other financing provided by the Michigan state housing development authority created in section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421, the United States department of housing and urban development, the United States department of agriculture for rural housing service, the Michigan interfaith housing trust fund, Michigan housing and community development fund, federal home loan bank, housing commission loan, community development financial institution, or mortgage or other funding or guaranteed by Fannie, Ginnie, federal housing association, United States department of agriculture, or federal home loan mortgage corporation.

(ii) A tax-exempt bond issued by a nonprofit organization, local governmental unit, or other authority.

(iii) A payment in lieu of tax agreement or other tax abatement.

(iv) Funding from the state or a local governmental unit through a HOME investments partnership program authorized under 42 USC 12741 to 12756.

(v) A grant or other funding from a federal home loan bank's affordable housing program.

(vi) Financing or funding under the new markets tax credit program under section 45D of the internal revenue code.

(vii) Financed in whole or in part under the United States department of housing and urban development's hope VI program as authorized by section 803 of the national affordable housing act, 42 USC 8012.

(viii) Financed in whole or in part under the United States department of housing and urban development's section 202 program authorized by section 202 of the national housing act, 12 USC 1701q.

(ix) Financing or funding under the low-income housing tax credit program under section 42 of the internal revenue code.

(x) Financing or other subsidies from any new programs similar to any of the above.

(c) "Rent restricted unit" means any residential rental unit's rental income is restricted in accordance with section 42(g)(1) of the internal revenue code as if it was a qualified low-income housing project, or receives rental assistance in the form of HUD section 8 subsidies or HUD housing assistance program subsidies, or rental assistance from the United States department of agriculture rural housing programs, or from any of the other programs described under subdivision (b).

### **208.1203 Modified gross receipts tax; levy; imposition; "modified gross receipts tax base" explained; deduction; remittance; residential rental units; definitions.**

Sec. 203. (1) Except as otherwise provided in this act, there is levied and imposed a modified gross receipts tax on every taxpayer with nexus as determined under section 200. The modified gross receipts tax is imposed on the modified gross receipts tax base, after allocation or apportionment to this state at a rate of 0.80%.

(2) The tax levied and imposed under this section is upon the privilege of doing business and not upon income or property.

(3) The modified gross receipts tax base means a taxpayer's gross receipts subject to the adjustment in subsection (6), if applicable, less purchases from other firms before apportionment under this act. The modified gross receipts of a unitary business group is the sum of modified gross receipts of each person, other than a foreign operating entity or a person subject to the tax imposed under chapter 2A or 2B, included in the unitary business group less any modified gross receipts arising from transactions between persons included in the unitary business group.

(4) For the 2008 tax year, deduct 65% of any remaining business loss carryforward calculated under section 23b(h) of former 1975 PA 228 that was actually incurred in the 2006 or 2007 tax year to the extent not deducted in tax years beginning before January 1, 2008. A deduction under this subsection shall not include any business loss carryforward that was incurred before January 1, 2006. If the taxpayer is a unitary business group, the business loss carryforward under this subsection may only be deducted against the modified gross receipts tax base of that person included in the unitary business group calculated as if the person was not included in the unitary business group.

(5) Nothing in this act shall prohibit a taxpayer who qualifies for the credit under section 445 or a taxpayer who is a dealer of new or used personal watercraft from collecting the tax imposed under this section in addition to the sales price. The amount remitted to the department for the tax under this section shall not be less than the stated and collected amount.

(6) Subject to the limitations provided in this subsection, for a person that is a qualified affordable housing project, deduct an amount equal to that person's total gross receipts attributable to residential rental units in this state owned by the qualified affordable housing project multiplied by a fraction, the numerator of which is the number of rent restricted units in this state owned by the qualified affordable housing project and the denominator of which is the number of all rental units in this state owned by the qualified affordable housing project. The amount of the deduction calculated under this subsection shall be reduced

by the amount of limited dividends or other distributions made to the partners, members, or shareholders of the qualified affordable housing project. Gross receipts attributable to residential rental units do not include amounts received by the management, construction, or development company for completion and operation of the project and those rental units.

(7) If a qualified affordable housing project no longer meets the requirements of subsection (8)(b) or fails to operate those residential rental units as rent restricted units in accordance with the operation agreement and the requirements of subsection (8)(c), the qualified affordable housing project is entitled to the deduction under subsection (6) as long as the qualified affordable housing project continues to offer some of the residential rental units purchased as rent restricted units in accordance with the operation agreement.

(8) For purposes of subsections (6) and (7) and this subsection:

(a) “Limited dividend housing association” means a limited dividend housing association, corporation, or cooperative organized and qualified pursuant to chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496.

(b) “Qualified affordable housing project” means a person that is organized, qualified, and operated as a limited dividend housing association that has a limitation on the amount of dividends or other distributions that may be distributed to its owners in any given year and has received funding, subsidies, grants, operating support, or construction or permanent funding through 1 or more of the following sources and programs:

(i) Mortgage or other financing provided by the Michigan state housing development authority created in section 21 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1421, the United States department of housing and urban development, the United States department of agriculture for rural housing service, the Michigan interfaith housing trust fund, Michigan housing and community development fund, federal home loan bank, housing commission loan, community development financial institution, or mortgage or other funding or guaranteed by Fannie, Ginnie, federal housing association, United States department of agriculture, or federal home loan mortgage corporation.

(ii) A tax-exempt bond issued by a nonprofit organization, local governmental unit, or other authority.

(iii) A payment in lieu of tax agreement or other tax abatement.

(iv) Funding from the state or a local governmental unit through a HOME investments partnership program authorized under 42 USC 12741 to 12756.

(v) A grant or other funding from a federal home loan bank’s affordable housing program.

(vi) Financing or funding under the new markets tax credit program under section 45D of the internal revenue code.

(vii) Financed in whole or in part under the United States department of housing and urban development’s hope VI program as authorized by section 803 of the national affordable housing act, 42 USC 8012.

(viii) Financed in whole or in part under the United States department of housing and urban development’s section 202 program authorized by section 202 of the national housing act, 12 USC 1701q.

(ix) Financing or funding under the low-income housing tax credit program under section 42 of the internal revenue code.

(x) Financing or other subsidies from any new programs similar to any of the above.

(c) “Rent restricted unit” means any residential rental unit’s rental income is restricted in accordance with section 42(g)(1) of the internal revenue code as if it was a qualified low-income housing project, or receives rental assistance in the form of HUD section 8 subsidies

or HUD housing assistance program subsidies, or rental assistance from the United States department of agriculture rural housing programs, from any of the other programs described under subdivision (b).

This act is ordered to take immediate effect.

Approved June 30, 2008.

Filed with Secretary of State June 30, 2008.

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**[No. 169]**

**(SB 572)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 40114 (MCL 324.40114), as amended by 2004 PA 587.

*The People of the State of Michigan enact:*

**324.40114 Permits and licenses; paraplegics, amputees, and permanently disabled; issuance of permit for certain purposes; taking of game with modified bow; suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of permit; disposition of fees.**

Sec. 40114. (1) The department may issue a permit to a person who is unable to walk because the person is a paraplegic or an amputee or because of a disease or injury that has rendered the person permanently disabled. A permit issued under this subsection authorizes the person to take game during the open season for that game, including deer of either sex, from or upon a standing vehicle if that person holds a license to take that game issued pursuant to part 435 and complies with all other laws and rules for the taking of game.

(2) The department may issue a permit to a person who is permanently disabled, who has full use of only 1 arm, and who upon investigation is unable to hold, aim, and shoot a bow. A permit issued under this subsection authorizes the person to take game during the open season for that game with a bow that has been modified so that the bow may be held, aimed, and shot with 1 arm, if that person holds a license to take that game issued pursuant to part 435 and complies with all other laws and rules for the taking of game.

(3) The commission may issue an order under section 40113a regulating the taking of game with a modified bow that may be shot with 1 arm. Subsection (2) does not apply on or after the effective date of such an order.

(4) In addition, the department may issue permits authorizing 1 or more of the following:

(a) The taking or possession of animals for the purpose of rehabilitating animals.

(b) The taking of animals to prevent or control damage and nuisance caused by the animals.

(c) The collection, transportation, possession, or disposition of animals and parts of animals for scientific purposes.

(d) The public exhibition of animals.

(e) Taxidermy.

(f) The disposition of accidentally or unlawfully taken or injured animals or animals that are unlawfully possessed.

(g) The taking of game with a crossbow by a person who is permanently disabled.

(5) A permit issued under this section may be suspended, revoked, annulled, withdrawn, recalled, canceled, or amended pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the holder of a permit is convicted of violating the permit or this section, his or her permit or license may be revoked and any animal and the parts of any animal in his or her possession shall be disposed of in a manner approved by the department.

(6) Fees received for permits and licenses issued under this section shall be forwarded by the department to the state treasurer to be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

This act is ordered to take immediate effect.

Approved July 2, 2008.

Filed with Secretary of State July 2, 2008.

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**[No. 170]**

**(SB 867)**

AN ACT to amend 1974 PA 198, entitled “An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties,” by amending sections 2, 9, and 15 (MCL 207.552, 207.559, and 207.565), sections 2 and 9 as amended by 2007 PA 146 and section 15 as amended by 1996 PA 513.

*The People of the State of Michigan enact:*

**207.552 Definitions.**

Sec. 2. (1) “Commission” means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) “Facility” means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) “Replacement facility” means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(4) “New facility” means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(5) “Local governmental unit” means a city, village, or township located in this state.

(6) “Industrial property” means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, operation of a strategic response center, operation of a motorsports entertainment complex, operation of a logistical optimization center, operation of qualified commercial activity, operation of a major distribution and logistics facility, the manufacture of goods or materials, creation or synthesis of biodiesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. Industrial property also includes convention and trade centers over 250,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 USC 341, located in a city with a population of 750,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007.

(c) Inventory.

(7) “Obsolete industrial property” means industrial property the condition of which is substantially less than an economically efficient functional condition.

(8) “Economically efficient functional condition” means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors that make the property less desirable and valuable for continued use.

(9) “Research and development laboratories” means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 41 of the internal revenue code, 26 USC 41, except

that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(10) “Manufacture of goods or materials” or “processing of goods or materials” means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(11) “High-technology activity” means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(12) “Logistical optimization center” means a sorting and distribution center that supports a private passenger motor vehicle assembly center and its manufacturing process for the purpose of optimizing transportation, just-in-time inventory management, and material handling, and to which all of the following apply:

(a) The sorting and distribution center is within 2 miles of a private passenger motor vehicle assembly center that, together with supporting facilities, contains at least 800,000 square feet.

(b) The sorting and distribution center contains at least 950,000 square feet.

(c) The sorting and distribution center has applied for an industrial facilities exemption certificate after June 30, 2005 and before January 1, 2006.

(d) The private passenger motor vehicle assembly center is located on land conditionally transferred by a township with a population of more than 25,000 under 1984 PA 425, MCL 124.21 to 124.30, to a city with a population of more than 100,000 that levies an income tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(13) “Commercial property” means that term as defined in section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.

(14) “Qualified commercial activity” means commercial property that meets all of the following:

(a) An application for an exemption certificate approved by the local governmental unit is filed for approval by the state tax commission not later than April 30, 2006.

(b) At least 90% of the property, excluding the surrounding green space, is used for warehousing, distribution, and logistics purposes that provide food for institutional, restaurant, hospital, or hotel customers.

(c) Is located within a village and is within 15 miles of a Michigan state border.

(d) Occupies 1 or more buildings or structures that together are greater than 300,000 square feet in size.

(15) “Motorsports entertainment complex” means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) Has at least 70,000 fixed seats for race patrons.

(b) Has at least 6 scheduled days of motorsports events each calendar year, at least 2 of which shall be comparable to nascar nextel cup events held in 2007 or their successor events.

(c) Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets’ sales.

(d) Engages in tourism promotion.

(e) Has permanent exhibitions of motorsports history, events, or vehicles.

(16) “Major distribution and logistics facility” means a proposed distribution center that meets all of the following:

(a) Contains at least 250,000 square feet.

(b) Has or will have an assessed value of \$5,000,000.00 or more for the real property.

(c) Is located within 35 miles of the border of this state.

(d) Has as its purpose the distribution of inventory and materials to facilities owned by the taxpayer whose primary business is the retail sale of sporting goods and related inventory.

**207.559 Finding and determination in resolution approving application for certificate; valuation requiring separate finding and statement; compliance with certain requirements as condition to approval of application and granting of certificate; demolition, sale, or transfer of obsolete industrial property; certificate applicable to speculative building; procedural information; failure of commission to receive application; replacement facility; property owned or operated by casino; issuance of certificates.**

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

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

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

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



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

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

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

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

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

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

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

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

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

(iv) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16. The facility described in this subparagraph shall be taxed under this act as if it was granted an industrial facilities exemption certificate in October 2001, and a corrected tax bill shall be issued by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If granting

the industrial facilities exemption certificate under this subparagraph results in an overpayment of the tax, a rebate, including any interest and penalties paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(v) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in December 2005 for construction that was commenced in September 2005 in a district that was established by the legislative body of the local governmental unit in December 2005. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16.

(vi) A facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for real property in July 2006 if the application was approved by the legislative body of the local governmental unit in September 2006 but not submitted to the state tax commission until September 2006.

(vii) A new facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for personal property in June 2006 if the application was approved by the legislative body of the local governmental unit in August 2006 but not submitted to the state tax commission until 2007. The effective date of the certificate shall be December 31, 2006.

(viii) A new facility located in an industrial development district that was established by the legislative body of the local governmental unit in September of 2007 for construction that was commenced in March 2007 and for which an application for an industrial facilities exemption certificate was filed in September of 2007.

(ix) A facility located in an industrial development district that was established by the legislative body of the local governmental unit in August 2007 and was owned by a person who filed an application for an industrial facilities exemption certificate in June 2007 for equipment that was purchased in January 2007.

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

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

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

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

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

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

(j) If the facility is locating in a plant rehabilitation district or an industrial development district from another location in this state, the owner of the facility is not delinquent in any of the taxes described in section 10(1)(a) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially delinquent in any of the taxes described in and as provided under section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690.

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

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

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

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

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

(8) Property owned or operated by a casino is not industrial property or otherwise eligible for an abatement or reduction of ad valorem property taxes under this act. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, convention and trade

center, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

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

(10) Notwithstanding any other provision of this act, if the commission issued an industrial facilities exemption certificate for a new facility on December 8, 1998 but revoked that industrial facilities exemption certificate for that same facility effective December 30, 2006 and that new facility is purchased by a buyer on or before November 1, 2007, the commission shall issue for that property an industrial facilities exemption certificate that begins December 31, 1998 and ends December 30, 2010 and shall transfer that industrial facilities exemption certificate to the buyer. The new facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate effective on December 31, 1998.

(11) Notwithstanding any other provision of this act, if the commission issued industrial facilities exemption certificates for new facilities on October 30, 2002, September 9, 2003, and November 30, 2005 but revoked the industrial facilities exemption certificates for the same facilities effective December 30, 2007 and the new facilities continue to qualify under this act, the commission shall issue for the properties industrial facilities exemption certificates which end respectively on December 30, 2008, December 30, 2009, and December 30, 2011.

**207.565 Revocation of exemption certificate; request; grounds; notice; hearing; order; effective date; revocation of certificate issued for speculative building; reinstatement of certificate.**

Sec. 15. (1) Upon receipt of a request by certified mail to the commission by the holder of an industrial facilities exemption certificate requesting revocation of the certificate, the commission shall by order revoke the certificate in whole or revoke the certificate with respect to its real property component, or its personal property component, whichever is requested.

(2) The legislative body of a local governmental unit may by resolution request the commission to revoke the industrial facilities exemption certificate of a facility upon the grounds that, except as provided in section 7a, completion of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate, unless a greater time has been authorized by the commission for good cause; that the replacement, restoration, or construction of the facility has not occurred within 6 years after the date the initial industrial facilities exemption certificate was issued as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the purposes for which the certificate was issued are not being fulfilled as a result of a failure of the holder to proceed in good faith with the replacement, restoration, or construction and operation of the replacement facility or new facility or with the use of the speculative building as a manufacturing facility in a manner

consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(3) Upon receipt of the resolution, the commission shall give notice in writing by certified mail to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit, and to the legislative body of each local taxing unit which levies taxes upon property in the local governmental unit in which the facility is located. The commission shall afford to the holder of the certificate, the local legislative body, the assessor, and a representative of the legislative body of each taxing unit an opportunity for a hearing. The commission shall by order revoke the certificate if the commission finds that completion except as provided in section 7a of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate or a greater time as authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the holder of the certificate has not proceeded in good faith with the replacement, restoration, or construction and operation of the facility or with the use of the speculative building as a manufacturing facility in good faith in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(4) The order of the commission revoking the certificate shall be effective on the December 31 next following the date of the order and the commission shall send by certified mail copies of its order of revocation to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit in which the facility is located, and to the legislative body of each taxing unit which levies taxes upon property in the local governmental unit in which the facility is located.

(5) A revocation of a certificate issued for a speculative building shall specify and apply only to that portion of the speculative building for which the grounds for revocation relate.

(6) Notwithstanding any other provision of this act, upon the written request of the holder of a revoked industrial facilities exemption certificate to the local unit of government and the commission and the submission to the commission of a resolution of concurrence by the legislative body of the local unit of government in which the facility is located, and if the facility continues to qualify under this act, the commission may reinstate a revoked industrial facilities exemption certificate.

This act is ordered to take immediate effect.

Approved July 2, 2008.

Filed with Secretary of State July 2, 2008.

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**[No. 171]**

**(HB 4817)**

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of

financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 675d and 742 (MCL 257.675d and 257.742), section 675d as amended by 2004 PA 49 and section 742 as amended by 2000 PA 268.

*The People of the State of Michigan enact:*

**257.675d Authorizing and utilizing persons other than police officers to issue citations; violations; training program; definitions.**

Sec. 675d. (1) Except as provided in subsection (2), a law enforcement agency or a local unit of government may implement and administer a program to authorize and utilize persons other than police officers as volunteers to issue citations for the following violations:

(a) Parking on a sidewalk in violation of section 674(1)(a) or a local ordinance substantially corresponding to section 674(1)(a).

(b) Parking in front of a public or private driveway in violation of section 674(1)(b) or a local ordinance substantially corresponding to section 674(1)(b).

(c) Parking within 15 feet of a fire hydrant in violation of section 674(1)(d) or a local ordinance substantially corresponding to section 674(1)(d).

(d) Parking on a crosswalk in violation of section 674(1)(e) or a local ordinance substantially corresponding to section 674(1)(e).

(e) Parking within 20 feet of a crosswalk or, if there is not a crosswalk, within 15 feet of the intersection of property lines at an intersection of highways, in violation of section 674(1)(f) or a local ordinance substantially corresponding to section 674(1)(f).

(f) Parking at a place where an official sign prohibits stopping or parking in violation of section 674(1)(n) or a local ordinance substantially corresponding to section 674(1)(n). This subdivision does not authorize a volunteer to issue a citation for any other violation set forth in section 674 or a local ordinance substantially corresponding to section 674.

(g) Parking in a space reserved for use by disabled persons in violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s).

(h) Parking in an access aisle or access lane immediately adjacent to a space designated for parking by persons with disabilities in violation of section 674(1)(t) or a local ordinance substantially corresponding to section 674(1)(t).

(i) Parking in violation of an official sign restricting the period of time for or manner of parking in violation of section 674(1)(w) or a local ordinance substantially corresponding to section 674(1)(w). This subdivision does not authorize a volunteer to issue a citation for any other violation set forth in section 674 or a local ordinance substantially corresponding to section 674.

(j) Parking in a space or in a manner that blocks access to a fire lane in violation of section 674(1)(aa) or a local ordinance substantially corresponding to section 674(1)(aa).

(2) Before authorizing and utilizing persons other than police officers to issue citations, the law enforcement agency or local unit of government shall implement a program to train

the persons to properly issue citations as provided in this section. The program shall contain at least 40 hours of instruction in parking enforcement conducted by that law enforcement agency or the law enforcement agency for that local unit of government or, if the local unit of government does not have a law enforcement agency, by the county sheriff. A person who successfully completes a program of training implemented pursuant to this section may issue citations as provided in this section as authorized by the law enforcement agency or local unit of government. A law enforcement agency of a local unit of government shall not implement or administer a program under this section without the specific authorization of the governing body of that local unit of government. A law enforcement agency shall not implement or administer a program under this section that would allow volunteers to issue citations under subsection (1)(a), (b), (c), (d), (e), (f), or (i) for any violations for which the use of volunteers is prohibited under a collective bargaining agreement between that local unit of government and any law enforcement officers of that local unit of government.

(3) As used in this section:

(a) “Law enforcement agency” means any of the following:

(i) A police agency of a city, village, or township.

(ii) A sheriff’s department.

(iii) The department of state police.

(iv) Any other governmental law enforcement agency in this state.

(b) “Local unit of government” means a state university or college or a county, city, village, or township.

**257.742 Stopping, detaining, and issuing citation for civil infraction; pursuing, stopping, and detaining person outside village, city, township, or county; purpose; violation as to load, weight, height, length, or width of vehicle or load; powers of police officer; issuing citation to driver of motor vehicle; form of citation; informing person of alleged civil infraction; delivering copy of citation to alleged offender; issuing, serving, and processing citations for parking and standing violations; filing citation with court; “parking violation notice” and “parking violations bureau” defined.**

Sec. 742. (1) A police officer who witnesses a person violating this act or a local ordinance substantially corresponding to this act, which violation is a civil infraction, may stop the person, detain the person temporarily for purposes of making a record of vehicle check, and prepare and subscribe, as soon as possible and as completely as possible, an original and 3 copies of a written citation, which shall be a notice to appear in court for 1 or more civil infractions. If a police officer of a village, city, township, or county, or a police officer who is an authorized agent of a county road commission, witnesses a person violating this act or a local ordinance substantially corresponding to this act within that village, city, township, or county and that violation is a civil infraction, that police officer may pursue, stop, and detain the person outside the village, city, township, or county where the violation occurred for the purpose of exercising the authority and performing the duties prescribed in this section and section 749, as applicable.

(2) Any police officer, having reason to believe that the load, weight, height, length, or width of a vehicle or load are in violation of section 717, 719, 719a, 722, 724, 725, or 726 which violation is a civil infraction, may require the driver of the vehicle to stop, and the officer may investigate, weigh, or measure the vehicle or load. If, after personally investigating, weighing, or measuring the vehicle or load, the officer determines that the load, weight,

height, length, or width of the vehicle or load are in violation of section 717, 719, 719a, 722, 724, 725, or 726, the officer may temporarily detain the driver of the vehicle for purposes of making a record or vehicle check and issue a citation to the driver or owner of the vehicle as provided in those sections.

(3) A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable cause to believe that the person is responsible for a civil infraction in connection with the accident. A police officer may issue a citation to a person who is a driver of a motor vehicle when, based upon personal investigation by the police officer of a complaint by someone who witnessed the person violating this act or a local ordinance substantially corresponding to this act, which violation is a civil infraction, the officer has reasonable cause to believe that the person is responsible for a civil infraction and if the prosecuting attorney or attorney for the political subdivision approves in writing the issuance of the citation.

(4) The form of a citation issued under subsection (1), (2), or (3) shall be as prescribed in sections 727c and 743.

(5) The officer shall inform the person of the alleged civil infraction or infractions and shall deliver the third copy of the citation to the alleged offender.

(6) In a civil infraction action involving the parking or standing of a motor vehicle, a copy of the citation is not required to be served personally upon the defendant but may be served upon the registered owner by attaching the copy to the vehicle. A city may authorize personnel other than a police officer to issue and serve a citation for a violation of its ordinance involving the parking or standing of a motor vehicle. A city may authorize a person other than personnel or a police officer to issue and serve a citation for parking violations described in section 675d if the city has complied with the requirements of section 675d. State security personnel receiving authorization under section 6c of 1935 PA 59, MCL 28.6c, may issue and serve citations for violations involving the parking or standing of vehicles on land owned by the state or land of which the state is the lessee when authorized to do so by the director of the department of state police.

(7) If a parking violation notice other than a citation is attached to a motor vehicle, and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by ordinance for the violation are not paid at the parking violations bureau, a citation may be filed with the court described in section 741(4) and a copy of the citation may be served by first-class mail upon the registered owner of the vehicle at the owner's last known address. A parking violation notice may be issued by a police officer, including a limited duty officer, or other personnel duly authorized by the city, village, township, college, or university to issue such a notice under its ordinance. The citation filed with the court pursuant to this subsection need not comply in all particulars with sections 727c and 743 but shall consist of a sworn complaint containing the allegations stated in the parking violation notice and shall fairly inform the defendant how to respond to the citation.

(8) A citation issued under subsection (6) or (7) for a parking or standing violation shall be processed in the same manner as a citation issued personally to a defendant under subsection (1) or (3).

(9) As used in subsection (7):

(a) "Parking violation notice" means a notice, other than a citation, directing a person to appear at a parking violations bureau in the city, village, or township in which, or of the college or university for which, the notice is issued and to pay the fine and costs, if any, prescribed by ordinance for the parking or standing of a motor vehicle in violation of the ordinance.



(b) “Parking violations bureau” means a parking violations bureau established pursuant to section 8395 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8395, or a comparable parking violations bureau established in a city or village served by a municipal court or established pursuant to law by the governing board of a state university or college.

This act is ordered to take immediate effect.  
Approved July 2, 2008.  
Filed with Secretary of State July 2, 2008.

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**[No. 172]**

**(HB 6121)**

AN ACT to amend 1955 PA 233, entitled “An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies,” by amending section 4a (MCL 124.284a), as added by 1985 PA 178.

*The People of the State of Michigan enact:*

**124.284a Rules and regulations; adoption by resolution; notice; effective date; summary.**

Sec. 4a. The authority shall adopt rules and regulations by resolution of its governing body and with concurrence by resolution of constituent municipalities. After adoption of the resolution and concurrence by the constituent municipalities, a notice of adoption of the resolution and the rules and regulations, or a summary of those rules and regulations, shall be published in a newspaper of general circulation within the territory encompassed by the authority and within the territory furnished service by the authority by contract pursuant to section 10. The rules and regulations shall become effective 30 days after the date of publication of the notice and the rules and regulations or the summary of the rules and regulations. If a summary of rules and regulations is published, the summary shall be written in clear and nontechnical language and the authority shall designate in the publication the location where a full copy of the rules and regulations can be inspected or obtained.

This act is ordered to take immediate effect.  
Approved July 2, 2008.  
Filed with Secretary of State July 2, 2008.

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**[No. 173]**

**(HB 4840)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental,

and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 20161 (MCL 333.20161), as amended by 2007 PA 85.

*The People of the State of Michigan enact:*

**333.20161 Fees and assessments for health facility and agency licenses and certificates of need; medicaid reimbursement rates; use of quality assurance assessment; “medicaid” defined.**

Sec. 20161. (1) The department shall assess fees and other assessments for health facility and agency licenses and certificates of need on an annual basis as provided in this article. Except as otherwise provided in this article, fees and assessments shall be paid in accordance with the following schedule:

- (a) Freestanding surgical outpatient facilities ..... \$238.00 per facility.
- (b) Hospitals ..... \$8.28 per licensed bed.
- (c) Nursing homes, county medical care facilities, and hospital long-term care units ..... \$2.20 per licensed bed.
- (d) Homes for the aged..... \$6.27 per licensed bed.
- (e) Clinical laboratories ..... \$475.00 per laboratory.
- (f) Hospice residences ..... \$200.00 per license survey; and \$20.00 per licensed bed.
- (g) Subject to subsection (13), quality assurance assessment for nursing homes and hospital long-term care units ..... an amount resulting in not more than 6% of total industry revenues.
- (h) Subject to subsection (14), quality assurance assessment for hospitals ..... at a fixed or variable rate that generates funds not more than the maximum allowable under the federal matching requirements, after consideration for the amounts in subsection (14)(a) and (i).