

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b. For the 2008 tax year only, an owner of property eligible for a conditional rescission under subsection (5) who did not file a conditional rescission form prescribed by the department of treasury with the local tax collecting unit on or before May 1, 2008 may file an appeal with the 2008 July board of review or 2008 December board of review to claim a conditional rescission for the 2008 tax year.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest 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.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll

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 as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted 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. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 70%.
- (ii) To the department of treasury, 10%.
- (iii) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 20%.
- (ii) To the department of treasury, 70%.
- (iii) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 20%.
- (ii) To the department of treasury, 10%.
- (iii) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following

with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

(i) The square footage of the property used exclusively as that owner's principal residence.

(ii) 50% of the square footage of the property's common area.

(iii) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(i) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(ii) Serves meals at no extra cost to its transient tenants.

(iii) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) “Common area” includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.

This act is ordered to take immediate effect.

Approved July 10, 2008.

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[No. 199]

(SB 668)

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 19b of chapter XIIA (MCL 712A.19b), as amended by 2000 PA 232.

The People of the State of Michigan enact:

CHAPTER XIIA

712A.19b Termination of parental rights to child; petition; hearing; record; findings; order; notice; “concerned person” defined.

Sec. 19b. (1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any other party, or petition of the child, guardian, custodian, concerned person as defined in subsection (6), agency, or children’s ombudsman as authorized in section 7 of the children’s ombudsman act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to determine if the parental rights to a child should be terminated and, if all parental rights to the child are terminated, the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated. The court shall issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. The court’s failure to issue an opinion within 70 days does not dismiss the petition.

(2) Not less than 14 days before a hearing to determine if the parental rights to a child should be terminated, written notice of the hearing shall be served upon all of the following:

(a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.

(b) The child's foster parent or custodian.

(c) The child's parents.

(d) If the child has a guardian, the child's guardian.

(e) If the child has a guardian ad litem, the child's guardian ad litem.

(f) If tribal affiliation has been determined, the Indian tribe's elected leader.

(g) The child's attorney and each party's attorney.

(h) If the child is 11 years of age or older, the child.

(i) The prosecutor.

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(a) The child has been deserted under any of the following circumstances:

(i) The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

(iii) The child's parent voluntarily surrendered the child to an emergency service provider under chapter XII and did not petition the court to regain custody within 28 days after surrendering the child.

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(iii) A nonparent adult's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has not been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(d) The child's parent has placed the child in a limited guardianship under section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and both of the following have occurred:

(i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(ii) The parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

(m) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state.

(n) The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

(i) A violation of section 316, 317, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of a criminal statute that includes as an element the use of force or the threat of force and that subjects the parent to sentencing under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(iii) A federal law or law of another state with provisions substantially similar to a crime or procedure listed or described in subparagraph (i) or (ii).

(4) If a petition to terminate the parental rights to a child is filed, the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing. If a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition.

(5) If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.

(6) As used in this section, "concerned person" means a foster parent with whom the child is living or has lived who has specific knowledge of behavior by the parent constituting grounds for termination under subsection (3)(b) or (g) and who has contacted the family independence agency, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and is satisfied that none of these persons intend to file a petition under this section.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 200]

(SB 669)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies,

and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 19a of chapter XIIA (MCL 712A.19a), as amended by 2004 PA 473.

The People of the State of Michigan enact:

CHAPTER XIIA

712A.19a Permanency planning hearing; conditions; time limitation; reunion of child and family not required; purpose; obtaining child’s views regarding permanency plan; consideration of out-of-state placement; notice; statement; return of child to parent; noncompliance with case service plan; other conditions as evidence; termination of parental rights to child; exceptions; alternative placement plans; powers and appointment of guardian; information considered as evidence; revocation of guardianship.

Sec. 19a. (1) Subject to subsection (2), if a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing within 12 months after the child was removed from his or her home. Subsequent permanency planning hearings shall be held no later than every 12 months after each preceding permanency planning hearing during the continuation of foster care. If proper notice for a permanency planning hearing is provided, a permanency planning hearing may be combined with a review hearing held under section 19(2) to (4) of this chapter, but no later than 12 months from the removal of the child from his or her home, from the preceding permanency planning hearing, or from the number of days required under subsection (2). A permanency planning hearing shall not be canceled or delayed beyond the number of months required by this subsection or days as required under subsection (2), regardless of whether there is a petition for termination of parental rights pending.

(2) The court shall conduct a permanency planning hearing within 30 days after there is a judicial determination that reasonable efforts to reunite the child and family are not required. Reasonable efforts to reunify the child and family must be made in all cases except if any of the following apply:

(a) There is a judicial determination that the parent has subjected the child to aggravated circumstances as provided in section 18(1) and (2) of the child protection law, 1975 PA 238, MCL 722.638.

(b) The parent has been convicted of 1 or more of the following:

(i) Murder of another child of the parent.

(ii) Voluntary manslaughter of another child of the parent.

(iii) Aiding or abetting in the murder of another child of the parent or voluntary manslaughter of another child of the parent, the attempted murder of the child or another child of the parent, or the conspiracy or solicitation to commit the murder of the child or another child of the parent.

(iv) A felony assault that results in serious bodily injury to the child or another child of the parent.

(c) The parent has had rights to the child’s siblings involuntarily terminated.

(3) A permanency planning hearing shall be conducted to review the status of the child and the progress being made toward the child’s return home or to show why the child should not be placed in the permanent custody of the court. The court shall obtain the child’s views regarding the permanency plan in a manner that is appropriate to the child’s age. In the case

of a child who will not be returned home, the court shall consider in-state and out-of-state placement options. In the case of a child placed out-of-state, the court shall determine whether the out-of-state placement continues to be appropriate and in the child's best interests. The court shall ensure that the agency is providing appropriate services to assist a child who will transition from foster care to independent living.

(4) Not less than 14 days before a permanency planning hearing, written notice of the hearing and a statement of the purposes of the hearing, including a notice that the hearing may result in further proceedings to terminate parental rights, shall be served upon all of the following:

(a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.

(b) The foster parent or custodian of the child.

(c) If the parental rights to the child have not been terminated, the child's parents.

(d) If the child has a guardian, the guardian for the child.

(e) If the child has a guardian ad litem, the guardian ad litem for the child.

(f) If tribal affiliation has been determined, the elected leader of the Indian tribe.

(g) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

(h) If the child is 11 years of age or older, the child.

(i) Other persons as the court may direct.

(5) If parental rights to the child have not been terminated and the court determines at a permanency planning hearing that the return of the child to his or her parent would not cause a substantial risk of harm to the child's life, physical health, or mental well-being, the court shall order the child returned to his or her parent. In determining whether the return of the child would cause a substantial risk of harm to the child, the court shall view the failure of the parent to substantially comply with the terms and conditions of the case service plan prepared under section 18f of this chapter as evidence that return of the child to his or her parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition to considering conduct of the parent as evidence of substantial risk of harm, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

(6) If the court determines at a permanency planning hearing that a child should not be returned to his or her parent, the court may order the agency to initiate proceedings to terminate parental rights. Except as otherwise provided in this subsection, if the child has been in foster care under the responsibility of the state for 15 of the most recent 22 months, the court shall order the agency to initiate proceedings to terminate parental rights. The court is not required to order the agency to initiate proceedings to terminate parental rights if 1 or more of the following apply:

(a) The child is being cared for by relatives.

(b) The case service plan documents a compelling reason for determining that filing a petition to terminate parental rights would not be in the best interest of the child. Compelling reasons for not filing a petition to terminate parental rights include, but are not limited to, all of the following:

(i) Adoption is not the appropriate permanency goal for the child.

(ii) No grounds to file a petition to terminate parental rights exist.

(iii) The child is an unaccompanied refugee minor as defined in 45 CFR 400.11.

(iv) There are international legal obligations or compelling foreign policy reasons that preclude terminating parental rights.

(c) The state has not provided the child's family, consistent with the time period in the case service plan, with the services the state considers necessary for the child's safe return to his or her home, if reasonable efforts are required.

(7) If the agency demonstrates under subsection (6) that initiating the termination of parental rights to the child is clearly not in the child's best interests, or the court does not order the agency to initiate termination of parental rights to the child under subsection (6), then the court shall order 1 or more of the following alternative placement plans:

(a) If the court determines that other permanent placement is not possible, the child's placement in foster care shall continue for a limited period to be stated by the court.

(b) If the court determines that it is in the child's best interests based upon compelling reasons, the child's placement in foster care may continue on a long-term basis.

(c) Subject to subsection (9), if the court determines that it is in the child's best interests, appoint a guardian for the child, which guardianship may continue until the child is emancipated.

(8) A guardian appointed under subsection (7)(c) has all of the powers and duties set forth under section 15 of the estates and protected individuals code, 1998 PA 386, MCL 700.5215.

(9) If a child is placed in a guardian's or a proposed guardian's home under subsection (7)(c), the court shall order the department of human services to perform an investigation and file a written report of the investigation for a review under subsection (10) and the court shall order the department of human services to do all of the following:

(a) Perform a criminal record check within 7 days.

(b) Perform a central registry clearance within 7 days.

(c) Perform a home study and file a copy of the home study with the court within 30 days unless a home study has been performed within the immediately preceding 365 days, under section 13a(9) of this chapter. If a home study has been performed within the immediately preceding 365 days, a copy of that home study shall be submitted to the court.

(10) The court's jurisdiction over a juvenile under section 2(b) of this chapter shall be terminated after the court appoints a guardian under this section and conducts a review hearing under section 19 of this chapter, unless the juvenile is released sooner by the court.

(11) The court's jurisdiction over a guardianship created under this section shall continue until released by court order. The court shall review a guardianship created under this section annually and may conduct additional reviews as the court considers necessary. The court may order the department or a court employee to conduct an investigation and file a written report of the investigation.

(12) In making the determinations under this section, the court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

(13) The court may, on its own motion or upon petition from the department of human services or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship appointed under this section shall be revoked.

(14) A guardian may petition the court for permission to terminate the guardianship. A petition may include a request for appointment of a successor guardian.

(15) After notice and hearing on a petition for revocation or permission to terminate the guardianship, if the court finds by a preponderance of evidence that continuation of the guardianship is not in the child's best interests, the court shall revoke or terminate the guardianship and appoint a successor guardian or restore temporary legal custody to the department of human services.

This act is ordered to take immediate effect.

Approved July 10, 2008.

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[No. 201]

(SB 670)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 13b of chapter XIII A (MCL 712A.13b), as amended by 2004 PA 475.

The People of the State of Michigan enact:

CHAPTER XIII A

712A.13b Change in foster care placement.

Sec. 13b. (1) If a child under the court's jurisdiction under section 2(b) of this chapter, or under MCI jurisdiction, control, or supervision, is placed in foster care, the agency shall not change the child's placement except under 1 of the following circumstances:

(a) The person providing the foster care requests or agrees to the change.

(b) Even though the person providing the foster care objects to a proposed change in placement, 1 of the following applies:

(i) The court orders the child returned home.

(ii) The change in placement is less than 30 days after the child's initial removal from his or her home.

(iii) The change in placement is less than 90 days after the child's initial removal from his or her home, and the new placement is with a relative.

(iv) The change in placement is in accordance with other provisions of this section.

(2) Except as provided in subsections (1) and (7), before a change in foster care placement takes effect, the agency shall do all of the following:

(a) Notify the state court administrative office of the proposed change in placement. Notice under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the state court administrative office.

(b) Notify the foster parents of the intended change in placement and inform them that, if they disagree with the decision, they may appeal within 3 days to a foster care review board. A foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal. The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(c) Maintain the current placement for not less than the time for appeal to the foster care review board and if a foster parent appeals, until the foster care review board determination.

(d) Notify the court with jurisdiction over the child and notify the child's lawyer guardian ad litem of the change in placement. Notice to the court under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the court that has jurisdiction over the child. The notice provided under this subdivision does not affect the department's placement discretion and shall include all of the following information:

(i) The reason for the change in placement.

(ii) The number of times the child's placement has been changed.

(iii) Whether or not the child will be required to change schools.

(iv) Whether or not the change will separate or reunite siblings or affect sibling visitation.

(3) Upon receipt of an appeal from foster parents under subsection (2) or (7), the foster care review board shall investigate the change in foster care placement within 7 days and shall report its findings and recommendations within 3 days after completion of the investigation to the court or, if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, to the foster care parents, to the parents, and to the agency.

(4) If after investigation the foster care review board determines that the move is in the child's best interests, the agency may move the child.

(5) If after investigation the foster care review board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a finding and order by the court or, if the child is under MCI jurisdiction, control, or supervision, a decision by the MCI superintendent. The agency shall not return a child to a placement from which the child was removed under subsection (7) unless the court orders that placement's restoration under subsection (6) or the MCI superintendent approves that placement's restoration under this subsection. The foster care review board shall notify the court, or if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, about the board's and agency's disagreement. The court shall set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney if the prosecuting attorney has appeared in the case. The court shall set the hearing no sooner than 7 and no later than 14 days after receipt of the notice from the foster care review board. The rules of evidence do not apply to a hearing required by this subsection. Within 14 days after notification under this subsection, the MCI superintendent shall make a decision regarding the child's placement and shall inform each interested party what the decision is.

(6) After hearing testimony from the agency and any other interested party and considering any other evidence bearing upon the proposed change in placement, the court shall order the continuation or restoration of the placement unless the court finds that the proposed change in placement is in the child's best interests.

(7) If the agency has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or that there is substantial risk of harm to the child's emotional well-being, the agency may change the child's foster care placement without complying with subsection (1) or (2)(b) or (c). The agency shall include in the child's file documentation of its

justification for action under this subsection. If a foster parent objects to the removal of a child under this subsection, he or she may appeal to the foster care review board within 3 days after the child's removal. The foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal.

(8) At the time of or immediately following a child's removal under subsection (7), the agency shall inform the foster parents about the removal and that, if they disagree with the decision, they may appeal within 3 days to a foster care review board in the manner provided in subsection (7). The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 202]

(SB 671)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 19 of chapter XIIA (MCL 712A.19), as amended by 2004 PA 477.

The People of the State of Michigan enact:

CHAPTER XIIA

712A.19 Termination of cause; supplemental order of disposition; review hearing; notice of review hearing; factors to be reviewed; modification of plan; determination as to placement; order; determination as to review; issuance of order without hearing; access to agency report; agency report and other information as evidence; concurrent efforts to reunify child with family.

Sec. 19. (1) Subject to section 20 of this chapter, if a child remains under the court's jurisdiction, a cause may be terminated or an order may be amended or supplemented, within the authority granted to the court in section 18 of this chapter, at any time as the court considers necessary and proper. An amended or supplemented order shall be referred to as a "supplemental order of disposition". If the agency becomes aware of additional abuse or neglect of a child who is under the court's jurisdiction and if that abuse or neglect is substantiated as provided in the child protection law, 1975 PA 238, MCL 722.621 to 722.638, the agency shall file a supplemental petition with the court.

(2) Except as provided in subsections (3) and (4), if a child subject to the court's jurisdiction remains in his or her home, a review hearing shall be held not more than 182 days from the date a petition is filed to give the court jurisdiction over the child and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child is subject to the court's jurisdiction, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.

(3) Except as otherwise provided in subsection (4), if, in a proceeding under section 2(b) of this chapter, a child is subject to the court's jurisdiction and removed from his or her home, a review hearing shall be held not more than 182 days after the child's removal from his or her home and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child has been removed from his or her home and is subject to the court's jurisdiction, a review hearing shall be held not more than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared according to section 18f of this chapter.

(4) If a child is under the care and supervision of the agency and is either placed with a relative and the placement is intended to be permanent or is in a permanent foster family agreement, the court shall hold a review hearing not more than 182 days after the child has been removed from his or her home and no later than every 182 days after that so long as the child is subject to the jurisdiction of the court, the Michigan children's institute, or other agency. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is pending. Upon the motion of any party or at the court's discretion, a review hearing may be accelerated to review any element of the case service plan.

(5) Written notice of a review hearing under subsection (2), (3), or (4) shall be served upon all of the following:

(a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.

(b) The child's foster parent or custodian.

(c) If the parental rights to the child have not been terminated, the child's parents.

(d) If the child has a guardian, the guardian for the child.

(e) If the child has a guardian ad litem, the guardian ad litem for the child.

(f) A nonparent adult if the nonparent adult is required to comply with the case service plan.

(g) If tribal affiliation has been determined, the elected leader of the Indian tribe.

(h) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

(i) If the child is 11 years of age or older, the child.

(j) Other persons as the court may direct.

(6) At a review hearing under subsection (2), (3), or (4), the court shall review on the record all of the following:

(a) Compliance with the case service plan with respect to services provided or offered to the child and the child's parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan and whether the parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan has complied with and benefited from those services.

(b) Compliance with the case service plan with respect to parenting time with the child. If parenting time did not occur or was infrequent, the court shall determine why parenting time did not occur or was infrequent.

(c) The extent to which the parent complied with each provision of the case service plan, prior court orders, and an agreement between the parent and the agency.

(d) Likely harm to the child if the child continues to be separated from the child's parent, guardian, or custodian.

(e) Likely harm to the child if the child is returned to the child's parent, guardian, or custodian.

(7) After review of the case service plan, the court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed in foster care or that caused the child to remain in foster care. The court may modify any part of the case service plan including, but not limited to, the following:

(a) Prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(b) Prescribing additional actions to be taken by the parent, guardian, nonparent adult, or custodian, to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(8) At a review hearing under subsection (2), (3), or (4), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent, continue the dispositional order, modify the dispositional order, or enter a new dispositional order.

(9) If in a proceeding under section 2(b) of this chapter a child is placed in foster care, the court shall determine at the dispositional hearing and each review hearing whether the cause should be reviewed before the next review hearing required by subsection (2), (3), or (4). In making this determination, the court shall consider at least all of the following:

(a) The parent's ability and motivation to make necessary changes to provide a suitable environment for the child.

(b) Whether there is a reasonable likelihood that the child may be returned to his or her home prior to the next review hearing required by subsection (2), (3), or (4).

(10) Unless waived, if not less than 7 days' notice is given to all parties prior to the return of a child to the child's home, and no party requests a hearing within the 7 days, the court may issue an order without a hearing permitting the agency to return the child to the child's home.

(11) An agency report filed with the court shall be accessible to all parties to the action and shall be offered into evidence. The court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, lawyer-guardian ad litem, or

guardian ad litem, in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

(12) Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child with the family.

(13) Reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-state or out-of-state options, may be made concurrently with reasonable efforts to reunify the child and family.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 203]

(SB 672)

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 19c of chapter XIIA (MCL 712A.19c), as amended by 2004 PA 476.

The People of the State of Michigan enact:

CHAPTER XIIA

712A.19c Review hearing of child’s placement after termination of parental rights; appointment of guardian; applicability of section.

Sec. 19c. (1) Except as provided in section 19(4) of this chapter and subject to subsection (14), if a child remains in placement following the termination of parental rights to the child, the court shall conduct a review hearing not more than 91 days after the termination of parental rights and no later than every 91 days after that hearing for the first year following termination of parental rights to the child. If a child remains in a placement for more than 1 year following termination of parental rights to the child, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether any other matters are pending. Upon motion by any party or in the court’s discretion, a review hearing may be accelerated to review any element of the case. The court shall conduct the first permanency planning hearing within 12 months from the date that the child was originally removed from the home. Subsequent permanency planning hearings shall be held within 12 months of the preceding permanency planning hearing. If proper notice for a permanency

planning hearing is provided, a permanency planning hearing may be combined with a review hearing held under section 19(2) to (4) of this chapter. A permanency planning hearing under this section shall not be canceled or delayed beyond the number of months required in this subsection, regardless of whether any other matters are pending. At a hearing under this section, the court shall review all of the following:

(a) The appropriateness of the permanency planning goal for the child.

(b) The appropriateness of the child's placement.

(c) The reasonable efforts being made to place the child for adoption or in other permanent placement in a timely manner.

(2) Subject to subsection (3), if the court determines that it is in the child's best interests, the court may appoint a guardian for the child.

(3) The court shall not appoint a guardian for the child without the written consent of the MCI superintendent. The MCI superintendent shall consult with the child's lawyer guardian ad litem when considering whether to grant written consent.

(4) If a person believes that the decision to withhold the consent required in subsection (3) is arbitrary or capricious, the person may file a motion with the court. A motion under this subsection shall contain information regarding both of the following:

(a) The specific steps taken by the person to obtain the consent required and the results, if any.

(b) The specific reasons why the person believes that the decision to withhold consent was arbitrary or capricious.

(5) If a motion is filed under subsection (4), the court shall set a hearing date and provide notice to the MCI superintendent, the foster parents, the prospective guardian, the child, and the child's lawyer guardian ad litem.

(6) Subject to subsection (8), if a hearing is held under subsection (5) and the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious, the court may approve the guardianship without the consent of the MCI superintendent.

(7) A guardian appointed under this section has all of the powers and duties set forth under section 15 of the estates and protected individuals code, 1998 PA 386, MCL 700.5215.

(8) If a child is placed in a guardian's or a proposed guardian's home under subsection (2) or (6), the court shall order the department of human services to perform an investigation and file a written report of the investigation for a review under subsection (10) and the court shall order the department of human services to do all of the following:

(a) Perform a criminal record check within 7 days.

(b) Perform a central registry clearance within 7 days.

(c) Perform a home study and file a copy of the home study with the court within 30 days unless a home study has been performed within the immediately preceding 365 days, under section 13a(9) of this chapter. If a home study has been performed within the immediately preceding 365 days, a copy of that home study shall be submitted to the court.

(9) The court's jurisdiction over a juvenile under section 2(b) of this chapter and the jurisdiction of the Michigan children's institute under section 3 of 1935 PA 220, MCL 400.203, shall be terminated after the court appoints a guardian under this section and conducts a review hearing under section 19 of this chapter, unless the juvenile is released sooner by the court.

(10) The court's jurisdiction over a guardianship created under this section shall continue until released by court order. The court shall review a guardianship created under this section annually and may conduct additional reviews as the court considers necessary. The court

may order the department or a court employee to conduct an investigation and file a written report of the investigation.

(11) The court may, on its own motion or upon petition from the department of human services or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship appointed under this section shall be revoked.

(12) A guardian may petition the court for permission to terminate the guardianship. A petition may include a request for appointment of a successor guardian.

(13) After notice and hearing on a petition for revocation or permission to terminate the guardianship, if the court finds by a preponderance of evidence that continuation of the guardianship is not in the child's best interests, the court shall revoke or terminate the guardianship and appoint a successor guardian or commit the child to the Michigan children's institute under section 3 of 1935 PA 220, MCL 400.203.

(14) This section applies only to a child's case in which parental rights to the child were either terminated as the result of a proceeding under section 2(b) of this chapter or a similar law of another state or terminated voluntarily following the initiation of a proceeding under section 2(b) of this chapter or a similar law of another state. This section applies as long as the child is subject to the jurisdiction, control, or supervision of the court or of the Michigan children's institute or other agency.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 204]

(SB 975)

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending section 3 (MCL 207.773), as amended by 2005 PA 339.

The People of the State of Michigan enact:

207.773 Neighborhood enterprise zone; designation by resolution; notice; finding of consistency; statement; housing inspection ordinance; public hearing; determining true cash value; limitations on total acreage; amendment or repeal of resolution; designation in obsolete property rehabilitation district.

Sec. 3. (1) The governing body of a local governmental unit by resolution may designate 1 or more neighborhood enterprise zones within that local governmental unit. Except as otherwise provided in this subsection, a neighborhood enterprise zone shall contain not less than 10 platted parcels of land. A neighborhood enterprise zone located in a qualified downtown revitalization district may contain less than 10 platted parcels if the platted parcels together contain 10 or more facilities. All the land within a neighborhood enterprise zone shall also be compact and contiguous. Contiguity is not broken by a road, right-of-way, or

property purchased or taken under condemnation if the purchased or condemned property was a single parcel prior to the sale or condemnation.

(2) The total acreage of the neighborhood enterprise zones containing only new facilities or rehabilitated facilities or any combination of new facilities or rehabilitated facilities designated under this act shall not exceed 15% of the total acreage contained within the boundaries of the local governmental unit. The total acreage of the neighborhood enterprise zones containing only homestead facilities designated under this act shall not exceed 10% of the total acreage contained within the boundaries of the local governmental unit or, with the approval of the board of commissioners of the county in which the neighborhood enterprise zone is located if the county does not have an elected or appointed county executive or with the approval of the board of commissioners and the county executive of the county in which the neighborhood enterprise zone is located if the county has an elected or appointed county executive, 15% of the total acreage contained within the boundaries of the local governmental unit.

(3) Not less than 60 days before the passage of a resolution designating a neighborhood enterprise zone or the repeal or amendment of a resolution under subsection (5), the clerk of the local governmental unit shall give written notice to the assessor and to the governing body of each taxing unit that levies ad valorem property taxes in the proposed neighborhood enterprise zone. Before acting upon the resolution, the governing body of the local governmental unit shall make a finding that a proposed neighborhood enterprise zone is consistent with the master plan of the local governmental unit and the neighborhood preservation and economic development goals of the local governmental unit. The governing body before acting upon the resolution shall also adopt a statement of the local governmental unit's goals, objectives, and policies relative to the maintenance, preservation, improvement, and development of housing for all persons regardless of income level living within the proposed neighborhood enterprise zone. Additionally, before acting upon the resolution, the governing body of a local governmental unit with a population greater than 20,000 shall pass a housing inspection ordinance. A local governmental unit with a population of 20,000 or less may pass a housing inspection ordinance. Before the sale of a unit in a new or rehabilitated facility for which a neighborhood enterprise zone certificate is in effect, an inspection shall be made of the unit to determine compliance with any local construction or safety codes and that a sale may not be finalized until there is compliance with those local construction or safety codes. The governing body shall hold a public hearing not later than 45 days after the date the notice is sent but before acting upon the resolution.

(4) Upon receipt of a notice under subsection (3), the assessor shall determine and furnish to the governing body of the local governmental unit the amount of the true cash value of the property located within the proposed neighborhood enterprise zone and any other information considered necessary by the governing body.

(5) A resolution designating a neighborhood enterprise zone, other than a zone designated under subsection (2), may be repealed or amended not sooner than 3 years after the date of adoption or of the most recent amendment of the resolution by the governing body of the local governmental unit. The repeal or amendment of the resolution shall take effect 6 months after adoption. However, an action taken under this subsection does not invalidate a certificate that is issued or in effect and a facility for which a certificate is issued or in effect shall continue to be included in the total acreage limitations under this section until the certificate is expired or revoked.

(6) A resolution designating a neighborhood enterprise zone in an obsolete property rehabilitation district that was created by a local unit of government on June 6, 2003, and for which the state tax commission issued obsolete property rehabilitation certificates on August 26, 2003, and September 24, 2003 will cause any previous certificate to expire on

the December 30 immediately preceding the December 31 on which the first neighborhood enterprise zone certificate is effective. The taxable value of the parcel shall be calculated using the value of the parcel before the building permit was issued. This subdivision authorizes an amended obsolete property rehabilitation certificate approved by the state tax commission for the portion of the parcel contained in the original certificate for which an application for a neighborhood enterprise zone certificate was not submitted.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 205]

(SB 346)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 66.

The People of the State of Michigan enact:

750.66 Person responsible for dog or wolf-dog cross that has bitten another person; information to be provided; violation as misdemeanor; exception; definitions.

Sec. 66. (1) If a person 18 years of age or older is responsible for controlling the actions of a dog or wolf-dog cross and the person knows or has reason to know that the dog or wolf-dog cross has bitten another person, the person shall immediately provide the person who was bitten with all of the following information:

(a) His or her name and address and, if that person does not own the dog or wolf-dog cross, the name and address of the dog’s or wolf-dog cross’s owner.

(b) Information, if known by that person, as to whether the dog or wolf-dog cross is current on all legally required vaccinations.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) This section does not apply if the person is bitten by a police dog. As used in this subsection, “police dog” means that term as defined in section 50c.

(4) As used in this section, “dog” and “wolf-dog cross” mean those terms as defined in section 2 of the wolf-dog cross act, 2000 PA 246, MCL 287.1002.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4065 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

Compiler's note: House Bill No. 4065, referred to in enacting section 2, was filed with the Secretary of State July 11, 2008, and became 2008 PA 206, Eff. Jan. 1, 2009.

[No. 206]**(HB 4065)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 66a.

The People of the State of Michigan enact:

750.66a Dog or wolf-dog cross bite; responsible person to remain on scene; violation as misdemeanor; penalty; exception; definitions.

Sec. 66a. (1) If a person 18 years of age or older is responsible for controlling the actions of a dog or wolf-dog cross and the person knows or has reason to know that the dog or wolf-dog cross has bitten another person, the person shall remain on the scene until the requirements of section 66 are fulfilled.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) This section does not apply if the person is bitten by a police dog. As used in this subsection, “police dog” means that term as defined in section 50c.

(4) As used in this section, “dog” and “wolf-dog cross” mean those terms as defined in section 2 of the wolf-dog cross act, 2000 PA 246, MCL 287.1002.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2009.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 346 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

Compiler's note: Senate Bill No. 346, referred to in enacting section 2, was filed with the Secretary of State July 11, 2008, and became 2008 PA 205, Eff. Jan. 1, 2009.

[No. 207]**(SB 150)**

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 261 (MCL 206.261), as amended by 2007 PA 94.

The People of the State of Michigan enact:

206.261 Tax credit for 50% of contribution to endowment fund of community foundation or other entity providing overnight accommodation, food, or meals to indigents; limitations; cash contribution; credits nonrefundable; “community foundation” defined; other entities qualifying for credit; endowment value; report.

Sec. 261. (1) For the 1989 tax year and each tax year after 1989 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the tax year to an endowment fund of a community foundation or for the 1992 tax year and each tax year after 1992 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the sum of the cash amount and, for the 2008 tax year and each tax year after 2008, if the food items are contributed in conjunction with a program in which a vendor makes a matching contribution of similar items, the value of those food items the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For a taxpayer other than a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a husband and wife filing a joint return for tax years before the 2000 tax year and \$100.00 or \$200.00 for a husband and wife filing a joint return for tax years after the 1999 tax year. For the 1992 tax year and each tax year after 1992, a taxpayer may claim an additional credit under this section not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return, for total cash contributions made and, for the 2008 tax year and each tax year after 2008, including the value of food items contributed as described in subsection (1) in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed 10% of the taxpayer’s tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less. For the 1992 tax year and each tax year after 1992, a resident estate or trust may claim an additional credit under this section not to exceed 10% of the taxpayer’s tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less, for total cash contributions made and, for the 2008 tax year and each tax year after 2008, including the value of food items contributed as described in subsection (1) in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a

resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) For the 2008 tax year and each tax year after 2008 and subject to the applicable limitations in this section, when calculating the amount of the credit allowed under this section a taxpayer may include as a cash contribution an amount equal to the value of food items contributed as described in subsection (1) in the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state as described in subsection (1).

(4) The credits allowed under this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(5) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 CFR 1.509(a)-4 and 1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(11).

(g) Except as provided in subsection (7), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after June 22, 2000, operates in a county of this state that

was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(6) An entity other than a community foundation may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(7) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (5)(g). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (5)(g) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(8) On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 38c of the former single business tax act, 1975 PA 228, or section 425 of the Michigan business tax act, 2007 PA 36, MCL 208.1425, for the immediately preceding tax year.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 11, 2008.

[No. 208]

(SB 388)

AN ACT to amend 1995 PA 29, entitled “An act concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 2, 15, and 30 (MCL 567.222, 567.235, and 567.250).

The People of the State of Michigan enact:

567.222 Definitions.

Sec. 2. As used in this act, unless the context otherwise requires:

- (a) “Administrator” means the state treasurer.
- (b) “Apparent owner” means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
- (c) “Attorney general” means the department of attorney general.

(d) “Banking organization” means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by law as a bank or banking organization.

(e) “Business association” means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of 2 or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

(f) “Domicile” means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(g) “Financial organization” means a savings and loan association, cooperative bank, building and loan association, savings bank, or credit union.

(h) “Holder” means a person, wherever organized or domiciled, who is 1 or more of the following:

(i) In possession of property belonging to another.

(ii) A trustee.

(iii) Indebted to another on an obligation.

(i) “Insurance company” means an individual, association, corporation, fraternal or mutual benefit organization, or any other legal entity, whether or not for profit, that is engaged or attempting to engage in the business of making insurance or surety contracts.

(j) “Intangible property” includes all of the following:

(i) Money, checks, drafts, deposits, interest, dividends, and income.

(ii) Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.

(iii) Except as provided in sections 15(4) and 30(1), gift certificates and gift cards.

(iv) Stocks and other intangible ownership interests in business associations.

(v) Money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.

(vi) Amounts due and payable under the terms of insurance policies.

(vii) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(k) “Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(l) “Owner” means a depositor, in the case of a deposit; a beneficiary, in case of a trust other than a deposit in trust; a creditor, claimant, or payee, in the case of other intangible property; or a person having a legal or equitable interest in property subject to this act. Owner includes the legal representative of the person defined as an owner in this subdivision.

(m) “Person” means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

(n) “Property” means tangible or intangible personal property owned by a person.

(o) “State” means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(p) “Utility” means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

567.235 Gift certificate, gift card, or credit memo; presumption of abandonment; considered as used or claimed; presumption of amount abandoned; act inapplicable to gift certificate defined in MCL 445.903e.

Sec. 15. (1) Except as provided in subsection (4), a gift certificate, gift card, or credit memo is presumed abandoned if either of the following apply:

(a) The certificate, card, or memo is not claimed or used for a period of 5 years after becoming payable or distributable.

(b) The certificate, card, or memo was used or claimed 1 or more times without exhausting its full value, but subsequently was not claimed or used for an uninterrupted period of 5 years.

(2) For purposes of subsection (1), a gift certificate or gift card is considered to have been claimed or used if there is any transaction processing activity on the gift certificate or gift card including, but not limited to, redeeming, refunding, or adding value to the certificate or card. Activity initiated by the issuer of the certificate or card, including, but not limited to, assessing inactivity fees or similar service fees, does not constitute transaction processing activity for purposes of this subsection.

(3) In the case of a gift certificate or gift card, the owner is presumed to be a gift recipient of the gift certificate or gift card, and the amount presumed abandoned is the price paid by the purchaser for the gift certificate or gift card, less the total of any purchases or fees assessed against the certificate or card. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

(4) This act does not apply to a gift certificate as defined in section 3e of the Michigan consumer protection act, 1976 PA 331, MCL 445.903e, that is issued for retail goods or services by a person engaged in the retail sale of goods or services.

567.250 Expiration of time period specified by contract, statute, or court order; exception; commencement of proceeding.

Sec. 30. (1) The expiration, before or after the effective date of this act, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act. This subsection does not apply to gift cards or gift certificates.

(2) An action or proceeding shall not be commenced by the administrator with respect to any duty of a holder under this act more than 10 years after the duty arose.

Effective date.

Enacting section 1. This amendatory act takes effect September 30, 2008.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 4050.

(b) House Bill No. 4317.

(c) House Bill No. 4680.

This act is ordered to take immediate effect.
Approved July 10, 2008.
Filed with Secretary of State July 14, 2008.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
House Bill No. 4050 was filed with the Secretary of State July 14, 2008, and became 2008 PA 210, Eff. Nov. 1, 2008.
House Bill No. 4317 was filed with the Secretary of State July 14, 2008, and became 2008 PA 211, Eff. Nov. 1, 2008.
House Bill No. 4680 was filed with the Secretary of State July 14, 2008, and became 2008 PA 209, Eff. Nov. 1, 2008.

[No. 209]

(HB 4680)

AN ACT to amend 1976 PA 331, entitled “An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties,” (MCL 445.901 to 445.922) by adding section 3g.

The People of the State of Michigan enact:

445.903g Expiration of gift certificate; limitation.

Sec. 3g. A person engaged in the retail sale of goods or services shall not sell a gift certificate to a consumer that expires within a period of less than 5 years.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) House Bill No. 4050.
- (b) House Bill No. 4317.
- (c) Senate Bill No. 388.

Effective date.

Enacting section 2. This amendatory act takes effect November 1, 2008.

This act is ordered to take immediate effect.
Approved July 10, 2008.
Filed with Secretary of State July 14, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
House Bill No. 4050 was filed with the Secretary of State July 14, 2008, and became 2008 PA 210, Eff. Nov. 1, 2008.
House Bill No. 4317 was filed with the Secretary of State July 14, 2008, and became 2008 PA 211, Eff. Nov. 1, 2008.
Senate Bill No. 388 was filed with the Secretary of State July 14, 2008, and became 2008 PA 208, Eff. Sept. 30, 2008.

[No. 210]

(HB 4050)

AN ACT to amend 1976 PA 331, entitled “An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain

remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties,” (MCL 445.901 to 445.922) by adding section 3e.

The People of the State of Michigan enact:

445.903e Issuance of gift certificate; prohibited conduct; definitions.

Sec. 3e. (1) A person engaged in the retail sale of goods or services shall not do any of the following in connection with a gift certificate issued for retail goods or services:

(a) Refuse to accept a gift certificate in payment for goods or services used or bought for use primarily for personal, family, or household purposes, including, but not limited to, goods or services advertised on sale or pursuant to a liquidation or closeout. This subdivision does not apply if the gift certificate has an expiration date that does not violate section 3g and it is presented for redemption after that expiration date.

(b) In any manner restrict the holder of a gift certificate from using the gift certificate in a manner consistent with the stated terms and conditions of the gift certificate.

(c) Alter any term or condition of a gift certificate after it is issued.

(d) If a gift certificate has any terms or conditions, fail to disclose the terms and conditions to a prospective purchaser by doing any of the following:

(i) If a gift certificate is offered for sale by mail, conspicuously stating in the offer that “terms and conditions are applied to gift certificates and gift cards”.

(ii) If a gift certificate is offered for sale by electronic, computer, or telephonic means, including a statement that “terms and conditions are applied to gift certificates or gift cards” before the prospective purchaser is able to purchase the gift certificate or conspicuously including that statement in the electronic message offering the gift certificate for purchase.

(e) If a gift certificate has any terms or conditions, fail to disclose the terms and conditions by conspicuously printing the terms and conditions on 1 of the following:

(i) The gift certificate.

(ii) The envelope or packaging containing the gift certificate, if a toll-free telephone number to access the terms and conditions is printed on the gift certificate.

(iii) A separate printed document delivered to the purchaser, if a toll-free telephone number to access the terms and conditions is printed on the gift certificate.

(f) If a gift certificate has any terms or conditions, fail to include in any advertisement or promotion for the gift certificate a notice that states that “terms and conditions are applied to gift certificates and gift cards”.

(g) If the value of the gift certificate or remaining balance of the gift certificate is less than the purchase price of goods or services, refuse to accept the gift certificate and apply it to the purchase price of the goods or services.

(2) As used in this section and sections 3f and 3g:

(a) “Person engaged in the retail sale of goods” includes a person conducting a closeout, liquidation, or going-out-of-business sale on behalf of the person engaged in the retail sale of goods or that person’s creditors.

(b) Subject to subsection (3), “gift certificate” means a written promise or a gift card or other electronic payment device that meets all of the following:

(i) Is usable at a single retailer, is usable at an affiliated group of retailers that share the same name, mark, or logo, or is usable at multiple, unaffiliated retailers or service providers.

- (ii) Is issued in a specified amount.
- (iii) May or may not be increased in value or reloaded.
- (iv) Is purchased or loaded on a prepaid basis for the future purchase or delivery of goods or services.
- (v) Is honored upon presentation.
- (c) “Terms and conditions” includes, but is not limited to, an expiration date or a fee charged for the replacement of a gift certificate that is lost, stolen, or destroyed.
- (d) “Use” of a gift certificate includes making purchases with or adding value to the gift certificate.
- (3) As used in this section, “gift certificate” does not include any of the following:
 - (a) A general use, prepaid card or other electronic payment device that is issued or sponsored by a financial institution in a predetermined amount and is usable at multiple, unaffiliated retailers or at automated teller machines. As used in this subdivision, “financial institution” means a bank, bank and trust, national bank, savings bank, savings and loan association, credit union, or money transmitter organized under the laws of this state, another state, the District of Columbia, the United States, or any territory or protectorate of the United States and their respective subsidiaries, affiliates, or holding companies.
 - (b) An electronic payment device linked to a deposit account.
 - (c) A prepaid telephone calling card regulated under state or federal law or a card used in connection with prepaid wireless telephone service.
 - (d) An electronic payment device used to access an account from which an individual may pay medical expenses, health care expenses, dependent care expenses, or similar expenses on a pretax basis under the internal revenue code, 26 USC 1 to 1789, or regulations adopted pursuant to the internal revenue code.
 - (e) A prepaid discount card or program used to purchase identified goods or services at a price or percentage below the normal and customary price, if any expiration date of the prepaid discount card or program is clearly and conspicuously disclosed.
 - (f) A payroll card or other electronic payment device linked to a deposit account and given in exchange for goods or services rendered.
 - (g) A gift certificate sold below face value or at a volume discount to an employee, to a nonprofit or charitable organization, or to an educational institution for fund-raising purposes.
 - (h) A gift certificate distributed to a consumer or employee pursuant to an awards, rewards, loyalty, or promotional program, if the consumer or employee is not required to give consideration for the gift certificate.
 - (i) An electronic credit voucher issued by a person that holds a certificate issued under chapter 411 of title 49 of the United States Code, 49 USC 41101 to 41113, or a permit issued under chapter 413 of title 49 of the United States Code, 49 USC 41301 to 41313.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) House Bill No. 4317.
- (b) House Bill No. 4680.
- (c) Senate Bill No. 388.

Effective date.

Enacting section 2. This amendatory act takes effect November 1, 2008.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 14, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 4317 was filed with the Secretary of State July 14, 2008, and became 2008 PA 211, Eff. Nov. 1, 2008.

House Bill No. 4680 was filed with the Secretary of State July 14, 2008, and became 2008 PA 209, Eff. Nov. 1, 2008.

Senate Bill No. 388 was filed with the Secretary of State July 14, 2008, and became 2008 PA 208, Eff. Sept. 30, 2008.

[No. 211]

(HB 4317)

AN ACT to amend 1976 PA 331, entitled “An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties,” by amending section 3 (MCL 445.903), as amended by 2006 PA 508, and by adding section 3f.

The People of the State of Michigan enact:

445.903 Unfair, unconscionable, or deceptive methods, acts, or practices in conduct of trade or commerce; rules; applicability of subsection (1)(hh).

Sec. 3. (1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:

(a) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(b) Using deceptive representations or deceptive designations of geographic origin in connection with goods or services.

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

(d) Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.

(e) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(f) Disparaging the goods, services, business, or reputation of another by false or misleading representation of fact.

(g) Advertising or representing goods or services with intent not to dispose of those goods or services as advertised or represented.

(h) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity in immediate conjunction with the advertised goods or services.

(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(j) Representing that a part, replacement, or repair service is needed when it is not.

(k) Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.

(l) Misrepresenting that because of some defect in a consumer's home the health, safety, or lives of the consumer or his or her family are in danger if the product or services are not purchased, when in fact the defect does not exist or the product or services would not remove the danger.

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(o) Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.

(p) Disclaiming or limiting the implied warranty of merchantability and fitness for use, unless a disclaimer is clearly and conspicuously disclosed.

(q) Representing or implying that the subject of a consumer transaction will be provided promptly, or at a specified time, or within a reasonable time, if the merchant knows or has reason to know it will not be so provided.

(r) Representing that a consumer will receive goods or services "free" or "without charge", or using words of similar import in the representation, without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

(t) Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law, unless the waiver is clearly stated and the consumer has specifically consented to it.

(u) Failing, in a consumer transaction that is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled to it a deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

(v) Taking or arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true.

(w) Representing that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(x) Taking advantage of the consumer's inability reasonably to protect his or her interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.

(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

(dd) Subject to subdivision (ee), representations by the manufacturer of a product or package that the product or package is 1 or more of the following:

(i) Except as provided in subparagraph (ii), recycled, recyclable, degradable, or is of a certain recycled content, in violation of guides for the use of environmental marketing claims, 16 CFR part 260.

(ii) For container holding devices regulated under part 163 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16301 to 324.16303, representations by a manufacturer that the container holding device is degradable contrary to the definition provided in that act.

(ee) Representing that a product or package is degradable, biodegradable, or photodegradable unless it can be substantiated by evidence that the product or package will completely decompose into elements found in nature within a reasonably short period of time after consumers use the product and dispose of the product or the package in a landfill or composting facility, as appropriate.

(ff) Offering a consumer a prize if in order to claim the prize the consumer is required to submit to a sales presentation, unless a written disclosure is given to the consumer at the time the consumer is notified of the prize and the written disclosure meets all of the following requirements:

(i) Is written or printed in a bold type that is not smaller than 10-point.

(ii) Fully describes the prize, including its cash value, won by the consumer.

(iii) Contains all the terms and conditions for claiming the prize, including a statement that the consumer is required to submit to a sales presentation.

(iv) Fully describes the product, real estate, investment, service, membership, or other item that is or will be offered for sale, including the price of the least expensive item and the most expensive item.

(gg) Violating 1971 PA 227, MCL 445.111 to 445.117, in connection with a home solicitation sale or telephone solicitation, including, but not limited to, having an independent courier service or other third party pick up a consumer's payment on a home solicitation sale during the period the consumer is entitled to cancel the sale.

(hh) Except as provided in subsection (3), requiring a consumer to disclose his or her social security number as a condition to selling or leasing goods or providing a service to the consumer, unless any of the following apply:

(i) The selling, leasing, providing, terms of payment, or transaction includes an application for or an extension of credit to the consumer.

(ii) The disclosure is required or authorized by applicable state or federal statute, rule, or regulation.

(iii) The disclosure is requested by a person to obtain a consumer report for a permissible purpose described in section 604 of the fair credit reporting act, 15 USC 1681b.

(iv) The disclosure is requested by a landlord, lessor, or property manager to obtain a background check of the individual in conjunction with the rent or leasing of real property.

(v) The disclosure is requested from an individual to effect, administer or enforce a specific telephonic or other electronic consumer transaction that is not made in person but is requested or authorized by the individual if it is to be used solely to confirm the identity of the individual through a fraud prevention service database. The consumer good or service shall still be provided to the consumer upon verification of his or her identity if he or she refuses to provide his or her social security number but provides other information or documentation that can be used by the person to verify his or her identity. The person may inform the consumer that verification through other means than use of the social security number may cause a delay in providing the service or good to the consumer.

(ii) If a credit card or debit card is used for payment in a consumer transaction, issuing or delivering a receipt to the consumer that displays any part of the expiration date of the card or more than the last 4 digits of the consumer's account number. This subdivision does not apply if the only receipt issued in a consumer transaction is a credit card or debit card receipt on which the account number or expiration date is handwritten, mechanically imprinted, or photocopied. This subdivision applies to any consumer transaction that occurs on or after March 1, 2005, except that if a credit or debit card receipt is printed in a consumer transaction by an electronic device, this subdivision applies to any consumer transaction that occurs using that device only after 1 of the following dates, as applicable:

(i) If the electronic device is placed in service after March 1, 2005, July 1, 2005 or the date the device is placed in service, whichever is later.

(ii) If the electronic device is in service on or before March 1, 2005, July 1, 2006.

(jj) Violating section 11 of the identity theft protection act, 2004 PA 452, MCL 445.71.

(kk) Advertising or conducting a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group. This subdivision does not apply if any of the following are met:

(i) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States patent and trademark office.

(ii) At least 1 member of the performing group was a member of the recording group and has a legal right to use the recording group's name, by virtue of use or operation under the recording group's name without having abandoned the name or affiliation with the recording group.

(iii) The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the vocal or instrumental group performing is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public.

(iv) The advertising does not relate to a live musical performance or production taking place in this state.

(v) The performance or production is expressly authorized by the recording group.

(ll) Violating section 3e, 3f, or 3g.

(2) The attorney general may promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not

create an additional unfair trade practice not already enumerated by this section. However, to assure national uniformity, rules shall not be promulgated to implement subsection (1)(dd) or (ee).

(3) Subsection (1)(hh) does not apply to either of the following:

(a) Providing a service related to the administration of health-related or dental-related benefits or services to patients, including provider contracting or credentialing. This subdivision is intended to limit the application of subsection (1)(hh) and is not intended to imply that this act would otherwise apply to health-related or dental-related benefits.

(b) An employer providing benefits or services to an employee.

445.903f Possession or use of gift certificate; charging service fee prohibited; “service fee” defined.

Sec. 3f. A person engaged in the retail sale of goods or services shall not charge an inactivity fee or other service fee to a consumer for the possession or use of a gift certificate. As used in this section, “service fee” does not include any fee charged to and paid by a consumer in connection with the sale of a gift certificate, unless the fee is deducted or debited from the face value of the gift certificate.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) House Bill No. 4050.
- (b) House Bill No. 4680.
- (c) Senate Bill No. 388.

Effective date.

Enacting section 2. This amendatory act takes effect November 1, 2008.

This act is ordered to take immediate effect.

Approved July 10, 2008.

Filed with Secretary of State July 14, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
 House Bill No. 4050 was filed with the Secretary of State July 14, 2008, and became 2008 PA 210, Eff. Nov. 1, 2008.
 House Bill No. 4680 was filed with the Secretary of State July 14, 2008, and became 2008 PA 209, Eff. Nov. 1, 2008.
 Senate Bill No. 388 was filed with the Secretary of State July 14, 2008, and became 2008 PA 208, Eff. Sept. 30, 2008.

[No. 212]

(SB 1096)

AN ACT to make appropriations for the department of education and certain other purposes relating to education for the fiscal year ending September 30, 2009; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the state agency.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of education.

Sec. 101. There is appropriated for the department of education and certain state purposes related to education as set forth in this act for the fiscal year ending September 30, 2009, from the following funds:

DEPARTMENT OF EDUCATION

APPROPRIATION SUMMARY:

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	482.5	
GROSS APPROPRIATION		\$ 95,143,100
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers.....		0
ADJUSTED GROSS APPROPRIATION		\$ 95,143,100
Federal revenues:		
Federal revenues		70,598,500
Total federal revenues		70,598,500
Special revenue funds:		
Local cost sharing (schools for blind/deaf)		6,618,100
Local school district service fees		306,500
Total local revenues.....		6,924,600
Gifts, bequests, and donations.....		650,600
Private foundations		2,437,200
Total private revenues.....		3,087,800
Total local and private revenues		10,012,400
Certification fees.....		5,702,300
Commodity distribution fees		71,700
Student insurance revenue		218,600
Teacher college review fees		54,000
Teacher testing fees		523,200
Tenant rent		261,000
Training and orientation workshop fees		150,000
Total other state restricted revenues		6,980,800
State general fund/general purpose		\$ 7,551,400

State board of education/office of the superintendent.

Sec. 102. STATE BOARD OF EDUCATION/OFFICE OF THE SUPERINTENDENT

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	16.0	
State board of education, per diem payments.....		\$ 24,400
Unclassified positions—6.0 FTE positions.....		515,600
State board/superintendent operations—16.0 FTE positions		3,065,600
GROSS APPROPRIATION		\$ 3,605,600
Appropriated from:		
Federal revenues:		
Federal revenues		1,999,100

For Fiscal Year
Ending Sept. 30,
2009

Special revenue funds:		
Private foundations	\$	27,100
Certification fees.....		202,100
State general fund/general purpose	\$	1,377,300

Central support.

Sec. 103. CENTRAL SUPPORT

Full-time equated classified positions.....16.6		
Central support—16.6 FTE positions.....	\$	3,215,100
Worker’s compensation		48,000
Building occupancy charges - property management services		1,574,900
Internal audit services operations.....		100,000
Tenant rent		261,000
Training and orientation workshops.....		150,000
Terminal leave payments		574,700
GROSS APPROPRIATION	\$	<u>5,923,700</u>

Appropriated from:

Federal revenues:

Federal revenues		3,598,500
Special revenue funds:		
Local cost sharing (schools for blind/deaf).....		68,400
Certification fees.....		340,000
Teacher testing fees		13,500
Tenant rent		261,000
Training and orientation workshop fees		150,000
State general fund/general purpose	\$	1,492,300

Information technology services.

Sec. 104. INFORMATION TECHNOLOGY SERVICES

Information technology operations.....	\$	<u>2,820,900</u>
GROSS APPROPRIATION	\$	2,820,900

Appropriated from:

Federal revenues:

Federal revenues		1,762,400
Special revenue funds:		
Local cost sharing (schools for blind/deaf).....		141,900
Certification fees.....		245,000
State general fund/general purpose	\$	671,600

Special education services.

Sec. 105. SPECIAL EDUCATION SERVICES

Full-time equated classified positions.....47.0		
Special education operations—47.0 FTE positions.....	\$	11,446,800
GROSS APPROPRIATION	\$	<u>11,446,800</u>

Appropriated from:

Federal revenues:

Federal revenues		10,993,400
Special revenue funds:		
Private foundations		105,000

	For Fiscal Year Ending Sept. 30, 2009
Certification fees.....	\$ 38,500
State general fund/general purpose	\$ 309,900

Michigan schools for the deaf and blind.

Sec. 106. MICHIGAN SCHOOLS FOR THE DEAF AND

BLIND

Full-time equated classified positions.....	109.0
Michigan schools for the deaf and blind operations—	
108.0 FTE positions.....	\$ 12,931,000
Camp Tuhsmeheta—1.0 FTE position.....	295,100
Private gifts - blind	90,000
Private gifts - deaf.....	250,000
GROSS APPROPRIATION	\$ 13,566,100
Appropriated from:	
Federal revenues:	
Federal revenues	5,993,500
Special revenue funds:	
Local cost sharing (schools for blind/deaf)	6,407,800
Local school district service fees	295,600
Gifts, bequests, and donations.....	650,600
Student insurance revenue	218,600
State general fund/general purpose	\$ 0

Professional preparation services.

Sec. 107. PROFESSIONAL PREPARATION SERVICES

Full-time equated classified positions.....	30.5
Professional preparation operations—30.5 FTE positions.....	\$ 6,819,900
National board certification	100,000
Department of attorney general	50,000
GROSS APPROPRIATION	\$ 6,969,900
Appropriated from:	
Federal revenues:	
Federal revenues	2,652,700
Special revenue funds:	
Certification fees.....	3,753,500
Teacher testing fees	509,700
Teacher college review fees	54,000
State general fund/general purpose	\$ 0

Early childhood education and family services.

Sec. 108. EARLY CHILDHOOD EDUCATION AND FAMILY

SERVICES

Full-time equated classified positions.....	26.0
Early childhood education and family services operations—	
26.0 FTE positions.....	\$ 4,480,400
GROSS APPROPRIATION	\$ 4,480,400
Appropriated from:	
Federal revenues:	
Federal revenues	3,259,200

For Fiscal Year
Ending Sept. 30,
2009

Special revenue funds:		
Private foundations	\$	191,900
Certification fees.....		58,700
State general fund/general purpose	\$	970,600

School improvement services.

Sec. 109. SCHOOL IMPROVEMENT SERVICES

Full-time equated classified positions	83.0	
School improvement operations—83.0 FTE positions	\$	18,031,200
Subject area content expectations and guidelines.....		100,000
GROSS APPROPRIATION	\$	18,131,200

Appropriated from:

Federal revenues:		
Federal revenues		15,951,600
Special revenue funds:		
Private foundations		1,113,200
Certification fees.....		533,800
State general fund/general purpose	\$	532,600

School finance and school law services.

Sec. 110. SCHOOL FINANCE AND SCHOOL LAW

SERVICES

Full-time equated classified positions	20.5	
School finance and school law operations—20.5 FTE positions	\$	3,035,300
GROSS APPROPRIATION	\$	3,035,300

Appropriated from:

Federal revenues:		
Federal revenues		1,432,100
Special revenue funds:		
Certification fees.....		530,700
State general fund/general purpose	\$	1,072,500

Educational assessment and accountability.

Sec. 111. EDUCATIONAL ASSESSMENT AND

ACCOUNTABILITY

Full-time equated classified positions	45.6	
Educational assessment operations—45.6 FTE positions	\$	9,409,700
GROSS APPROPRIATION	\$	9,409,700

Appropriated from:

Federal revenues:		
Federal revenues		9,409,700
State general fund/general purpose	\$	0

Grants administration and school support services.

Sec. 112. GRANTS ADMINISTRATION AND SCHOOL

SUPPORT SERVICES

Full-time equated classified positions	56.6	
Grants administration and school support services operations— 56.6 FTE positions.....	\$	7,988,500

	For Fiscal Year Ending Sept. 30, 2009
Federal and private grants	\$ 3,000,000
GROSS APPROPRIATION	\$ 10,988,500
Appropriated from:	
Federal revenues:	
Federal revenues	9,472,200
Special revenue funds:	
Local school district service fees	10,900
Private foundations	1,000,000
Commodity distribution fees	71,700
State general fund/general purpose	\$ 433,700

Educational technology and data coordination.

Sec. 113. EDUCATIONAL TECHNOLOGY AND DATA COORDINATION

Full-time equated classified positions	6.7
Educational technology and data coordination—6.7 FTE positions..	\$ 803,600
GROSS APPROPRIATION	\$ 803,600
Appropriated from:	
Federal revenues:	
Federal revenues	803,600
State general fund/general purpose	\$ 0

Career and technical education.

Sec. 114. CAREER AND TECHNICAL EDUCATION

Full-time equated classified positions	25.0
Career and technical education operations—25.0 FTE positions	\$ 3,961,400
GROSS APPROPRIATION	\$ 3,961,400
Appropriated from:	
Federal revenues:	
Federal revenues	3,270,500
State general fund/general purpose	\$ 690,900

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending from state resources in this appropriation act for the fiscal year ending September 30, 2009 is \$14,532,200.00 and state appropriations paid to local units of government are \$0.

Appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 202. The appropriations made and expenditures authorized under this act and the departments, commissions, boards, offices, and programs for which appropriations are made

under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) “Department” means the Michigan department of education.

(b) “District” means a local school district as defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a public school academy as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(c) “FTE” means full-time equated.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Reporting requirements; use of Internet.

Sec. 205. The department shall use the Internet to fulfill the reporting requirements of this act. This requirement may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

Agenda and supporting documents; availability on Internet.

Sec. 206. The department shall provide through the Internet the state board of education agenda and all supporting documents, and shall notify the state budget director and the senate and house fiscal agencies that the agenda and supporting documents are available on the Internet, at the time the agenda and supporting documents are provided to state board of education members.

Safe school program.

Sec. 207. (1) Upon receipt of the federal drug-free grant, the department shall allocate \$225,000.00 of the grant to the safe school program within the department. The safe school program shall work with local school boards, parents of enrolled students, law enforcement agencies, community leaders, and the office of drug control policy for the prevention of school violence. The safe school program shall develop and implement, and serve as coordinator of, a statewide clearinghouse for information, program development, model programs and policies, and technical assistance on school violence prevention.

(2) To accomplish its functions under this section, the safe school program shall do all of the following:

(a) Coordinate with the office of drug control policy in the department of community health to ensure that there is a meaningful linkage between the efforts under this act to provide safe schools and the initiatives undertaken through that office, including, but not limited to, school districts’ safe and drug-free school plans, and to facilitate timely applications for and distribution of available grant money.

(b) Provide through the Internet the availability to access, and provide through the Internet information regarding, the state model policy on locker searches, the state model policy on firearm safety and awareness, and any other state or local safety policies that the office considers exemplary.

(c) Advance, promote, and encourage the awareness and use of the state police anti-violence hotline.

Teacher or employee disciplinary actions; maintenance of records.

Sec. 208. The department shall require all public school districts to maintain complete records within the personnel file of a teacher or school employee of any disciplinary actions taken by the local school board against the teacher or employee for sexual misconduct. The records shall not be destroyed or removed from the teacher's or employee's personnel file except as required by a court order.

Technology-related services and projects; payment of user fees.

Sec. 209. From the funds appropriated in part 1 for information technology, departments and agencies shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the departments and the department of information technology.

Information technology; designation of amounts as work projects.

Sec. 210. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Failure of certain schools to make progress required by no child left behind act; appeal of determination before publication of list.

Sec. 211. Before publishing a list of schools or districts determined to have failed to make adequate yearly progress as required by the no child left behind act of 2001, Public Law 107-110, the department shall allow a school or district to appeal that determination. The department shall consider and act upon the appeal within 30 days after it is submitted and shall not publish the list until after all appeals have been considered and decided.

Purchase of goods or services; preference.

Sec. 212. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and comparable quality American goods or services, or both, are available. Preference shall be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable quality. In addition, preference shall be given to goods or services, or both, manufactured or provided by Michigan businesses owned and operated by veterans if they are competitively priced and of comparable quality.

Hiring freeze; exceptions; report.

Sec. 213. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director may grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Out-of-state travel; exception; report.

Sec. 214. (1) Due to the current budgetary problems in this state, out-of-state travel for the fiscal year ending September 30, 2009 shall be limited to situations in which 1 or more of the following conditions apply:

(a) The travel is required by legal mandate or court order or for law enforcement purposes.

(b) The travel is necessary to protect the health or safety of Michigan citizens or visitors or to assist other states in similar circumstances.

(c) The travel is necessary to produce budgetary savings or to increase state revenues, including protecting existing federal funds or securing additional federal funds.

(d) The travel is necessary to comply with federal requirements.

(e) The travel is necessary to secure specialized training for staff that is not available within this state.

(f) The travel is financed entirely by federal or nonstate funds.

(2) If out-of-state travel is necessary but does not meet 1 or more of the conditions in subsection (1), the state budget director may grant an exception to allow the travel. Any exceptions granted by the state budget director shall be reported on a monthly basis to the house and senate appropriations committees.

(3) Not later than January 1 of each year, each department shall prepare a travel report listing all travel by classified and unclassified employees outside this state in the immediately preceding fiscal year that was funded in whole or in part with funds appropriated in the department's budget. The report shall be submitted to the chairs and members of the house and senate appropriations committees, the house and senate fiscal agencies, and the state budget director. The report shall include the following information:

(a) The name of each person receiving reimbursement for travel outside this state or whose travel costs were paid by this state.

(b) The destination of each travel occurrence.

(c) The dates of each travel occurrence.

(d) A brief statement of the reason for each travel occurrence.

(e) The transportation and related costs of each travel occurrence, including the proportion funded with state general fund/general purpose revenues, the proportion funded with state-restricted revenues, the proportion funded with federal revenues, and the proportion funded with other revenues.

(f) A total of all out-of-state travel funded for the immediately preceding fiscal year.

Professional development conference or training seminar; travel.

Sec. 215. The department shall not approve the travel of more than 1 departmental employee to a specific professional development conference or training seminar that is located outside of this state unless the professional development conference or training seminar is funded by a federal or private funding source and requires more than 1 person from a department to attend, or the conference or training seminar includes multiple issues in which 1 employee from the department does not have expertise.

Communication of employee with legislative member; disciplinary action prohibited.

Sec. 216. The department shall not take disciplinary action against an employee who communicates truthfully and factually with a member of the legislature or his or her staff.

Contracts to provide services or supplies; businesses in deprived and depressed communities.

Sec. 217. The director shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Contingency funds.

Sec. 219. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$5,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$700,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$250,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed \$3,000,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Data requested by legislature.

Sec. 220. The department shall provide data requested by a member of the legislature, his or her staff, or the house and senate fiscal agencies in a timely manner.

Legal services.

Sec. 221. Funds appropriated in part 1 shall not be used by a principal executive department, state agency, or authority to hire a person to provide legal services that are the responsibility of the attorney general. This prohibition does not apply to legal services for bonding activities and for those activities that the attorney general authorizes.

Implementation of public act; report on policy changes; applicability of rule to small business; definitions.

Sec. 222. (1) The department shall report no later than April 1, 2009 on each specific policy change made by the department to implement a public act affecting that department that took effect during the preceding calendar year. The department shall report to the house and senate appropriations subcommittees on the budget for the department, the joint committee on administrative rules, and the senate and house fiscal agencies.

(2) Funds appropriated in part 1 shall not be used by the department to adopt a rule that will apply to a small business and that will have a disproportionate economic impact on small businesses because of the size of those businesses if the department fails to reduce the disproportionate economic impact of the rule on small businesses as provided under section 40 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.240.

(3) As used in this section:

(a) "Rule" means that term as defined under section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

(b) “Small business” means that term as defined under section 7a of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207a.

STATE BOARD/OFFICE OF THE SUPERINTENDENT

Per diem payments; limitation; report.

Sec. 301. (1) The appropriations in part 1 may be used for per diem payments to the state board for meetings at which a quorum is present or for performing official business authorized by the state board. The per diem payments shall be at a rate as follows:

(a) State board of education - president - \$110.00 per day.

(b) State board of education - member other than president - \$100.00 per day.

(2) A state board of education member shall not be paid a per diem for more than 30 days per year.

(3) The state board executive shall report to the public, the senate and house fiscal agencies, and the state budget director the previous quarter’s expenses by fund source for members of the state board of education.

Travel.

Sec. 302. From the amount appropriated in part 1 to the state board of education, not more than \$35,000.00 shall be expended for in-state travel and out-of-state travel directly related to the duties of the state board of education.

MICHIGAN SCHOOLS FOR THE DEAF AND BLIND

Employees as annual employees.

Sec. 401. The employees at the Michigan schools for the deaf and blind who work on a school year basis shall be considered annual employees for purposes of service credits, retirement, and insurance benefits.

Operation of student’s instructional program; assessment.

Sec. 402. For each student enrolled at the Michigan schools for the deaf and blind, the department shall assess the intermediate school district of residence 100% of the cost of operating the student’s instructional program. The amount shall exclude room and board related costs and the cost of weekend transportation between the school and the student’s home.

Rental or lease of excess property; receipt and expenditure of additional funds; carry forward of unexpended and unencumbered funds.

Sec. 404. (1) The department may assess rent or lease excess property located on the campus of the Michigan schools for the deaf and blind in Flint to private or publicly funded organizations.

(2) In addition to those funds appropriated in part 1, the department may receive and expend additional funds from lease agreements at the Michigan schools for the deaf and blind Flint campus that have been negotiated with the approval of the department of management and budget. These funds are appropriated to the department for the operation, maintenance, and renovation expenses associated with the leased space.

(3) From the unexpended balances of appropriations for the schools for the deaf and blind operations, up to \$250,000.00 of any unexpended and unencumbered funds remaining on September 30, 2009 may be carried forward as a work project and expended for special maintenance and repairs of facilities at the campus of the Michigan schools for the deaf and blind in Flint. The work shall be carried out by state employees, or by contract as necessary, at an estimated cost of \$250,000.00. The estimated completion date of the work is September 30, 2010.

(4) From the tenant rent appropriation for Fay hall, up to \$100,000.00 of any unexpended and unencumbered funds remaining on September 30, 2009 may be carried forward as a work project or as restricted revenue and expended for special maintenance and repairs of facilities at Fay hall. The work project may be performed by state employees, or by contract when necessary, at an estimated cost of \$100,000.00. The estimated completion date of the work project is September 30, 2010.

Reimbursement for services from federal Medicaid program.

Sec. 405. The department may assist the department of community health, other departments, and local school districts to secure reimbursement for eligible services provided in Michigan schools from the federal Medicaid program. The department may submit reports of direct expenses related to this effort to the department of community health for reimbursement.

Residential program; promotion as option; distribution of information.

Sec. 406. (1) The Michigan schools for the deaf and blind may promote its residential program as a possible appropriate option for children who are deaf or hard of hearing or who are blind or visually impaired. The Michigan schools for the deaf and blind shall distribute information detailing its services to all intermediate school districts in the state.

(2) Upon knowledge of or recognition by an intermediate school district that a child in the district is deaf or hard of hearing or blind or visually impaired, the intermediate school district shall provide to the parents of the child the literature distributed by the Michigan schools for the deaf and blind to intermediate school districts under subsection (1).

(3) Parents will continue to have a choice regarding the educational placement of their deaf or hard of hearing children.

PROFESSIONAL PREPARATION SERVICES

Professional personnel register and certificate revocation/felony conviction files; maintenance.

Sec. 501. From the funds appropriated in part 1 for professional preparation services, the department shall maintain the professional personnel register and certificate revocation/felony conviction files.

Credits earned through substitute teaching; alternative program.

Sec. 502. The department shall authorize teacher preparation institutions to provide an alternative program by which up to 1/2 of the required student internship or student teaching credits may be earned through substitute teaching. The department shall require that teacher preparation institutions collaborate with school districts to ensure that the quality of instruction provided to student teachers is comparable to that required in a traditional student teaching program.

Professional preparation operations; allocations to Central Michigan University and Wayne State University; review of report results.

Sec. 503. (1) Of the funds appropriated in part 1 for professional preparation operations, \$100,000.00 shall be allocated to Central Michigan University for the alternative route to certification program. Of the funds appropriated in part 1 for professional preparation operations, \$100,000.00 shall be allocated to Wayne State University for the pathways to teaching program. Not later than March 1, 2009, the department shall provide the senate and house appropriations committees, the state budget director, and senate and house fiscal agencies with a report including all of the following:

- (a) How many teachers were certified under the programs.
 - (b) How long participating teachers served in the classroom.
 - (c) A comparison of teacher evaluations of participating teachers and teachers with traditional teacher certifications.
- (2) The department will work with Central Michigan University and Wayne State University to review the report results to determine subsequent funding strategies.

National board certification; application fee.

Sec. 505. From the funds appropriated in part 1 for national board certification, the department shall pay 1/2 of the application fee for teachers who are considered by the department to be qualified to apply to the national board for professional teaching standards for professional teaching certificates or licenses and to provide grants to recognize and reward teachers who receive certification or licensure.

OFFICE OF SCHOOL IMPROVEMENT

Charter school office; allocation.

Sec. 601. From the amount appropriated in part 1 for the office of school improvement, there is allocated \$350,000.00 and 3.5 FTE positions to operate a charter school office to administer charter school legislation and associated regulations, and to coordinate the activities of the department relating to charter schools.

Subject area content expectations and guidelines.

Sec. 603. The funds appropriated in part 1 for subject area content expectations and guidelines shall be used for the development, approval, and implementation of subject area content expectations and guidelines that apply to the credit requirements of the Michigan merit standard, as required under section 1278b of the revised school code, 1976 PA 451, MCL 380.1278b.

INFORMATION TECHNOLOGY

Comprehensive educational information system; data collection efforts; collaboration.

Sec. 701. The department shall work in collaboration with the center for educational performance and information to support the comprehensive educational information system and all data collection efforts of the department.

GRANTS ADMINISTRATION AND SCHOOL SUPPORT SERVICES**Grants; notification of receipt.**

Sec. 901. Within 10 days of the receipt of a grant appropriated in the federal and private grants line item in part 1, the department shall notify the house and senate chairpersons of the appropriations subcommittees responsible for the department budget, the house and senate fiscal agencies, and the state budget director of the receipt of the grant, including the funding source, purpose, and amount of the grant.

EDUCATIONAL TECHNOLOGY AND DATA COORDINATION**Operation of cyber schools; report.**

Sec. 950. The department shall work with the legislature to examine the feasibility of removing the barriers to operation of cyber schools that focus on special student populations such as dropouts or expelled students. Not later than December 31, 2008, the department shall prepare and submit to the appropriations subcommittees on education and K-12 school aid a report on these matters.

This act is ordered to take immediate effect.

Approved July 15, 2008.

Filed with Secretary of State July 16, 2008.

[No. 213]**(SB 1099)**

AN ACT to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2009; to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The People of the State of Michigan enact:

ARTICLE 1

SUMMARY AND GENERAL PROVISIONS

Appropriations; state institutions of higher education.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this act are appropriated for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2009, from the funds indicated in this act. The following is a summary of the appropriations in this act:

HIGHER EDUCATION

APPROPRIATION SUMMARY:

Full-time equated classified positions	1.0	
GROSS APPROPRIATION	\$	1,769,105,200
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers.....		0

	For Fiscal Year Ending Sept. 30, 2009
ADJUSTED GROSS APPROPRIATION	\$ 1,769,105,200
Federal revenues:	
Total federal revenues	7,400,000
Special revenue funds:	
Total local revenues.....	0
Total private revenues.....	0
Total other state restricted revenues	116,100,000
State general fund/general purpose	\$ 1,645,605,200

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 this act for fiscal year 2008-2009 is \$1,761,705,200.00 and state spending from state resources to be paid to local units of government for fiscal year 2008-2009 is \$3,759,100.00. The itemized statement below identifies the estimated appropriations from which spending to local units of government will occur:

Part-time independent student program.....	\$ 1,255,700
Michigan education opportunity grants.....	932,900
Michigan work-study.....	1,570,500
TOTAL.....	\$ 3,759,100

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.

ARTICLE 2

RESEARCH UNIVERSITIES

PART 1

LINE-ITEM APPROPRIATIONS

Research universities.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for research universities for the fiscal year ending September 30, 2009, from the funds indicated in this part.

Michigan State University.

Sec. 102. MICHIGAN STATE UNIVERSITY

Operations.....	\$ 293,041,200
Agricultural experiment station	34,336,200
Cooperative extension service	29,615,500
GROSS APPROPRIATION	\$ 356,992,900
Appropriated from:	
State general fund/general purpose	\$ 356,992,900

For Fiscal Year
Ending Sept. 30,
2009

University of Michigan – Ann Arbor.

Sec. 103. UNIVERSITY OF MICHIGAN - ANN ARBOR

Operations	\$	326,674,300
GROSS APPROPRIATION	\$	<u>326,674,300</u>
Appropriated from:		
State general fund/general purpose	\$	326,674,300

Wayne State University.

Sec. 104. WAYNE STATE UNIVERSITY

Operations	\$	221,237,000
GROSS APPROPRIATION	\$	<u>221,237,000</u>
Appropriated from:		
State general fund/general purpose	\$	221,237,000

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

“Research university” defined.

Sec. 203. As used in this act, “research university” means a public university classified as a “research university (very high research activity)” under the 2005 classification of institutions of higher education conducted by the Carnegie foundation for the advancement of teaching.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the institutions of higher education receiving appropriations in part 1 shall use the Internet to fulfill the reporting requirements of this act. This requirement may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

Purchase of goods or services; preference.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods and services, or both, are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value. In addition, preference should be given to goods or services, or both, that are manufactured or provided by Michigan businesses owned and operated by veterans if they are competitively priced and of comparable quality.

Vehicles assembled or manufactured in Michigan; preference.

Sec. 210. It is the intent of the legislature that the funds appropriated in part 1 to state institutions of higher education shall not be used to enter into a lease or to purchase a vehicle assembled or manufactured outside of the United States, and that preference be given to vehicles assembled or manufactured in Michigan.

Payment and distribution of funds; submission of HEIDI data; description of procedures used.

Sec. 212. (1) The funds appropriated in part 1 to state institutions of higher education shall be paid out of the state treasury and distributed by the state treasurer to the respective institutions in 11 equal monthly installments on the sixteenth of each month, or the next succeeding business day, beginning with October 16, 2008. Except for Wayne State University, each institution shall accrue its July and August 2009 payments to its institutional fiscal year ending June 30, 2009.

(2) All universities shall submit higher education institutional data inventory (HEIDI) data and associated financial and program information requested by and in a manner prescribed by the state budget director. For universities with fiscal years ending June 30, 2008, these data shall be submitted to the state budget director by October 15, 2008. Universities with a fiscal year ending September 30, 2008 shall submit preliminary HEIDI data by November 15, 2008 and final data by December 15, 2008. If a university fails to submit HEIDI data and associated financial aid program information in accordance with this reporting schedule, the state treasurer shall withhold the monthly installments under subsection (1) to the university until those data are submitted.

(3) A detailed description of procedures utilized to arrive at the amounts appropriated in part 1 shall be submitted to each institution by the senate and house fiscal agencies.

Federal or private funds; acceptance and use.

Sec. 213. Funds received by the state from the federal government or private sources for the use of a college or university are appropriated for the purposes for which they are provided. The acceptance and use of federal or private funds do not place an obligation upon the legislature to continue the purposes for which the funds are made available.

Eligibility of institution for Michigan tuition tax credit; notification and applicable documentation of tuition and fee changes.

Sec. 214. If section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, is not repealed and if a state institution of higher education that receives funds under this act notifies the department of treasury regarding its tuition and fee rates in order to qualify as an eligible institution for the Michigan tuition tax credit under section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, the institution shall also submit the notification and applicable documentation of tuition and fee changes to the house and senate fiscal agencies.

Furnishing program and financial information.

Sec. 215. A state institution of higher education that receives funds under this act shall furnish all program and financial information that is required by and in a manner prescribed by the state budget director or the house or senate appropriations committee.

Student-level educational data; report.

Sec. 216. By December 31, 2008, state universities receiving funds in part 1 shall submit a report to the house and senate appropriations subcommittees on higher education, the house and senate fiscal agencies, and the state budget director regarding steps that have been taken toward and challenges associated with development of student-level data that could be submitted to the center for educational performance and information established in section 94a of the state school aid act of 1979, 1979 PA 94, MCL 388.1694a, to develop a comprehensive preschool through postsecondary student data system that will allow analysis of student-level educational data to ensure that Michigan's education and training systems are preparing students for success in their adult careers.