

(g) That each item that is designed for a single use is properly stored and is not reused.

(h) That the dairy farm water supply complies with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, or, if the water supply is not new or reconstructed after April 1, 1994, the water supply is annually tested by a laboratory approved by the department and found to be of safe and satisfactory quality and in compliance with guidelines established by the department of community health.

(i) That waste products are disposed of in a manner that will not pollute the soil surface, contaminate a feed, milk, or water supply, or be exposed to insects.

(10) A producer who ships milk in cans shall do each of the following:

(a) Ensure that each milk can used in transporting milk from dairy farm to plant is seamless with an umbrella lid for easy cleaning.

(b) Inspect, repair, and replace milk cans as necessary to prevent the use of cans and lids with open seams, cracks, rust, milkstone, or any unsanitary condition.

(11) A producer who ships milk from a farm bulk tank shall comply with the following:

(a) A farm tank on a dairy farm shall be installed so as to remain level at all times.

(b) A farm tank shall have an accurate indicating thermometer stored in the milkhouse which may be either an integral thermometer in the farm tank or an approved thermometer acceptable to the director.

(c) A farm tank shall have a calibrated means of measurement and an accurate and legible volume to weight conversion chart, unless the farm tank is mounted on an accurate scale. All measuring devices must be in compliance with the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634.

(d) A conversion chart shall bear the same serial number as that found on the farm tank and measuring rod.

(e) The producer is responsible for recalibrating a farm tank that does not have an accurate conversion chart. A recalibration must be in compliance with the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634. A person shall not adjust, alter, or change a conversion chart unless the change, alteration, or adjustment is made strictly according to the requirements of the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634.

(f) A farm tank shall not be filled to a capacity that exceeds the calibrated limits as indicated by the conversion chart. If the producer wishes to fill the tank nearer to the top, the tank shall be calibrated to an additional height, which still permits proper agitation without spillage.

(g) Milk to be offered for sale shall be cooled and stored in the farm tank equipped with cooling and agitation. Other cooling and storage facilities may be used when approved in writing by the director on a case-by-case basis.

(h) Milk production shall be of sufficient quantity so that it can be properly agitated not later than at the completion of the first milking into the farm tank.

(i) Facilities for effectively sanitizing farm tanks shall be provided by the producer.

288.691 Transporting milk; vehicles; duties of licensed bulk milk hauler/sampler; testing of milk by dairy plant, transfer station, or receiving station.

Sec. 131. (1) The department shall issue a license or permit to haul cans of milk to the owner or operator of a truck or vehicle used for hire to transport milk in cans from the farm to the dairy plant.

(2) The owner of all trucks used to transport milk in cans shall ensure that vehicles used comply with each of the following:

(a) Each vehicle is enclosed, constructed, and operated to protect the product from extreme temperature, dust, or other adverse conditions and is kept clean.

(b) If more than 1 tier of cans is carried, the vehicle contains decking boards or racks.

(c) Each vehicle contains cans that are used solely for the transportation of milk from the farm to the plant and for no other purpose.

(3) A licensed bulk milk hauler/sampler shall collect samples of milk from each load of milk he or she receives for transport pursuant to the grade A milk law of 2001. A milk tank truck driver engaged in direct farm pickup has direct responsibility for accompanying official samples.

(4) A licensed bulk milk hauler/sampler or milk transportation company shall do each of the following:

(a) Ensure that the exterior shell of each bulk milk pickup tanker is clean and free from open seams or cracks.

(b) Ensure that the interior shell of each bulk milk pickup tanker is stainless steel and constructed to prevent buckling, sagging, or incomplete drainage.

(c) Ensure that all product contact surfaces are smooth, easily cleaned, and maintained in good repair.

(d) Fully enclose the pump and hose cabinet with tight-fitting doors and provide inlet and outlet dust covers to give adequate protection from road dust.

(e) Ensure that each new and replacement bulk milk pickup tanker complies with sanitary standards. Each licensed or permitted milk tank truck shall be used solely for the transportation of milk or dairy products or for other food or potable commodities approved by the department.

(f) Deliver producer samples collected pursuant to this section to the dairy plant or receiving station as specified by the department.

(g) License or permit the milk tank truck pursuant to the grade A milk law of 2001.

(h) Ensure that milk over 96 hours old is not picked up from a dairy farm, with the exception of goat milk, which may be stored for 7 days, and sheep milk, which may be frozen for extended storage and transportation.

(5) The dairy plant, transfer station, or receiving station, or a laboratory selected by the dairy plant, transfer station, or receiving station that is approved by the department, shall test each producer's milk for each of the following, in accordance with standard methods for the examination of dairy products, referenced in 7 CFR part 58, adopted by reference, at least 4 out of every 6 months and report the following results to the department:

(a) The presence of bacteria by standard plate count or plate-loop count.

(b) The presence of a violative beta lactam drug residue using any test approved by the department or the food and drug administration for that purpose.

(c) The presence of somatic cells using either a direct microscopic somatic cell count test or an electronic somatic cell count test.

(d) Temperature at time of bulk hauler pickup on the farm or temperature of milk in cans when delivered to the dairy plant, transfer station, or receiving station.

(e) Sediment as described in section 132(8)(e).

288.696 Pasteurized milk and dairy products; sale; processing as low-acid foods.

Sec. 136. (1) Only pasteurized milk and dairy products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments except as specified in section 138.

(2) Milk and dairy products may be aseptically processed as low-acid foods provided they comply with the following requirements:

(a) All thermally processed milk and milk products that are packaged in hermetically sealed containers are processed in a milk processing facility licensed under this act, the grade A milk law of 2001, or the food law of 2000.

(b) All processors of acidified milk and milk products packaged in hermetically sealed containers comply with the regulations of the United States food and drug administration in 21 CFR part 108, 21 CFR part 110, and 21 CFR part 114.

(c) All thermally processed milk and milk products that are packaged in hermetically sealed containers comply with the regulations of the United States food and drug administration in 21 CFR part 108, 21 CFR part 110, and 21 CFR part 113.

(d) Hermetically sealed packages are handled to maintain product and container integrity.

288.697 “Pasteurization” and “pasteurized”; temperature and time relationships.

Sec. 137. The terms “pasteurization”, “pasteurized”, and similar terms mean the process of heating every particle of milk or dairy products to at least the temperature and time relationships given in this section as follows or by any equivalent process approved by the federal food and drug administration and accepted by the department for that purpose:

Minimum Vat Pasteurization Temperature and Time Standards

Whole milk; skim milk; cheese milk; whey; other products with less than 10% butterfat or without added sweeteners	145°F (63°C)	30 min
Cream; condensed products; other products with 10% or more butterfat or with added sweeteners	150°F (66°C)	30 min
Eggnog; frozen dessert mix	155°F (69°C)	30 min
Cream for butter making	165°F (74°C)	30 min
Milk or cream for plastic or frozen cream	170°F (77°C)	30 min

Minimum High Temperature Short Time (HTST),
Higher Heat Short Time (HHST) and
Aseptic Pasteurization Temperature and Time Standards

Whole milk; skim milk;	161°F (72°C)	15 sec
cheese milk; whey;	191°F (89°C)	1.0 sec
other products with less	194°F (90°C)	0.5 sec
than 10% butterfat or without	201°F (94°C)	0.1 sec
added sweeteners	204°F (96°C)	0.05 sec
	212°F (100°C)	0.01 sec
Cream; condensed products;	166°F (75°C)	15 sec
other products with 10% or	196°F (92°C)	1.0 sec
more butterfat or with	199°F (93°C)	0.5 sec
added sweeteners	206°F (97°C)	0.1 sec
	209°F (99°C)	0.05 sec
	217°F (103°C)	0.01 sec
Eggnog; frozen dessert mix	175°F (80°C)	25 sec
	180°F (83°C)	15 sec
Cream for butter making	185°F (85°C)	15 sec
Milk or cream for plastic or frozen cream	190°F (88°C)	15 sec
Ultra-pasteurized products	280°F (138°C)	2 sec

288.699 Milk and dairy products; pasteurization required; cooling; equipment; temperature; ingredients added before or after pasteurization; repasteurized condensed milk; design and operation of pasteurization equipment.

Sec. 139. (1) Except as provided in section 138, all milk and dairy products shall be pasteurized before entrance of the milk and dairy products into any of the following:

- (a) The evaporator or condensing equipment.
- (b) The cheese-making process.
- (c) The cheese culture making process.
- (d) The frozen dessert mix freezing.
- (e) The cultured product culturing.

(2) All dairy by-products from dairy plants used for feeding purposes for farm animals shall be pasteurized or be derived from pasteurized products when specified by the director.

(3) All milk and dairy products shall be pasteurized at the plant at which they are processed or dried, except for crystalized condensed whey and other high solids/low water activity products such as sweetened condensed milk, which shall be transported in tankers or containers dedicated to transporting pasteurized products. This subsection shall not be construed as banning the transportation in nondedicated tankers of pasteurized milk or dairy products to another processing or drying plant for repasteurization and processing or drying.

(4) All pasteurized milk and dairy products, except those to be cultured and those to receive immediate additional heat treatment in subsequent processes of manufacturing,

shall be cooled immediately in approved equipment to temperature criteria specified in section 70 or maintained at or above 145 degrees Fahrenheit (63 degrees Celsius).

(5) All pasteurization equipment shall comply with sanitary standards and shall be tested by the department every 3 months for proper construction and operation.

(6) The airspace temperature in a vat pasteurizer shall be maintained at least 5°F (2.8°C) above the minimum pasteurization temperature for the product being pasteurized during the entire 30-minute vat pasteurization cycle.

(7) All milk and milk products (i.e., milk solids, whey, nonfat dry milk, condensed milk, cream, skim milk, etc.), eggs, egg products, cocoa, cocoa products, emulsifiers, stabilizers, vitamins, and liquid sweeteners shall be added prior to pasteurization. All such additions shall be made in a sanitary manner, which prevents the contamination of the added ingredient or the milk or milk product. Ingredients that may be added after pasteurization are those flavoring ingredients and other ingredients that have been found to be safe and suitable and include:

(a) Ingredients permitted by the CFR standards of identity when considering a standardized milk or milk product.

(b) Fresh fruits and vegetables added to cultured milk and milk products provided the resultant equilibrium pH level (4.6 or below when measured at 24°C (75°F)) of the finished product is reached without undue delay and is maintained during the shelf life of the product.

(c) Ingredients subjected to prior heating or other technology that has been demonstrated to the United States food and drug administration to be sufficient to destroy or remove pathogenic microorganisms.

(d) Ingredients having a water activity (A_w) of 0.85 or less.

(e) Ingredients having a high acid content (pH level of 4.6 or below when measured at 24°C (75°F)) or high alkalinity (pH level greater than 11 when measured at 24°C (75°F)).

(f) Roasted nuts.

(g) Dry sugars and salts.

(h) Flavor extracts having a high alcohol content.

(i) Safe and suitable bacterial cultures and enzymes.

(j) Ingredients that have been found to be safe and suitable by the United States food and drug administration.

(8) All milk and milk products shall be pasteurized, prior to the entrance into RO, UF, evaporator, or condensing equipment, and shall be performed in the milk plant where the processing is done, except that the following apply:

(a) If the product is whey, pasteurization is not required if the product is acid whey (pH less than 4.7) or if it is processed in RO or UF equipment at temperatures at or below 7°C (45°F).

(b) If the product is raw milk for pasteurization, the product may be concentrated by the use of RO or UF membrane filtration without pasteurization, prior to entrance into the equipment, provided that the following sampling, testing, design, installation, and operational criteria are met:

(i) Prior to processing, all raw milk supplies are sampled and tested for antibiotic residues in accordance with the provisions of this law.

(ii) The RO or UF filtration system is designed and operated to assure that milk or milk product temperature is maintained at or below 7°C (45°F) throughout the process, provided

that the product temperature may rise above 7°C (45°F) for a period of not more than 15 minutes, further provided that should the product temperature rise above 10°C (50°F), the product shall be immediately diverted until the product is again below 7°C (45°F). Diverted product shall be discarded, immediately cooled to below 7°C (45°F), or immediately pasteurized.

(iii) The RO or UF system must be equipped with temperature monitoring and recording devices that comply with the applicable specifications outlined in the grade A milk law of 2001. At a minimum, milk or milk product temperature shall be monitored and recorded prior to entering the system, prior to entering each stage of the modules in series that contain cooling, and the retentate stream prior to any final cooler and upon exiting the system.

(iv) If the RO or UF system is not designed, installed, and operated in accordance with the above noted criteria, the raw milk or milk product must be pasteurized prior to entering the RO or UF system.

(9) All condensed milk and milk products transported to a milk plant for drying shall be repasteurized at the milk plant where they are dried.

(10) If condensed whey containing at least 40% total solids has been partially crystallized by cooling, it may be transported to a separate milk plant for drying without repasteurization, provided that the following conditions are complied with:

(a) The condensed, partially crystallized whey is cooled and maintained at 7°C (45°F) or less.

(b) Milk tank trucks used to transport the condensed, partially crystallized whey are washed and sanitized immediately prior to filling and are sealed after filling until unloading.

(c) Separate unloading pumps and pipelines are provided and used only for the unloading of the condensed, partially crystallized whey. Such pumps and pipelines shall be cleaned and sanitized as a separate cleaning circuit.

(11) The design and operation of pasteurization equipment and all appurtenances thereto shall comply with the applicable standards, specifications, and operational procedures of this act.

288.700 Manufacturing milk into dairy product; duties of plant owner or operator.

Sec. 140. A person who owns or operates a plant receiving milk for manufacturing into a dairy product shall do each of the following:

(a) Maintain premises in a clean and orderly condition.

(b) Prevent the emission of an odor, smoke, or pollutant within the plant that may adulterate or negatively impact the quality of the milk or dairy products, as determined by the department.

(c) Construct plant driveways and adjacent vehicular traffic areas using concrete, asphalt, or other material approved by the department for minimizing dust and mud and maintain those sites in good repair.

(d) Construct a drainage system that provides for rapid, nonhazardous water drainage from the plant, driveways, adjacent traffic areas, and surface water sites located on plant property, in a manner that prevents the development of a nuisance.

(e) Ensure that each plant structure is of sound construction and kept in good repair to prevent the entering or harboring of rodents, birds, insects, vermin, dogs, and cats.

(f) Ensure that all exterior wall openings for pipes are effectively sealed around the pipes or fitted with tight metal collars.

(g) Ensure that all openings to the outdoors, including doors, windows, skylights, and transoms, are effectively maintained and protected or screened against the entrance of insects, rodents, birds, dust, and dirt. On new construction, window sills should be slanted downward at a 45-degree angle.

(h) Ensure that all exterior doors fit properly and that all hinged, exterior screen doors open outward.

(i) Ensure that all conveyor and other exterior openings are effectively maintained and protected by the use of doors, screens, flaps, fans, or tunnels to prevent the entrance of insects, rodents, birds, dust, and dirt.

(j) Ensure that outside openings for sanitary pipelines are covered when not in use.

(k) Ensure that wall, ceiling, partition, and post surfaces of each room in which a milk or dairy product is stored, or in which a dairy utensil is washed or stored, are smoothly finished in a light colored material impervious to moisture.

(l) Refinish a surface described in subdivision (k) as frequently as necessary to maintain a smooth finish.

(m) Ensure that the floor of each room in which a milk or dairy product is processed, manufactured, packaged, handled or stored, or in which a dairy utensil is washed or stored, is each of the following:

(i) Except as provided in subdivision (n), constructed of an impervious material approved by the department.

(ii) Maintained in good repair.

(iii) Graded to prevent the forming of standing water or milk.

(iv) Equipped with drains containing properly constructed and maintained traps and designed to prevent sewage backup into drain lines and the floor of the plant.

(n) Store new containers, supplies, and certain packaged products in a room or rooms with floors described in subdivision (m) or, upon department approval, in a room or rooms with a clean, smooth wood floor.

(o) Equip the plant with adequate and well-distributed lighting of at least 50 foot-candles where dairy products are graded or examined for condition and quality such as a can milk receiving room dumping area; 20 foot-candles at working surfaces in rooms for manufacturing, processing, or packaging of dairy products or for washing of equipment and utensils; 5 foot-candles in all other rooms, including storage rooms and coolers; or as specified by the director. Light intensity shall be measured at a distance of 30 inches from the floor with the use of a light meter.

(p) Protect from potential broken glass contamination all milk, dairy products, or dairy product ingredients located beneath a suspended lightbulb, fixture, window, or other glass.

(q) Ensure that each room and compartment has adequate heating, air-conditioning, and ventilation to maintain sanitary conditions and provide exhaust or inlet fans, vents, hoods, and temperature and humidity control facilities as needed to minimize or eliminate undesirable room temperatures, odors, moisture, condensation, or mold.

(r) Install adequate air filtering devices on air inlet fans to prevent the entrance of dirt and dust and ensure that each exhaust outlet is screened or provided with self-closing louvers to prevent the entrance of insects when not in use.

(s) Clean and maintain in good repair each ventilation system.

(t) Ensure that each room and compartment in which a raw dairy material, packaging material, ingredient supplies, or dairy product is manufactured, handled, packaged, or stored is designed, constructed, and maintained to assure a stable and appropriate temperature and clean operating conditions.

(u) Separate a processing room from a bulk milk receiving room by walls or partitions and a solid, tight-fitting, self-closing door.

(v) Keep processing rooms free from equipment not regularly used.

(w) Maintain coolers and freezers containing milk or dairy products as follows:

(i) At temperature and humidity levels that protect cooler or freezer contents and minimize mold growth on or within the cooler or freezer.

(ii) In a condition that protects cooler or freezer contents from rodents, insects, and vermin.

(iii) With shelves that are clean and dry.

(iv) With equipment for the collection and disposal of condensate.

(x) Maintain a supply room used for the storing of packaging materials and miscellaneous ingredients in a clean, dry condition, free from insects, rodents, and mold, and maintained in good repair.

(y) Protect items stored in a supply room from dust, dirt, or other extraneous matter and arrange those items on racks, shelves, or pallets to permit cleaning and inspection of the room and access to the items.

(z) Label, segregate, and store insecticides, rodenticides, cleaning compounds, and other nonfood products in a separate supply room or cabinet away from milk, dairy products, ingredients, or packaging supplies.

(aa) Separate a boiler room and a shop room from other rooms where milk and dairy products are processed, packaged, handled, or stored and keep a boiler room and a shop room orderly and reasonably clean.

(bb) Maintain conveniently located and adequate toilet facilities in the processing plant that comply with the following:

(i) Are not open directly into any room in which milk or dairy products are processed, packaged, or stored.

(ii) Have doors that are self-closing and ventilation provided by mechanical means or screened openings to the outside air.

(iii) Have fixtures that are kept clean and in good repair.

(cc) Furnish each employee with a locker or other suitable facility that is kept clean and orderly.

(dd) Conspicuously post signs in each toilet and locker room directing employees to wash their hands before returning to work.

(ee) Maintain and adequately equip a laboratory consistent with the size and type of plant and the volume of dairy products manufactured and staff that laboratory with personnel qualified and trained for quality control and analytical testing.

(ff) Maintain a central laboratory serving more than 1 plant only if that laboratory is approved by the department and is conveniently located to the dairy plants.

(gg) Provide adequate sanitary starter facilities for the handling of starter cultures.

(hh) Provide an adequate supply of both hot and cold water of safe and sanitary quality, protected against contamination and pollution, with adequate facilities for proper distribution of water throughout the plant. Upon department approval, water from other facilities may be used for boiler feed water and condenser water if water lines are completely separated from the plant water supply and the equipment constructed and controlled to preclude contamination of product contact surfaces.

(ii) Prevent any cross-connection between safe water supply and either an unsafe or questionable water supply or another source through which contamination of the safe water supply is possible.

(jj) Make an examination of the sanitary water supply and recirculated product cooling mediums at least every 6 months or as often as necessary to determine purity and suitability for use in manufacturing dairy product systems. Such tests shall be made and approved by the department except for supplies that are regularly tested for purity and bacteriological quality. The most recent results of all water and cooling medium tests shall be kept on file at the plant for which the test was performed.

(kk) Ensure that the location, construction, and operation of a well complies with the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(ll) Provide conveniently located drinking water facilities of a sanitary type in the plant.

(mm) Provide convenient hand-washing facilities, including hot and cold running water, soap or other detergents, sanitary single-service towels or air dryers, and covered trash containers for used towels or other wastes and locate those facilities in or adjacent to toilet and dressing rooms and convenient to the areas where milk and dairy products are handled, processed, or stored or where equipment is cleaned, sanitized, and stored.

(nn) Prohibit hand-washing in vats used for the cleaning of equipment or utensils.

(oo) Supply steam in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment and ensure each of the following:

(i) That culinary steam used in direct contact with milk or dairy products complies with sanitary standards and is free from harmful substances or extraneous material.

(ii) That only nontoxic boiler compounds are used.

(iii) That steam traps, strainers, and condensate traps are used as necessary to ensure a safe steam supply.

(pp) Ensure that air under pressure that comes in contact with milk or dairy products or any product contact surface complies with sanitary standards and ensure that the air under pressure at the point of application is free from volatile substances, which may impart any flavor or odor to the products, and extraneous or harmful substances.

(qq) Properly dispose of wastes from the plant and premises and ensure that the plant sewer system has sufficient capacity to readily remove all wastes from the various processing and plant operations so as not to contaminate products or equipment or create a nuisance or public health hazard.

(rr) Ensure that containers used for the collection and holding of wastes are constructed of metal, plastic, or other equally impervious material and kept covered with tight-fitting lids and ensure that solid wastes are disposed of regularly and the containers and surroundings kept reasonably clean.

(ss) In accordance with department policy, periodically inspect and analyze dairy products being processed at the plant during each process.

(tt) Submit detailed plans to the department for approval before commencing new construction, remodeling, or equipment changes. Plans for new construction or remodeling shall include a plan that provides for operational or physical isolation of the milk plant from sources of potential product contamination caused by animal production facilities located in close proximity to the milk plant. Retail or public viewing areas shall be separated from processing areas by a solid floor-to-ceiling partition, except that other equally effective means of protection may be used, as approved by the director.

(uu) Provide adequate electrical power for on-demand support of lighting, cooling, heating, agitation, and ventilation systems.

288.702 Dairy plant employee; requirements.

Sec. 142. A person employed by a dairy plant shall comply with all of the following, if applicable:

- (a) Wash his or her hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling his or her hands.
- (b) Keep his or her hands clean and follow good hygienic practices while on duty.
- (c) Refrain from using tobacco in any form in each room and compartment where any milk, dairy product, or other supplies are prepared, stored, or otherwise handled.
- (d) Wear clean, white, or light-colored washable outer garments or apron and a cap or hairnet while engaged in receiving, testing, processing milk or dairy products, packaging, or handling dairy products.
- (e) If afflicted with a communicable disease, not enter any room or compartment where milk and dairy products are prepared, manufactured, or otherwise handled.
- (f) If he or she has a discharging or infected wound, sore, or lesion on hands, arms, or other exposed portion of the body, not work in any dairy processing rooms or in any capacity resulting in contact with the processing or handling of dairy products.
- (g) Each employee whose work brings him or her in contact with the processing or handling of dairy products, containers, or equipment shall comply with requirements for employee health as specified under sections 2-201.11 to 2-201.15 of the food code adopted under the food law of 2000.

288.703 Owner or operator of dairy plant; duties; package labels; advertising.

Sec. 143. (1) A person who owns or operates a dairy plant shall do all of the following:

- (a) Make available enclosed or covered facilities for washing and sanitizing of milk trucks, piping, and accessories at central locations or at sites that receive or ship milk or dairy products in milk transport tanks.
- (b) Transfer milk under sanitary conditions from milk tank trucks through stainless steel piping or approved tubing and cap the sanitary piping and tubing when not in use.
- (c) Hold and process milk under conditions and at temperatures that will avoid contamination and rapid deterioration.
- (d) Refrain from using drip milk from can washers or any other source for the manufacture of dairy products.
- (e) Maintain milk in bulk storage tanks within the dairy plant in a manner that minimizes bacterial increase and, except when authorized by the department, maintain that milk at 45 degrees Fahrenheit (7 degrees Celsius) or lower until processing begins.
- (f) Ensure that the bacteriological content of commingled raw milk in storage tanks is 1,000,000 or less total bacteria per milliliter (300,000 per milliliter or less total bacteria in raw milk for frozen desserts).
- (g) Ensure the proper pasteurization of each particle of milk or dairy product.
- (h) Test samples of milk or a dairy product for phosphatase by the method prescribed by the department.
- (i) Take all necessary precautions to prevent contamination or adulteration of the milk or dairy products during manufacturing.
- (j) Make available for department inspection all substances and ingredients used in the processing or manufacturing of any dairy product and ensure that those substances and ingredients are wholesome and practically free from impurities.

(k) Ensure that milk or dairy products comply with the standards in section 70, and standards listed for the milk products in title 21 of the code of federal regulations, if applicable.

(l) Maintain the equipment, sanitary piping, and utensils used in receiving and processing of the milk and maintain manufacturing and handling of the product in a sanitary condition.

(m) Ensure that sanitary seal assemblies are kept clean and are removable on all agitators, pumps, and vats and inspect those assemblies at regular intervals.

(n) Except as otherwise provided in this act, dismantle all equipment that is not designed for mechanical or clean-in-place cleaning, and thoroughly clean and sanitize all equipment after each day's use using cleaners, detergents, sanitizing agents, or other similar materials approved for dairy or food service use that will not contaminate or adversely affect the dairy products.

(o) Refrain from using steel wool or metal sponges in the cleaning of any dairy equipment or utensils.

(p) Immediately before use, subject all product contact surfaces to an effective sanitizing treatment except where dry cleaning is permitted.

(q) Store utensils and portable equipment used in processing and manufacturing operations above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious corrosion-resistant material.

(r) Use CIP cleaning, including spray-ball systems, only on equipment and pipeline systems which have been designed and engineered for that purpose and employ careful attention to the proper procedures to assure satisfactory cleaning.

(s) Ensure that all CIP installations comply with sanitary standards and post and follow the established cleaning procedure.

(t) Following the circulation of the cleaning solution, thoroughly rinse and examine the equipment and lines for effectiveness of cleaning and ensure that all caps, ends, pumps, plates, and tee ends are opened or removed and brushed clean.

(u) Immediately before starting the product flow after the cleaning procedure described in subdivision (s), treat the product contact surfaces with an approved sanitizer.

(v) Clean, sanitize, and dry milk cans and lids before returning to producers and inspect, repair, or replace cans and lids to substantially exclude from use cans and lids showing open seams, cracks, rust, milkstone, or any unsanitary condition.

(w) Maintain washers in a clean and satisfactory operating condition and keep each washer free from accumulation of scale or debris that may adversely affect the efficiency of the washer.

(x) For all newly licensed or newly or extensively remodeled facilities, provide a covered or enclosed receiving, washing, and sanitizing facility at each site that receives or ships milk or dairy products in milk tank trucks, or provide means to protect the milk during the sampling and transferring process that are acceptable to the director. The dairy plant is not required to provide milk tank truck wash facilities if milk tank trucks are cleaned and sanitized at another approved facility.

(y) Clean and sanitize milk tank trucks, sanitary piping, fittings, and pumps at least once each day after use and, if those items are not to be used immediately after the emptying of a load of milk, promptly wash those items after use and give bactericidal treatment immediately before use.

(z) Identify each tank that is washed and sanitized by attaching a tag to the outlet valve, bearing all of the following information:

(i) Plant and specific location where cleaned.

(ii) Date and time of washing and sanitizing and identification number of the tank.

(iii) The name of each person who washed and name of each person who sanitized the tank.

(aa) Maintain on the tank the tag attached pursuant to subdivision (z) until the tank is again washed and sanitized and ensure the receiving plant retains the tag for at least 15 days or as the department may otherwise direct.

(bb) Wash all windows, glass, partitions, skylights, walls, ceilings, and doors as often as necessary to keep them clean and replace cracked or broken glass promptly.

(cc) Wipe or vacuum shelves and ledges as often as necessary to keep them free from dust and debris and properly dispose of the material picked up by a vacuum cleaner to destroy any insect that may be present.

(dd) In addition to any commercial pest control service, if one is utilized, designate an employee to perform a regularly scheduled insect and rodent control program.

(ee) Properly label, handle, store, and use poisonous substances, insecticides, and rodenticides in such a manner as not to create a public health hazard.

(ff) Maintain plant records, make those records available at all reasonable times for department inspection, and, in accordance with each of the following, send producer quality tests contained in those records to the department within 10 days of the completion of those tests:

(i) Retain for 12 months sediment, temperature, drug residue, somatic cell, and bacterial test results on raw milk from each producer.

(ii) Retain for a period of 12 months routine test results.

(iii) Retain for 12 months retest results, if an initial test places the milk producer in permit suspension status.

(iv) Retain for 12 months rejections of raw milk over the no. 3 sediment standard for quality as established by the United States department of agriculture.

(v) Retain for 6 months pasteurization recorder charts.

(vi) Retain for at least 6 months CIP recording charts.

(vii) Retain the most recent water sample and recirculated cooling medium test results for at least 12 months.

(gg) Package milk and dairy products in department-approved containers and packaging materials that do or are each of the following:

(i) Cover and protect the quality of the contents during storage and handling under normal conditions.

(ii) As uniform in weight and shape within each product size or style as is practical.

(iii) Provide low permeability to air and vapor to prevent the formation of mold growth and surface oxidation.

(iv) Contain a wrapper resistant to puncturing, tearing, cracking, or breaking under normal conditions of handling, shipping, and storage.

(v) Sealed in conformity with the instructions of the manufacturer.

(hh) Conduct the packaging of each dairy product or the cutting and repackaging of each dairy product under sanitary conditions prescribed by the department and ensure that each packaging room, item of equipment, and packaging material is practically free from mold

and bacterial contamination by testing the level of contamination in a manner approved by the department.

(ii) Dry store a product requiring dry storage at least 18 inches from any wall in an aisle, row, or section and lot in an orderly manner rendering the product easily accessible for inspection.

(jj) Regularly clean each room used for product storage and ensure that each stored product is free from any other foreign products, mold, absorbed odors, or vermin or insect infestation.

(kk) Maintain control of humidity and temperature in each storage room at all times to prevent conditions detrimental to a stored product and container.

(ll) Store a finished product requiring refrigeration on shelves, dunnage, or pallets at a temperature that will best maintain the initial quality of the product and ensure that the product is not exposed to any substance from which the product may absorb a foreign odor or be contaminated by drippage or condensation.

(mm) Purchase and store caps, parchment paper, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers only in sanitary tubes, wrappings, or cartons that are kept in a clean, dry place until used and handled in a sanitary manner.

(nn) Packaged fluid dairy products that exceed the sell-by date shall not be reused in any dairy products regulated by this act or the grade A milk law of 2001 unless the department approves a protocol for such reprocessing. The protocol shall include consideration of storage temperatures, bacterial counts, age past sell-by date, sight and smell grading qualities, added ingredients, and any other factors considered critical by the director.

(oo) Packaged fluid dairy products that have left the control of a dairy plant but are returned or delivered to a dairy plant, commonly referred to as “returned products”, shall not be reprocessed into milk or milk products regulated under this act or the grade A milk law of 2001.

(2) A person who owns or operates a dairy plant shall legibly mark or label each commercial bulk package containing dairy products manufactured under this act with the name of the product, quantity of contents, name and address of processor, manufacturer, or distributor, ingredients including known allergens, manufacturer lot number, plant code issued by the department identifying where the product was manufactured, and with any other identifying information required by the director. All manufactured dairy products shall meet any applicable definitions and standards of identity as promulgated under 21 CFR parts 131 to 135.

(3) Retail packages shall be labeled as specified in 21 CFR part 101, which is adopted by reference, and as specified under the food law of 2000.

(4) Commercial bulk packages of frozen desserts with removable lids shall be labeled on the body of the container.

(5) Bulk shipments of milk or dairy products shall be accompanied by a bill of lading containing the following information:

- (a) Shipper’s name, address, and permit number.
- (b) Permit identification of hauler if not an employee of the shipper.
- (c) Point of origin of shipment.
- (d) Tanker identity number.
- (e) Name of product.
- (f) Weight of product.
- (g) Grade of product.
- (h) Temperature of product.

- (i) Date of shipment.
 - (j) Name of supervising regulatory agency at the point of origin.
 - (k) Whether the contents are raw, pasteurized, or, in the case of cream, lowfat, or skim milk, whether it has been heat treated.
 - (l) Seal number on inlet and outlet.
- (6) Cheese and cheese products that are unpasteurized shall be labeled according to the requirements of 21 CFR part 133 and this section.
- (7) Milk and milk products shall be advertised as specified under the food law of 2000.

288.712 Dry products.

Sec. 152. (1) A person shall operate a dryer at not more than the manufacturer's recommended capacity for the highest quality dry product and may remodel or redesign a dryer after installation upon department approval. A person shall remove dry products from the drying chamber upon completion of each drying cycle.

(2) Before packaging and immediately following removal of a dry product from the drying chamber, a person shall cool the dry product to a temperature not exceeding 110°F (43.3°C).

(3) A person who packages a dry milk product shall ensure that each package or container used for the packaging of a dry milk product is of a clean, sound, commercially accepted material that will protect the packaged contents to the department's satisfaction. A dry milk product packager shall not package a dry milk product in a container previously used for nonfood items or food deleterious to the dairy product.

(4) A person who packages dry milk shall ensure all of the following:

- (a) That empty containers are protected at all times from possible contamination.
- (b) That a lined container is not lined more than 1 hour before the container is filled unless it is provided adequate protection from contamination.
- (c) That precaution is taken during the filling operation to adequately minimize product dust and spillage.
- (d) That, when necessary, a mechanical shaker is provided.
- (e) That the tapping or pounding of containers does not occur.
- (f) That a container is closed immediately after filling.
- (g) That a container's exterior is vacuumed or brushed when necessary to render it practically free of product remnants before that container is removed from the filling site.
- (h) That each dryer, conveyor, sifter, and storage bin is clean and maintained in a sanitary condition.
- (i) That in addition to a commercial pest control service, if any, a person designated by the packager implements a regularly scheduled insect and rodent control program approved by the department.

288.719 Parchment liners, wrappers, and other packaging material; protection against contamination.

Sec. 159. A person who owns or operates a plant shall protect supplies of parchment liners, wrappers, and other packaging material against dust, mold, and other possible contamination and do each of the following:

- (a) Prior to use, completely immerse parchment liners or bulk butter packages in a boiling salt solution within a stainless steel or other equally noncorrosive material for not less than 30 minutes.

(b) Ensure that the solution described in subdivision (a) consists of at least 15 pounds of salt for every 85 pounds of water and is strengthened or changed as frequently as necessary to keep the solution full strength and in good condition.

(c) Treat or handle liners such as polyethylene and each lined butter container in such a manner as to prevent contamination of the liner prior to filling.

(d) Print and package consumer size containers of butter under sanitary conditions.

(e) Legibly mark commercial bulk shipping containers with the name of the product, net weight, name and address of manufacturer, processor or distributor, or an assigned plant identification number or any other identification that the department may require.

(f) Mark packages of plastic or frozen cream with the percent of milkfat.

(g) Except as provided in subdivisions (i) through (k), keep all products under refrigeration at temperatures of 45°F (4.7°C) or lower after packaging and until ready for shipment.

(h) Ensure that the products are not placed directly on floors or exposed to foreign odors or conditions such as drippage due to condensation which might cause package or product damage.

(i) If plastic cream or frozen cream is to be quick-frozen, place the product in quick freezer rooms immediately after packaging, and ensure rapid and complete freezing within 24 hours by doing all of the following:

(i) Pile or space the packages in a manner that allows air to freely circulate among and around the packages.

(ii) Maintain the rooms at -10°F (-23°C) or lower.

(iii) Equip each room to provide sufficient high-velocity air circulation for rapid freezing.

(iv) After the products have been completely frozen, retain them in the quick freezer or transfer them to a freezer storage room for continued storage.

(j) Maintain each freezer storage room at a temperature of 0°F (-18°C) or lower and ensure each freezer storage room has adequate air circulation.

(k) Place butter intended to be held more than 30 days in a freezer storage room immediately after packaging, and if that butter is not frozen before being placed in the freezer, arrange each unfrozen butter package in a manner that permits rapid freezing, and keep each package in that arrangement until frozen.

Effective date.

Enacting section 1. This amendatory act takes effect 30 days after the date it is enacted into law.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

Compiler's note: The portion of MCL 288.630(2) describing the temperature of pasteurized condensed milk and condensed skim milk should evidently read "or heated to 145°F (63°C)."

References contained in subsections (11), (13), and (17) of section 110 should evidently read "milk law of 2001."

[No. 148]

(HB 5909)

AN ACT to exclude certain personal property held in trust from the rule against perpetuities and similar rules that potentially affect the duration of trusts.

The People of the State of Michigan enact:

554.91 Short title.

Sec. 1. This act shall be known and may be cited as the “personal property trust perpetuities act”.

554.92 Definitions.

Sec. 2. As used in this act:

(a) “First power” means a nonfiduciary, nongeneral power of appointment over personal property held in trust that is exercised so as to subject the property to, or to create, another power of appointment.

(b) “Nonfiduciary” means, with respect to a power of appointment, that the power of appointment is not held by a trustee in a fiduciary capacity.

(c) “Second power” means a nonfiduciary power of appointment over personal property held in trust that is created or to which property is subjected by the exercise of a first power and that is not a presently exercisable general power.

(d) “Uniform statutory rule against perpetuities” means the uniform statutory rule against perpetuities, 1988 PA 418, MCL 554.71 to 554.78.

554.93 Personal property held in trust; interest in or power of appointment over; validity; exercise of second power; determination under uniform statutory rule against perpetuities.

Sec. 3. (1) Except as provided in subsection (3), an interest in, or power of appointment over, personal property held in trust is not invalidated by a rule against any of the following:

- (a) Perpetuities.
- (b) Suspension of absolute ownership.
- (c) Suspension of the power of alienation.
- (d) Accumulations of income.

(2) Except as provided in subsection (3), all of the following may be indefinitely suspended, postponed, or allowed to go on with respect to personal property held in trust:

- (a) The vesting of a future interest.
- (b) The satisfaction of a condition precedent to the exercise of a general power of appointment.
- (c) The exercise of a nongeneral or testamentary power of appointment.
- (d) Absolute ownership.
- (e) The power of alienation.
- (f) Accumulations of income.

(3) If a first power is exercised so as to subject the property to, or to create, a second power, the period during which the vesting of a future interest in the property may be postponed by the exercise of the second power shall be determined under the uniform statutory rule against perpetuities by reference to the time the first power was created. A nonvested interest, general power of appointment not presently exercisable because of a condition precedent, or nongeneral or testamentary power of appointment created, or to which property is subjected, by the exercise of the second power is invalid, to the extent of the exercise of the second power, unless the interest or power satisfies the uniform statutory rule against perpetuities measured from the time of the creation of the first power.

554.94 Applicability of act to certain personal property.

Sec. 4. This act applies only to a nonvested interest in, or power of appointment over, personal property held in a trust that is either revocable on, or created after, the effective date of this act.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 4602 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

Compiler's note: House Bill No. 4602, referred to in enacting section 1, was filed with the Secretary of State May 28, 2008, and became 2008 PA 149, Imd. Eff. May 28, 2008.

[No. 149]**(HB 4602)**

AN ACT to amend 1988 PA 418, entitled "An act to adopt the uniform statutory rule against perpetuities," by amending sections 2 and 5 (MCL 554.72 and 554.75).

The People of the State of Michigan enact:

554.72 Nonvested property interest; general power of appointment, nongeneral power of appointment, or general testamentary power of appointment; validity; language measuring time period from creation of trust or other property arrangement.

Sec. 2. (1) Subject to section 5, a nonvested property interest is invalid unless 1 or more of the following are applicable to the interest:

(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive.

(b) The interest either vests or terminates within 90 years after its creation.

(2) Subject to section 5, a general power of appointment not presently exercisable because of a condition precedent is invalid unless 1 or more of the following are applicable to the power:

(a) When the power is created, the condition precedent is certain either to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive.

(b) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(3) Subject to section 5, a nongeneral power of appointment or a general testamentary power of appointment is invalid unless 1 or more of the following are applicable to the power:

(a) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive.

(b) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(4) In determining whether a nonvested property interest or a power of appointment is valid under subsection (1)(a), (2)(a), or (3)(a), the possibility that a child will be born to an individual after the individual's death is disregarded.

(5) If, in measuring a period from the creation of a trust or other property arrangement that was irrevocable on September 25, 1985, language in an instrument governing the effect of an exercise of a power of appointment over property exempt from federal generation skipping transfer tax (a) seeks to disallow the vesting or termination of any interest or trust beyond, (b) seeks to postpone the vesting or termination of any interest or trust until, or (c) seeks to operate in effect in any similar fashion upon, the later of (i) the expiration of a period of time ending with, or not exceeding 21 years after, the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (ii) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

554.75 Applicability of MCL 554.72.

Sec. 5. (1) Section 2 does not apply to any of the following:

(a) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of a premarital or postmarital agreement; a separation or divorce settlement; a spouse's election; a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties; a contract to make or not to revoke a will or trust; a contract to exercise or not to exercise a power of appointment; a transfer in satisfaction of a duty of support; or a reciprocal transfer.

(b) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income.

(c) A power to appoint a fiduciary.

(d) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal.

(e) A property interest, power of appointment, or any other arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute.

(f) Except as provided in subsection (2), an interest in, or power of appointment over, personal property held in a trust that is either revocable on or created after the effective date of the personal property trust perpetuities act.

(2) Section 2 is applicable to an interest in, or power of appointment over, personal property held in trust if the interest or power was created, or property was made subject to the interest or power, by the exercise of a second power. If section 2 is applicable to an interest or power under this subsection, it applies only to the extent of the exercise of the second power, and instead of using a period of 90 years to determine whether section 2(1)(b), (2)(b), or (3)(b) is satisfied, or whether to reform a disposition under section 4, a period of 360 years shall be used.

(3) As used in this section, "second power" means that term as defined in section 2 of the personal property trust perpetuities act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5909 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved May 28, 2008.

Filed with Secretary of State May 28, 2008.

Compiler's note: House Bill No. 5909, referred to in enacting section 1, was filed with the Secretary of State May 28, 2008, and became 2008 PA 148, Imd. Eff. May 28, 2008.

[No. 150]**(HB 4965)**

AN ACT to authorize the state administrative board to convey certain interests in property in Kalkaska county; and to provide for disposition of the revenue derived from the conveyance.

The People of the State of Michigan enact:

Conveyance of property to Clearwater township, Kalkaska county; description.

Sec. 1. The state administrative board, on behalf of the state, may convey to Clearwater township, in Kalkaska county, for fair market value as determined by the Clearwater township assessor or an independent appraiser, the right of reverter and the right of reentry contained in the April 26, 2002 quitclaim deed to the Clearwater township recorded as record number 3038896, Kalkaska county records, on a certain portion of real property located in Kalkaska county, Michigan, previously conveyed by this state to the township of Clearwater under section 3 of 2002 PA 138. That portion of the real property previously conveyed under section 3 of 2002 PA 138 for which the right of reverter and right of reentry may be conveyed under this section is more particularly described as:

In the Township of Clearwater, County of Kalkaska, State of Michigan; Commencing at the NW Corner of Lot 10, Block B, SMITH AND RIKER'S ADDITION TO RAPID CITY, as reconstructed by Eugene D. Farrier, PS#24594 on January 12, 2004; thence N01°18'40"E 66.01 feet along the east right-of-way of Rapid City Road to the North right-of-way line of Water Street, as reconstructed by Eugene D. Farrier, being in the approximate center line of the bituminous surface; thence continuing N01°18'40"E 99.00 feet along the east right-of-way of Rapid City Road to a steel rod & identification cap #24594, being the POINT OF BEGINNING of this description; thence continuing N01°18'40"E 38.00 feet; thence S88°28'38"E 280.00 feet; thence S01°18'40"W 38.00 feet; thence N88°28'38"W 280.00 feet to the Point of Beginning, being a part of the NW1/4 of the SE1/4 of Section 9, T28N, R8W, containing 0.24 acres of land.

Description as approximate; adjustment.

Sec. 2. The description of the parcel in section 1 is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

Quitclaim deed.

Sec. 3. The conveyance authorized by this act shall be by quitclaim deed or other instrument approved by the attorney general.

Deposit of revenue.

Sec. 4. The revenue received under this act shall be deposited in the state treasury and credited to the general fund.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 151]**(SB 515)**

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 438 (MCL 206.438), as added by 2004 PA 364.

The People of the State of Michigan enact:

206.438 Designation of contribution to the military family relief fund.

Sec. 438. (1) For tax years that begin after December 31, 2003, a taxpayer may designate on his or her annual return that a contribution of \$1.00 or more of his or her refund be credited to the military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213. Notwithstanding any other provision in this section, for the tax years beginning on and after January 1, 2010, the contribution designation authorized under this section shall be offered and administered in accordance with section 435.

(2) If a taxpayer’s refund is not sufficient to make a contribution under this section, the taxpayer may designate that the amount designated be added to the taxpayer’s tax liability for the tax year.

(3) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of all state individual income tax return forms, if practicable. Effective January 1, 2010, the contribution designation authorized in this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

(4) Notwithstanding the other allocations and disbursements required by this act, and each year that the contribution designation is in effect, an amount equal to the cumulative designations made under this section, less the amount appropriated to the department of

treasury for the purpose of implementing this section, shall be appropriated from the general fund and distributed each fiscal year to the department of military and veterans affairs to be used as follows:

(a) Twenty percent to the post fund and posthumous fund of the Michigan soldiers' home to be used as provided in 1905 PA 313, MCL 36.61.

(b) Eighty percent to the military family relief fund created in the military family relief fund act, 2004 PA 363, MCL 35.1211 to 35.1216.

(5) Money appropriated pursuant to this section to the department of military and veterans affairs shall be in addition to any allocations and appropriations and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 152]

(SB 1234)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 80108a.

The People of the State of Michigan enact:

324.80108a Operation of airboat within certain distance of residence; limitation; exceptions.

Sec. 80108a. (1) A person shall not operate an airboat on the waters of this state within 450 feet of a residence between the hours of 11 p.m. and 6 a.m. at a speed in excess of the minimum speed required to maintain forward movement.

(2) Subsection (1) does not apply to any of the following:

(a) The operation of an airboat in an emergency when necessary to protect public safety.

(b) The operation of an airboat so as to free the airboat when it has run aground.

(c) The operation of an airboat for a governmental purpose if the airboat is clearly marked and identified as being used for a governmental purpose.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 153]**(SB 1308)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 12102a (MCL 324.12102a), as added by 2008 PA 8.

The People of the State of Michigan enact:

324.12102a Materials not specified as liquid industrial wastes.

Sec. 12102a. The following materials are not liquid industrial wastes when managed as specified:

(a) A material that is used or reused as an effective substitute for commercial products or returned to the original process, if the material does not require reclamation prior to use or reuse, is not directly burned to recover energy or used to produce a fuel, and is not applied to the land or used in products applied to the land.

(b) A used oil that is directly burned to recover energy or used to produce a fuel if all of the following requirements are met:

(i) The material meets the used oil specifications of R 299.9809(1)(f) of the Michigan administrative code.

(ii) The material contains no greater than 2 ppm polychlorinated biphenyls.

(iii) The material has a minimum energy content of 17,000 BTU/lb.

(iv) The material is expressly authorized as a used oil fuel source, regulated under part 55, or, in another state, regulated under a similar air pollution control authority.

(c) A liquid fully contained inside a manufactured article, until the liquid is removed or the manufactured equipment is discarded, at which point it becomes subject to this part.

(d) A liquid waste sample transported for testing to determine its characteristics or composition. The sample becomes subject to this part when discarded.

(e) A liquid that is not regulated under part 615 that is generated in the drilling, operation, maintenance, or closure of a well, or other drilling operation, including the installation of cathodic protection or directional drilling, if either of the following applies:

(i) The liquid is left in place at the point of generation in compliance with part 31, 201, or 213.

(ii) The liquid is transported off-site from a location that is not a known facility as defined in section 20101, and all of the following occur:

(A) The disposal complies with applicable provisions of part 31 or 115.

(B) The disposal is not to a surface water.

(C) The landowner of the disposal site has authorized the disposal.

(f) A liquid vegetable or animal fat oil that is transported directly to a producer of biofuels for the purpose of converting the oil to biofuel.

(g) An off-specification fuel, including a gasoline blendstock, that was generated in a pipeline as the interface material from the mixture of 2 adjacent fuel products and that will

be processed, by blending or by distillation or other refining, to produce a fuel product or fuel products.

(h) An off-specification fuel, including a gasoline blendstock, that resulted from the commingling of off-specification fuel products or from phase separation in a gasoline and alcohol blend and that will be processed, by distillation or other refining, to produce fuel products.

(i) An off-specification fuel product transported directly to a distillation or refining facility to produce a fuel product or fuel products regulated pursuant to 40 CFR part 80.

(j) A liquid or a sludge and associated liquid authorized to be applied to land under part 31 or 115.

(k) A liquid residue remaining in a container after pouring, pumping, aspirating, or another practice commonly employed to remove liquids has been utilized, if not more than 1 inch of residue remains on the bottom, or, for containers less than or equal to 110 gallons in size, not more than 3% by weight of residue remains in the container; or, for containers greater than 110 gallons in size, not more than 0.3% by weight of residue remains in the container. The liquid residue becomes subject to this part when discarded.

(l) A residual amount of liquid remaining in a container and generated as a result of transportation of a solid waste in that container.

(m) A liquid brine authorized for use as dust and ice control regulated under parts 31 and 615.

(n) Food processing residuals as defined in section 11503, or site-separated material or source-separated material approved by the department under part 115, that, to produce biogas, will be decomposed in a controlled manner under anaerobic conditions using a closed system that complies with part 55.

(o) A liquid approved by the director for use as a biofuel in energy production in compliance with part 55 that is not speculatively accumulated and that is transported directly to the burner of the biofuel.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 154]

(HB 5539)

AN ACT to amend 1996 PA 381, entitled “An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing,” (MCL 125.2651 to 125.2672) by adding section 15a.

The People of the State of Michigan enact:

125.2665a Retention and payment of taxes levied under state education tax act; conditions; application for approval by authority; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent; definitions.

Sec. 15a. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

(a) To repay an advance made not later than 1 year after the effective date of the amendatory act that added this section.

(b) To repay an obligation issued or incurred not later than 1 year after the effective date of the amendatory act that added this section.

(c) To pay or reimburse a developer or owner of eligible property or a municipality that created the authority for eligible activities pursuant to a development and reimbursement agreement entered into not later than 1 year after the effective date of the amendatory act that added this section.

(d) To pay for eligible activities identified in a brownfield plan, or an amendment to that plan approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the work plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

- (i) A detailed description of the project.
- (ii) A statement of the estimated cost of the project.
- (iii) The specific location of the project.
- (iv) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of advances, obligations, development and reimbursement agreements, and projects included in brownfield plans described in subsection (1), and shall separately identify the payments due on each of those advances, obligations, development agreements, and eligible activities in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, or would be used for, the repayment of an advance, the payment of an obligation, the payment of eligible activities pursuant to a development and reimbursement agreement, or the payment of eligible activities identified in a brownfield plan described in subsection (1). That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department of treasury. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

(12) As used in this section:

(a) "Advance" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

(b) "Obligation" means that term as defined in section 1 of 1975 PA 197, MCL 125.1651.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 155]

(HB 5540)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of

bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing,” (MCL 125.2151 to 125.2174) by adding section 11b.

The People of the State of Michigan enact:

125.2161b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 11b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

- (a) To repay an eligible advance.
- (b) To repay an eligible obligation.
- (c) To repay an other protected obligation.

(d) To pay an advance or an obligation identified in a development plan, or an amendment to that plan for property located in a certified technology park approved by board of the authority not later than 90 days after the effective date of the amendatory act that added this section if the plan contains all of the following and the plan for the capture of school taxes has been approved within 1 year after the effective date of the amendatory act that added this section:

- (i) A detailed description of the project.
- (ii) A statement of the estimated cost of the project.
- (iii) The specific location of the project.
- (iv) The name of any developer of the project.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, other protected obligations, and advances and obligations described in subsection (1)(d) for expenditures authorized in a certified technology park; the payments due on each of those in that fiscal year; and the total amount of payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, the payment of another protected obligation, or the payment of obligations or advances described in subsection (1)(d) for expenditures authorized in a certified technology park. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 156]

(HB 5541)

AN ACT to amend 1980 PA 450, entitled "An act to prevent urban deterioration and encourage economic development and activity and to encourage neighborhood revitalization and historic preservation; to provide for the establishment of tax increment finance authorities and to prescribe their powers and duties; to authorize the acquisition and disposal of interests in real and personal property; to provide for the creation and implementation of development plans; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to permit the issuance of bonds and other evidences of indebtedness by an authority; to permit the use of tax increment financing; to reimburse authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state agencies and officers," (MCL 125.1801 to 125.1830) by adding section 12b.

The People of the State of Michigan enact:

125.1812b Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 12b. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

- (a) To repay an eligible advance.
- (b) To repay an eligible obligation.
- (c) To repay an other protected obligation.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15 of each year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to

have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year, the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 13c of 1975 PA 197, MCL 125.1663c, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 157]

(HB 5542)

AN ACT to amend 1975 PA 197, entitled “An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials,” (MCL 125.1651 to 125.1681) by adding section 13c.

The People of the State of Michigan enact:

125.1663c Retention and payment of taxes levied under state education tax act; conditions; application by authority for approval; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; calculation of aggregate amount; lien; reimbursement calculations; legislative intent.

Sec. 13c. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer

to retain and pay to the authority taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

- (a) To repay an eligible advance.
- (b) To repay an eligible obligation.
- (c) To repay an other protected obligation.

(2) Not later than June 15 of 2008 and not later than June 1 of each subsequent year, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

(a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.

(d) A list of eligible obligations, eligible advances, and other protected obligations, the payments due on each of those in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation, the repayment of an eligible advance, or the payment of an other protected obligation. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15 of each year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and section 11b of the local development financing act, 1986 PA 281, MCL 125.2161b, section 15a of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665a, and section 12b of the tax increment financing act, 1980 PA 450, MCL 125.1812b, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 158]**(HB 4184)**

AN ACT to amend 1953 PA 232, entitled “An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” by amending section 34a (MCL 791.234a), as amended by 1998 PA 315; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

791.234a Placement in special alternative incarceration unit; eligibility requirements; minimum sentence required for certain violations; participation prohibited by sentencing judge; eligibility determination by department; notice; prisoner consent to placement; parole; additional conditions; minimum and maximum placement period; parole; suspension or revocation of parole; annual report to legislature; third party evaluations; participation in Michigan prisoner reentry initiative; repeal of section.

Sec. 34a. (1) A prisoner sentenced to an indeterminate term of imprisonment under the jurisdiction of the department, regardless of when he or she was sentenced, shall be considered by the department for placement in a special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets the eligibility requirements of subsections (2) and (3). For a prisoner committed to the jurisdiction of the department on or after March 19, 1992, the department shall determine before the prisoner leaves the reception center whether the prisoner is eligible for placement in a special alternative incarceration unit, although actual placement may take place at a later date. A determination of eligibility does not guarantee placement in a unit.

(2) To be eligible for placement in a special alternative incarceration unit, the prisoner shall meet all of the following requirements:

(a) The prisoner’s minimum sentence does not exceed either of the following limits, as applicable:

(i) 24 months or less for a violation of section 110 of the Michigan penal code, 1931 PA 328, MCL 750.110, if the violation involved any occupied dwelling house.

(ii) 36 months or less for any other crime.

(b) The prisoner is physically able to participate in the program.

(c) The prisoner does not appear to have any mental disability that would prevent participation in the program.

(d) The prisoner is serving his or her first or second prison sentence.

(e) At the time of sentencing, the judge did not prohibit participation in the program in the judgment of sentence.

(f) The prisoner is otherwise suitable for the program, as determined by the department.

(g) The prisoner has not served, and is not serving, a sentence for any of the following crimes:

(i) A violation of section 11, 49, 80, 83, 89, 91, 157b, 158, 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal code, 1931 PA 328, MCL 750.11, 750.49, 750.80, 750.83, 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a, 750.531, and 750.544.

(ii) A violation of section 145c, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d, and 750.520g.

(iii) A violation of section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(iv) A violation of section 86, 112, 136b, 193, 195, 213, 319, 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319, 750.321, 750.329, and 750.397.

(v) A violation of section 2 of 1968 PA 302, MCL 752.542.

(vi) An attempt to commit a crime described in subparagraphs (i) to (v).

(vii) A violation occurring on or after January 1, 1992, of section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(viii) A crime for which the prisoner was punished pursuant to 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.

(3) A prisoner who is serving a sentence for a violation of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who has previously been convicted for a violation of section 7401 or 7403(2)(a), (b), or (e) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not eligible for placement in a special alternative incarceration unit until after he or she has served the equivalent of the mandatory minimum sentence prescribed by statute for that violation.

(4) If the sentencing judge prohibited a prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner shall not be placed in a special alternative incarceration unit. If the prisoner is serving his or her first prison sentence and the sentencing judge permitted the prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner may be placed in a special alternative incarceration unit if the department determines that the prisoner also meets the requirements of subsections (2) and (3). If the prisoner is serving his or her first prison sentence and the sentencing judge neither prohibited nor permitted a prisoner's participation in the special alternative incarceration program in the judgment of sentence, or if the prisoner is serving his or her second prison sentence regardless of whether or not the judge permitted the prisoner's participation in the program, and the department determines that the prisoner meets the eligibility requirements of subsections (2) and (3), the department shall notify the judge or the judge's successor, the prosecuting attorney for the county in which the prisoner was sentenced, and any victim of the crime for which the prisoner was committed if the victim has submitted to the department a written request for any notification pursuant to section 19(1) of the William Van Regenmorter crime victim's rights act,

1985 PA 87, MCL 780.769, of the proposed placement of the prisoner in the special alternative incarceration unit. If the prisoner is serving his or her first prison sentence, the notices shall be sent not later than 30 days before placement is intended to occur. If the prisoner is serving his or her second prison sentence, the notices shall be sent not later than 45 days before the placement is intended to occur. The department shall not place the prisoner in a special alternative incarceration unit unless the sentencing judge, or the judge's successor, notifies the department, in writing, that he or she does not object to the proposed placement. In making the decision on whether or not to object, the judge, or judge's successor, shall review any impact statement submitted pursuant to section 14 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.764, by the victim or victims of the crime of which the prisoner was convicted.

(5) Notwithstanding subsection (4), a prisoner shall not be placed in a special alternative incarceration unit unless the prisoner consents to that placement and agrees that the department may suspend or restrict privileges generally afforded other prisoners including, but not limited to, the areas of visitation, property, mail, publications, commissary, library, and telephone access. However, the department may not suspend or restrict the prisoner's access to the prisoner grievance system.

(6) Beginning September 30, 2008, and notwithstanding subsections (4) and (5), a prisoner shall not be placed in a special alternative incarceration unit unless all of the following conditions are met for the prisoner at the special alternative incarceration unit:

(a) Upon entry into the special alternative incarceration unit, a validated risk and need assessment from which a prisoner-specific transition accountability plan and prisoner-specific programming during program enrollment are utilized.

(b) Interaction with community-based service providers through established prison in-reach services from the community to which the prisoner will return is utilized.

(c) Prisoner discharge planning is utilized.

(d) Community follow-up services are utilized.

(7) A prisoner may be placed in a special alternative incarceration program for a period of not less than 90 days or more than 120 days. If, during that period, the prisoner misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program, the period of placement shall be increased by the number of days missed, beginning with the sixth day of medical excuse, up to a maximum of 20 days. However, the total number of days a prisoner may be placed in this program, including days missed due to medical excuse, shall not exceed 120 days. A medical excuse shall be verified by a physician's statement. A prisoner who is medically unable to participate in the program for more than 25 days shall be returned to a state correctional facility but may be reassigned to the program if the prisoner meets the eligibility requirements of subsections (2) and (3).

(8) Upon certification of completion of the special alternative incarceration program, the prisoner shall be placed on parole. A prisoner paroled under this section shall have conditions of parole as determined appropriate by the parole board and shall be placed on parole for not less than 18 months, or the balance of the prisoner's minimum sentence, whichever is greater, with at least the first 120 days under intensive supervision.

(9) The parole board may suspend or revoke parole for any prisoner paroled under this section subject to sections 39a and 40a. For a prisoner other than a prisoner subject to disciplinary time, if parole is revoked before the expiration of the prisoner's minimum sentence, less disciplinary credits, the parole board shall forfeit, pursuant to section 33(13) of 1893 PA 118, MCL 800.33, all disciplinary credits that were accumulated during special alternative incarceration, and the prisoner shall be considered for parole pursuant to section 35.

(10) On March 19, 1993, and annually after that time, the department shall report to the legislature the impact of the operation of this section, including a report concerning recidivism.

(11) The department shall contract annually for third party evaluations that report on both of the following:

(a) The implementation of the requirements of subsection (6).

(b) The success of the special alternative incarceration program as revised under subsection (6), as evidenced by the extent to which participants subsequently violate the conditions of their parole, have their orders of parole revoked, or revictimize as evidenced by being arrested or convicted for new offenses, absconding from parole, or having outstanding warrants.

(12) Each prisoner or probationer placed in the special alternative incarceration program shall fully participate in the Michigan prisoner reentry initiative not later than the following date, as applicable:

(a) Each prisoner serving his or her second prison sentence shall participate not later than June 1, 2008.

(b) Each prisoner serving his or her first prison sentence shall participate not later than August 1, 2008.

(c) Each probationer shall participate not later than September 1, 2008.

(13) This section is repealed effective September 30, 2009.

This act is ordered to take immediate effect.

Approved June 5, 2008.

Filed with Secretary of State June 5, 2008.

[No. 159]

(HB 4216)

AN ACT to amend 1965 PA 290, entitled “An act to regulate the use, construction, installation and repair of boilers; to create a board of boiler rules; to prescribe uniform rules and regulations for boilers; to provide for the licensing of boiler inspectors, installers and repairers; to provide fees for licenses, permits, inspections and certificates; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts,” by amending the title and sections 2, 4, 4a, 7, 12, 14, and 24 (MCL 408.752, 408.754, 408.754a, 408.757, 408.762, 408.764, and 408.774), section 2 as amended by 2004 PA 103, sections 4 and 7 as amended by 1980 PA 274, and section 4a as amended by 2004 PA 265, and by adding sections 13a, 13b, 13c, and 13d.

The People of the State of Michigan enact:

TITLE

An act to regulate the use, construction, installation, and repair of certain boilers; to create a board of boiler rules; to prescribe uniform rules and regulations for certain boilers; to provide for the licensing of certain boiler inspectors, installers, and repairers and registration of certain boiler operators and stationary engineers; to provide for powers and duties for certain state agencies and officers; to provide fees for registrations, licenses, permits,

inspections, and certificates; to provide penalties and remedies for the violation of this act; and to repeal acts and parts of acts.

408.752 Definitions.

Sec. 2. As used in this act:

(a) “Antique steam boiler” means a boiler that is no longer used in production applications and is used to demonstrate the historical significance of steam boilers in American history.

(b) “Approved apprenticeship program” means a training program for boiler operators or stationary engineers certified by or meeting the standards of the United States department of labor bureau of apprenticeship training and approved by the board.

(c) “Associated auxiliaries” means equipment that is required in the operation of a boiler that includes, but is not limited to, pumps, regulators, feedwater heaters, superheaters, de-superheaters, economizers, air preheaters, draft fans, combustion and pollution control equipment, and prime movers.

(d) “Board” means the board of boiler rules created in section 3.

(e) “Boiler” means a closed vessel in which water is heated, steam is generated, steam is superheated, or a combination thereof, under pressure or vacuum by the application of heat from combustible fuels, electricity, or nuclear energy. Boiler does not include facilities of an integral part of a continuous processing unit but does include a fired unit for heating or vaporizing liquids other than water, if the unit is separate from a processing system and is complete within itself.

(f) “Boiler for agricultural purposes” means a portable boiler used in a field or similar open area for the sole purpose of operating farm equipment or farm machinery.

(g) “Boiler operator” or “stationary engineer” means a person engaged in the operation of boilers and associated auxiliaries.

(h) “Certificate inspection” means an inspection, the report of which is used by the chief inspector to decide whether a certificate, as provided by section 20, shall be issued. The certificate inspection shall be an internal inspection if construction allows; otherwise the certificate inspection shall be as complete an inspection as possible.

(i) “Director” means the director of the department of labor and economic growth or a representative designated by the director.

(j) “External inspection” means an inspection that does not involve examination of the internal surfaces of the pressure parts of the boiler.

(k) “Heating surface” means the heating surface determined by the boiler manufacturer and recorded in the manufacturer’s data report or by rules established by the board for a boiler if the manufacturer’s data report is not available or the boiler is not stamped with its heating surface.

(l) “High pressure, high temperature water boiler” means a water heating boiler operating at pressure exceeding 160 p.s.i.g. or temperatures exceeding 250 degrees Fahrenheit.

(m) “Low pressure boiler” means a steam boiler operated at pressures not exceeding 15 p.s.i.g., or a hot water heating boiler operated at pressures not exceeding 160 p.s.i.g. or temperatures not exceeding 250 degrees Fahrenheit.

(n) “P.S.I.G.” means pounds per square inch gauge.

(o) “Power boiler” means a closed vessel in which steam or other vapor is generated at a pressure of more than 15 p.s.i.g. by the direct application of heat.

(p) “Process boiler” means a boiler operated at a pressure or temperature from which more than 10% of the boiler’s capacity is used for direct steam humidification or direct process work.

(q) “Qualified technical education program” means an educational program approved by the board that has a minimum of 350 contact hours in classroom hands-on training, field training, or supervised plant visits for high pressure boiler operators. The board may establish lesser standards for an educational program for low pressure operator training or other entry level training positions only.

(r) “Qualified training program” means either of the following:

(i) An in-house training program approved by the board and offered to boiler operators and stationary engineers by an employer.

(ii) An in-house training program implemented or developed by a utility and offered to boiler operators and stationary engineers by an employer as a result of negotiations between an employer and its employees.

(s) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(t) “Secondhand boiler” means a boiler that has changed ownership and location after initial use.

408.754 Promulgation of rules; scope; use of title.

Sec. 4. (1) The department shall promulgate rules for the safe construction, installation, inspection, operation, and repair of boilers in the state.

(2) The rules promulgated for new construction shall be based upon and follow the generally accepted nationwide engineering standards, formulae, and practices established and pertaining to boiler construction and safety. The department, by rule, may adopt an existing published codification, known as the boiler and pressure vessel code of the American society of mechanical engineers, with the amendments and interpretations.

(3) The department shall promulgate rules for the safe inspection and maintenance of boilers that were in use in the state before July 1, 1966. The rules promulgated shall be based upon and follow the generally accepted nationwide engineering standards and may be based upon an existing published codification known as the inspection code of the national board of boiler and pressure vessel inspectors.

(4) A departure from the requirements of this section is permitted in an unusual situation involving a boiler of special design or construction if the board is satisfied that a proposed facility will provide a degree of safety commensurate with the intent of this act.

(5) Upon payment of a fee as prescribed by section 4a and without examination, the board may register an applicant for the use of a title described in section 13a who is a boiler operator or stationary engineer licensed or registered as a boiler operator or stationary engineer in another state, municipality, or country whose requirements for licensure or registration are, at a minimum, substantially equivalent to the requirements of this state for registration as determined by the board, if that other state, municipality, or country extends the same privileges through reciprocity to a boiler operator or stationary engineer registered in this state.

408.754a Rules to establish fee schedules; filing completed licensing application; issuance of license within certain time period; report; state boiler inspection fund; “completed application” defined.

Sec. 4a. (1) The department, in consultation with the board, shall promulgate rules to establish the fee schedules for licenses, permits, certificates, registrations, examinations, and inspections. The fees shall reflect the actual costs and expenses for the department of labor and economic growth in issuing licenses, permits, registrations, examinations, and certificates and in conducting inspections.

(2) Beginning July 23, 2004, the department of labor and economic growth shall issue an initial or renewal license, permit, or registration, not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department of labor and economic growth, the department of labor and economic growth shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of labor and economic growth of a deficiency until the date the requested information is received by the department of labor and economic growth. The determination of the completeness of an application does not operate as an approval of the application for the registration, license, or permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a registration, license, or permit.

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

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

(a) The number of initial and renewal applications the department of labor and economic growth received and completed within the 90-day time period described in subsection (2).

(b) The number of applications denied.

(c) The number of applicants not issued a permit, registration, or license within the 90-day time period and the amount of money returned to licensees, permittees, and registrants under subsection (3).

(5) To accomplish the objectives of this section and this act, a state boiler inspection fund is created as a restricted fund in the state treasury. The state treasurer is the custodian of the fund and may invest the surplus of the fund. Earnings from those investments shall be credited to the fund. The state treasurer shall notify the director and the legislature of interest credited and the balance of the fund as of September 30 of each year. The director shall supervise and administer the fund. Fees received by the department of labor and economic growth and money collected under this act shall be deposited in the state boiler inspection fund and shall be appropriated by the legislature for the operations of the boiler division and indirect overhead expenses in the department of labor and economic growth. Funds that are unexpended at the end of each fiscal year shall not lapse to the general fund and shall be returned to the state boiler inspection fund.

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

408.757 Exemptions.

Sec. 7. This act shall not apply to any of the following:

(a) Boilers under federal control.

(b) Boilers used in the power plants of self-propelled vehicles designed primarily for the transportation of persons or property upon a highway, except vehicles used exclusively upon stationary rails or tracks.

(c) Boilers used solely for agricultural purposes.

(d) Steam or vapor boilers carrying a pressure of not more than 15 p.s.i.g., which are located in a private residence or in an apartment building with a capacity of less than 6 families.

(e) Hot water boilers operated at a pressure not exceeding 160 p.s.i.g. or a temperature not exceeding 250 degrees Fahrenheit that are located in a private residence or in an apartment building with a capacity of less than 6 families.

408.762 Examination for inspectors; content; reexamination; record for inspection.

Sec. 12. The examination for chief, deputy, or special inspectors shall be written. The examination for boiler operators shall be either written or oral. The examination for stationary engineers shall be both written and oral. The examinations shall be administered by the board, and not less than 2 members of the board shall be present at all times during an examination. Examinations shall be confined to questions that will aid in determining the fitness and competency of the applicant for the intended service, and may be those prepared by the national board of boiler and pressure vessel inspectors. The board may adopt any examination it determines appropriate and may delegate any administrative functions relating to the conduct of the examination. If an applicant for a license fails to pass the examination, the applicant may appeal to the board for another examination which shall be given by the board within 90 days. The record of an applicant's examination shall be accessible to the applicant and the applicant's employer.

408.763a Operation of boiler and auxiliaries without registration; use of certain terms by individual or business entity; registration requirements.

Sec. 13a. (1) An individual may operate a boiler and associated auxiliaries without obtaining a registration under this act.

(2) An individual or business entity shall not use the terms "registered boiler operator", "certified boiler operator", "registered stationary engineer", "certified stationary engineer", "low pressure registered boiler operator", "low pressure certified boiler operator", "high pressure registered boiler operator", "high pressure certified boiler operator", "third-class registered stationary engineer", "third-class certified stationary engineer", "second-class registered stationary engineer", "second-class certified stationary engineer", "first-class registered stationary engineer", "first-class certified stationary engineer", or any other name, style, or description that indicates that the individual or an individual employed by the business entity is registered under this act unless the individual has been issued a registration under this act.

(3) The individual participating in an approved apprenticeship program, a qualified technical training program, or a qualified training program may use the title "apprentice certified boiler operator" or "apprentice certified stationary engineer".

(4) An individual registered under this act shall only use 1 of the titles described in subsection (2) or the abbreviation "R.B.O.", "C.B.O.", "R.S.E.", or "C.S.E.".

(5) A person applying for a registration under this act shall be not less than 18 years of age, shall possess the physical and mental capacities to perform his or her duties in a competent and safe manner, and shall meet the applicable requirements of section 13d. An applicant shall use a form provided by the director.

(6) The director shall issue a registration upon recommendation of the board and upon the applicant's payment of an examination and registration fee as provided for in rules of the department as prescribed in section 4a for each application. A registration shall be renewed annually upon payment of a fee prescribed pursuant to section 4a.

(7) Not later than 1 year after the effective date of the amendatory act that added this section, the board shall recommend for registration without examination an applicant who submits evidence satisfactory to the board of 1 or more of the following:

(a) The applicant has had not less than 5 years of experience in the class or category of boiler operator or stationary engineer for which the applicant is applying.

(b) The applicant possesses a license as a boiler operator or stationary engineer from the cities of Detroit or Dearborn in a class for which the applicant is applying.

(c) The applicant has successfully completed a 4-year approved apprenticeship program, a qualified technical education program, or a qualified training program in the class or category for which the applicant is applying.

408.763b Boiler operator and stationary engineer registrations; classification.

Sec. 13b. Boiler operator and stationary engineer registrations are classified as follows:

(a) Low pressure boiler operator, who operates low pressure boiler plants having an aggregate of not more than 4,000 square feet of boiler heating surface.

(b) High pressure boiler operator, who operates boiler plants having an aggregate of not more than 4,000 square feet of boiler heating surface or not more than 10 steam engine-turbine horsepower.

(c) Third-class stationary engineer, who operates boiler plants having an aggregate of not more than 7,500 square feet of boiler heating surface or not more than 100 steam engine-turbine horsepower.

(d) Second-class stationary engineer, who operates boiler plants having an aggregate of not more than 20,000 square feet of boiler heating surface or not more than 200 steam engine-turbine horsepower.

(e) First-class stationary engineer, who operates boiler plants having an aggregate of 20,000 square feet or more of boiler heating surface or 200 steam engine-turbine horsepower or more.

408.763c Qualified technical education programs; course content; rules.

Sec. 13c. (1) Not later than 180 days after the effective date of the amendatory act that added this section, the board shall promulgate rules designating the course content for qualified technical education programs for the various categories and classes of registration of boiler operators and stationary engineers.

(2) The rules described in subsection (1) shall provide that the course content of qualified technical education programs for entry level registrants include at least all of the following subject matter areas:

(a) Basic functions, construction, and operation of all types of boilers.

- (b) The function of boiler appliances, accessories, and associated auxiliaries.
- (c) Materials used in boilers and the effect of temperature extremes on those materials.
- (d) The fuels used in boilers and fundamentals of combustion.
- (e) Basic electricity.
- (f) Plant operation and boiler maintenance.
- (g) Instrumentation and controls.
- (h) Fundamental mathematics and principles of the metric system.
- (i) General safety procedures.
- (j) Recognition of dangerous operation conditions.

(3) The board shall provide that the course content for categories and classes other than entry level registrants includes subject matter similar to those described in subsection (2) in the degree of depth and difficulty appropriate for the category and class.

408.763d Registration requirements; qualifications.

Sec. 13d. (1) The director shall not issue a registration for a title described in section 13a(2) unless the applicant meets the requirements for the classification as prescribed in subsections (2) to (6).

(2) An applicant for a low pressure boiler operator registration shall have not less than 1 year of experience operating or maintaining low or high pressure boilers, steam prime movers, or associated auxiliaries.

(3) An applicant for a high pressure boiler operator registration shall have 1 or more of the following:

(a) Not less than 2 years of experience in the operation of a high pressure boiler.

(b) A low pressure boiler operator's registration and not less than 1 year of experience in the operation of a low pressure boiler.

(c) Not less than 1 year of either a qualified training program, a qualified technical education program, or an approved apprenticeship program.

(4) An applicant for a third-class stationary engineer registration shall meet 1 or more of the following requirements:

(a) Be registered as a high pressure boiler operator and have not less than 1 year of experience in the operation of a high pressure boiler.

(b) Be registered as a low pressure boiler operator, have not less than 1 year of experience in the operation of a low pressure boiler, and have not less than 1 year of maintenance experience on high pressure boilers and associated auxiliaries.

(c) Be registered as a high pressure boiler operator and have not less than 1 year of boiler maintenance experience or not less than 1 year as an apprentice in an approved training program in a high pressure boiler plant having an aggregate heating surface of more than 4,000 square feet.

(d) Have not less than 3 years of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 4,000 square feet.

(e) Have not less than 1 year of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 4,000 square feet along with sufficient experience operating steam prime movers in excess of 10 horsepower for a combined total of not less than 3 years of experience.

(f) Have an associate degree in energy technology or a related field as determined by the board with a power engineering option from a 2-year college whose program is approved by the board and employment or cooperative education experience of not less than 360 hours as a power engineer, boiler operator, or stationary engineer in a steam electric generation plant or a high pressure steam heating or process plant.

(5) An applicant for a second-class stationary engineer registration shall meet 1 or more of the following requirements:

(a) Be registered as a third-class stationary engineer and have not less than 1 year of experience as a third-class stationary engineer.

(b) Have a bachelor's degree in engineering, engineering technology, heating/power technology, or energy technology from a college or university whose program is approved by the board and employment experience as an engineer in the engineering or research division of a steam electric power generating plant for not less than 1 year.

(c) Have not less than 4 years of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 7,500 square feet.

(d) Have not less than 1 year of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 7,500 square feet along with sufficient experience operating steam prime movers in excess of 100 horsepower for a combined total of not less than 4 years of experience.

(e) Have not less than 1 year of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 7,500 square feet along with sufficient experience operating boilers in a high pressure boiler plant having an aggregate heating surface of more than 4,000 square feet for a combined total of not less than 4 years of experience.

(6) An applicant for a first-class stationary engineer registration shall meet 1 or more of the following requirements:

(a) Be registered as a second-class stationary engineer and have not less than 2 years of experience as a second-class stationary engineer.

(b) Have not less than 6 years of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 20,000 square feet.

(c) Have not less than 2 years of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 20,000 square feet along with sufficient experience operating steam prime movers in excess of 200 horsepower for a combined total of not less than 6 years of experience.

(d) Have not less than 2 years of experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 20,000 square feet along with sufficient experience in the operation of boilers in a high pressure boiler plant having an aggregate heating surface of more than 7,500 square feet of heating surface for a combined total of not less than 6 years of experience.

(e) Complete a 4-year approved apprenticeship program or a 4-year qualified training program.

(f) Complete a 4-year program with a bachelor's degree from a college or university in engineering, engineering technology, heating/power technology, or energy technology whose program is approved by the board and which includes a hands-on power option from a 2-year community college program or the equivalent, as determined by the board, and not less than 1 year of employment, internship, or cooperative education experience in a steam electric generation plant or high pressure steam heating process plant.

408.764 License or registration suspensions; notice; appeal; revocation; hearing; reinstatement.

Sec. 14. (1) The chief inspector may suspend the license of an inspector, repairer, or installer or the registration of a boiler operator or stationary engineer due to the incompetence of the registrant or licensee or due to willful falsification of a matter or statement contained in that registrant's or licensee's application or in a report of inspection made by the registrant or licensee. Written notice of the suspension shall be given by the chief inspector within 10 days after the suspension to the registrant or licensee, the registrant's or licensee's employer, and the board. A person whose registration or license has been suspended may appeal to the board as provided in section 22 and be present in person and be represented by counsel at the hearing of the appeal.

(2) If the board has reason to believe that a registrant or licensee is no longer qualified to hold his or her registration or license, the board, upon not less than 10 days' written notice to the registrant or licensee and the registrant's or licensee's employer, shall hold an administrative hearing at which the registrant or licensee and his or her employer shall have an opportunity to be heard. If, as a result of the hearing, the board finds that the registrant or licensee is no longer qualified to hold his or her registration or license, the board shall recommend to the director that the registration or license be revoked, and the director shall immediately revoke the registration or license.

(3) A person whose registration or license has been suspended may apply, after 90 days from the date of the suspension, for reinstatement of the registration or license.

408.774 Unlawful operation of boilers; violation; penalty.

Sec. 24. (1) An individual, or other person, shall not operate a boiler without a valid inspection certificate. The operation of a boiler without a valid inspection certificate or at a pressure exceeding that specified in the inspection certificate is a misdemeanor on the part of the owner, user, or operator punishable by imprisonment for not more than 60 days, or by a fine of not more than \$500.00, or both. Each day of the unlawful operation is a separate offense.

(2) A person using a title described in section 13a(2) without a registration issued under this act is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, a fine of not more than \$2,000.00, or both.

(3) A business entity using or advertising the use of an individual having a title described in section 13a(2), if that individual is not registered under this act, is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, a fine of not more than \$2,000.00, or both.

This act is ordered to take immediate effect.

Approved June 11, 2008.

Filed with Secretary of State June 11, 2008.

[No. 160]

(HB 5963)

AN ACT entering into the interstate compact on educational opportunity for military children: and for related purposes.

The People of the State of Michigan enact:

3.1041 Interstate compact on educational opportunity for military children; jurisdictions; form.

Sec. 1. The interstate compact on educational opportunity for military children is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as follows:

Interstate Compact on Educational
Opportunity for Military Children

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

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

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders though six (6) months after return to their home station.

E. “Education(al) records” means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. “Extracurricular activities” means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. “Interstate Commission on Educational Opportunity for Military Children” means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. “Local education agency” means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. “Member state” means: a state that has enacted this compact.

J. “Military installation” means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. “Non-member state” means: a state that has not enacted this compact.

L. “Receiving state” means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. “Rule” means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. “Sending state” means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. “State” means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. “Student” means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. “Transition” means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. “Uniformed service(s)” means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. “Veteran” means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III
APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV
EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or “hand-carried” education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT & ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.