

(b) Truck and semitrailer or trailer combinations: 65 feet, except that a person may operate a truck and semitrailer or trailer designed and used to transport saw logs, pulpwood, and tree length poles that does not exceed an overall length of 70 feet. A person may operate a truck tractor and semitrailer designed and used to transport saw logs, pulpwood, and tree length wooden poles with a load overhang to the rear of the semitrailer which does not exceed 6 feet if the semitrailer does not exceed 50 feet in length.

(c) Truck tractor and 2 semitrailers, or truck tractor, semitrailer, and trailer combinations: no overall length limit, if the length of each semitrailer or trailer does not exceed 28-1/2 feet each, or the overall length of the semitrailer and trailer, or 2 semitrailers as measured from the front of the first towed unit to the rear of the second towed unit while the units are coupled together does not exceed 58 feet.

(d) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 75 feet.

(4) The following combinations and movements are prohibited:

(a) A truck shall not haul more than 1 trailer or semitrailer, and a truck tractor shall not haul more than 2 semitrailers or 1 semitrailer and 1 trailer in combination at any 1 time, except that a farm tractor may haul 2 wagons or trailers, or garbage and refuse haulers may, during daylight hours, haul up to 4 trailers for garbage and refuse collection purposes, not exceeding in any combination a total length of 55 feet and at a speed limit not to exceed 15 miles per hour.

(b) A combination of vehicles or a vehicle shall not have more than 11 axles, except when operating under a valid permit issued by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(c) Any combination of vehicles not specifically authorized under this section is prohibited.

(d) A combination of 2 semitrailers pulled by a truck tractor, unless each semitrailer uses a fifth wheel connecting assembly which conforms to the requirements of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(e) A vehicle or a combination of vehicles shall not carry a load extending more than 3 feet beyond the front of the lead vehicle.

(f) A vehicle described in subsections (2)(e) and (3)(d) employing triple saddle mounts unless all wheels that are in contact with the roadway have operating brakes.

(5) All combinations of vehicles under this section shall employ connecting assemblies and lighting devices that are in compliance with the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(6) The total gross weight of a truck tractor, semitrailer, and trailer combination or a truck tractor and 2 semitrailers combination that exceeds 59 feet in length shall not exceed a ratio of 400 pounds per engine net horsepower delivered to clutch or its equivalent specified in the handbook published by the society of automotive engineers, inc. (SAE), 1977 edition.

(7) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

(8) As used in this section:

(a) "Designated highway" means a highway approved by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(b) “Length” means the total length of a vehicle, or combination of vehicles, including any load the vehicle is carrying. Length does not include safety and energy conservation devices including, but not limited to, impact absorbing bumpers, rear view mirrors, turn signal lamps, marker lamps, steps and hand holds for entry and egress, flexible fender extensions, mud flaps, or splash and spray suppressant devices; load induced tire bulge; refrigeration or heating units; or air compressors attached to the vehicle. A safety or energy conservation device shall be excluded from a determination of length only if it is not designed or used for the carrying of cargo, freight, or equipment. Semitrailers and trailers shall be measured from the front vertical plane of the foremost transverse load supporting structure to the rearmost transverse load supporting structure.

(c) “Stinger-steered combinations” means a truck tractor and semitrailer combination in which the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 25, 2002.

[No. 79]

(HB 4859)

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 7411 (MCL 333.7411), as amended by 1993 PA 169.

The People of the State of Michigan enact:

333.7411 Probation of individual with no previous conviction; entering adjudication of guilt upon violation of probation; discharge and dismissal without adjudication of guilt; nonpublic record of arrest and discharge and dismissal; effect of civil fine for

first violation; requiring individual to attend course of instruction or rehabilitation program; failure to complete instruction or program as violation of probation; screening and assessment; participation in rehabilitative programs; payment of costs; failure to complete program as violation of probation.

Sec. 7411. (1) When an individual who has not previously been convicted of an offense under this article or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 7403(2)(a)(v), 7403(2)(b), (c), or (d), or of use of a controlled substance under section 7404, or possession or use of an imitation controlled substance under section 7341 for a second time, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in section 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3c. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as provided in subsection (2)(b), is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 7413. There may be only 1 discharge and dismissal under this section as to an individual.

(2) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to either or both of the following:

(a) To a court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of a controlled substance, or an imitation controlled substance as defined in section 7341, covered in this article has already once utilized this section.

(b) To the state department of corrections or a law enforcement agency, upon the department's or law enforcement agency's request, subject to all of the following conditions:

(i) At the time of the request, the individual is an employee of the department or the law enforcement agency or an applicant for employment with the department or the law enforcement agency.

(ii) If the individual is an employee of the department or the law enforcement agency, the date on which the court placed the individual on probation occurred after the effective date of the 2002 amendatory act that added this subdivision.

(iii) The record shall be used by the department of corrections or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(3) For purposes of this section, a person subjected to a civil fine for a first violation of section 7341(4) shall not be considered to have previously been convicted of an offense under this article.

(4) Except as provided in subsection (5), if an individual is convicted of a violation of this article, other than a violation of section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv), the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or

rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

(5) If an individual is convicted of a second violation of section 7341(4), before imposing sentence under subsection (1), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence imposed under subsection (1), the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services. Failure to complete a program shall be considered a violation of the terms of the probation.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 25, 2002.

[No. 80]

(HB 5434)

AN ACT to amend 1939 PA 141, entitled “An act to permit the director of the department of agriculture of this state to regulate the storage, warehousing, buying, and selling of farm produce within this state; to provide for the licensing, regulation, and bonding of grain dealers; to provide for warehouse receipts and price later agreements and their priority; to provide for the creation of security interests; to provide for the establishment of an inspection service and personnel for licensed grain dealers; and to provide penalties for the violation of this act,” by amending the title and sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, and 22 (MCL 285.62, 285.63, 285.64, 285.65, 285.66, 285.67, 285.68, 285.69, 285.70, 285.71, 285.72, 285.73, 285.74, 285.75, 285.76, 285.78, 285.79, 285.80, 285.81, and 285.82), the title as amended by 1984 PA 169, sections 2, 3, 5, 6, and 18 as amended and section 21 as added by 1996 PA 311, and section 7 as amended by 1982 PA 33, and by adding sections 17, 23, 24, 25, 26, 27, and 28; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to regulate the storage, warehousing, buying, and selling of farm produce within this state; to provide for the licensing, regulation, and bonding of grain dealers; to provide for warehouse receipts, acknowledgment forms, and price later agreements and their use and priority; to provide for the creation of security interests; to provide for certain powers and duties of the department of agriculture and its director; to impose certain duties on insurance companies and sureties; and to provide administrative remedies and penalties for the violation of this act.

285.62 Definitions.

Sec. 2. As used in this act:

(a) “Acknowledgment form” means a scale weight ticket, a load slip, or any other evidence of deposit issued by a grain dealer or his or her authorized representative to a depositor that identifies the farm produce being transferred from the possession of the depositor to the possession of the grain dealer.

(b) “Allowable net assets” does not include intangible assets or assets that the department or a certified public accountant determines have no monetary value.

(c) “Cash sale” means a sale in which the title to farm produce is transferred only after a price is decided upon before or at the time of delivery and payment for the farm produce meets 1 of the following:

(i) Payment of the price is made to the depositor in cash or by check, money order, wire transfer, or draft within 10 days of delivery.

(ii) Payment of the price is made by placing the amount of the price in the depositor’s account and a credit statement is sent to the depositor within 10 days of delivery.

(d) “Claimant” means a person to whom a grain dealer owes a financial obligation for farm produce or who is entitled to the farm produce delivered to the grain dealer or the proceeds of the farm produce.

(e) “Collateral warehouse receipt” means a warehouse receipt issued to a financial institution by a grain dealer for unencumbered grain owned by that grain dealer.

(f) “Department” means the department of agriculture.

(g) “Depositor” means either of the following:

(i) A person who delivers farm produce to a licensed grain dealer for storage, processing, shipment, or sale and has title to the farm produce at the time of delivery.

(ii) A person who owns or who is legal holder of an acknowledgment form or warehouse receipt issued by a licensed grain dealer for farm produce.

(h) “Director” means the director of the department or his or her designee.

(i) In a farm produce transaction, “disposition” means a cash sale or other transfer of farm produce or placement of farm produce on a warehouse receipt or price later agreement.

(j) “Facility” means an edifice, silo, tank, bin, crib, interstice, or protected enclosed structure, or more than 1 edifice, silo, tank, bin, crib, interstice, or protected enclosed structure located contiguous to each other, used to receive, deposit, or store farm produce in bulk.

(k) “Failure” of a licensee or grain dealer means any of the following:

(i) Inability of a licensee or grain dealer to financially satisfy claimants.

(ii) A public declaration of insolvency by a licensee or grain dealer.

(l) “Farm produce” means 1 or more of dry edible beans, soybeans, small grains, cereal grains, or corn.

(m) “Farm produce handled” means the number of bushels or hundredweight of farm produce that a licensee receives or is otherwise obligated for in a fiscal period.

(n) “Farm produce handling” means any of the following:

(i) Engaging or participating in the business of purchasing farm produce.

(ii) Operating a grain elevator for the receiving, storing, shipping, or processing of farm produce.

(iii) Receiving farm produce into a facility under a price later agreement.

(o) “Farm produce trucker” means a person engaged in the business of hauling farm produce that issues price later agreements or acknowledgment forms, transfers warehouse receipts, or is responsible for payment to a depositor, but that does not own a facility.

(p) “Financial institution” means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state, or a national bank for cooperatives subject to the farm credit act of 1971, Public Law 92-181, 85 Stat. 583.

(q) “Grain bank” or “feed bank” means farm produce stored on a nonnegotiable warehouse receipt that the owner intends to periodically, partially withdraw.

(r) “Grain dealer” means a person engaged in the business of receiving, buying, exchanging, selling, or storing farm produce in this state. The term includes a farm produce trucker, grain merchandiser, or processor. The term does not include a person solely engaged in 1 of the following:

(i) Selling farm produce produced by the person.

(ii) Buying farm produce in a cash sale to feed the person’s livestock or poultry.

(iii) If the person handled less than 30,000 bushels of farm produce in the person’s preceding fiscal year and in the person’s current fiscal year, buying farm produce in a cash sale.

(iv) Purchasing farm produce from a person other than the grower or producer of the farm produce in a cash sale.

(v) Contracting for land or services to produce seed for sowing or propagation.

(s) “Grain merchandiser” means a person engaged in the business of receiving, buying, exchanging, selling, or taking title to farm produce and who is responsible for payment to a depositor but does not operate a truck or a facility.

(t) “License” means a license issued by the department to a grain dealer in the manner provided under this act. The term includes a permit issued under section 6.

(u) “Licensee” means a grain dealer licensed under this act.

(v) “Open storage” means the storage of farm produce for 30 days or less under an acknowledgment form that does not contain a designation of a specific transaction type.

(w) “Operating within this state” includes the transfer of physical possession or title of farm produce from an owner to a person within the boundaries of this state.

(x) “Person” means an individual, corporation, limited liability company, partnership, association, cooperative organization, or other legal entity.

(y) “Price later agreement” means a written or electronically transmitted agreement between a depositor and a grain dealer where the grain dealer receives title to farm produce and the depositor retains the option to price the farm produce after delivery based on conditions in the agreement.

(z) “Processing” means drying, cleaning, packaging, or otherwise changing the physical characteristics of farm produce.

(aa) “Processor” means a person engaged in processing farm produce and storing the farm produce for a period of 24 hours or more.

(bb) “Receiving point” means a facility where farm produce is received, weighed, and stored and an acknowledgment form is issued.

(cc) With respect to a financial statement, “reviewed” means performing inquiry and analytical procedures that provide an accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement for it to conform with generally accepted accounting principles.

(dd) “Revocation” means the removal of a grain dealer’s license under this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The term does not include a suspension of a grain dealer’s license under this act.

(ee) “Shortage” means that a grain dealer does not have a sufficient amount of farm produce by class and quality to cover the grain dealer’s outstanding warehouse receipt obligations for that farm produce.

(ff) “Storage” means the deposit of farm produce in trust with a grain dealer by a depositor.

(gg) “Temporary facility” means a facility that does not have a receiving point and is used by a licensee to store farm produce.

(hh) “Warehouse receipt” means a written or electronically transmitted receipt issued by a grain dealer to a depositor at the time the grain dealer accepts farm produce for storage. A warehouse receipt is 1 of the following:

(i) A negotiable warehouse receipt if it states that the grain dealer will deliver the farm produce to the bearer of the receipt or to the order of a person named in the receipt.

(ii) A nonnegotiable warehouse receipt if it does not satisfy subparagraph (i).

285.63 Grain dealer; license required; issuance; prohibited conduct; allowable net asset requirements; surety bond; acting as grain dealer without license; misdemeanor; review of books and records; injunction.

Sec. 3. (1) A person shall not act or offer to act as a grain dealer in this state without a license from the department issued under this act.

(2) A grain dealer shall not process or store farm produce, issue a warehouse receipt, charge or collect a fee for storage of farm produce, issue a price later agreement, or issue an acknowledgment of receipt for delivery of farm produce except in compliance with this act.

(3) Subject to subsection (4), the department may refuse to issue or renew a license to a grain dealer unless the grain dealer meets at least 1 of the following at the time the grain dealer submits the application:

(a) Has allowable net assets of more than \$1,000,000.00.

(b) Has allowable net assets of \$50,000.00 or more and handled 500,000 or fewer bushels of farm produce in the grain dealer’s most recent fiscal year.

(c) Has allowable net assets of \$50,000.00 or more, and the allowable net assets equal or exceed the product of 10 cents multiplied by the number of bushels of farm produce handled by the grain dealer in the grain dealer’s most recent completed fiscal year.

(4) If a grain dealer fails to meet any of the allowable net asset requirements under subsection (3), the department may issue or renew the license if the grain dealer provides the department with a negotiable bond issued by a surety authorized to conduct business in this state, or proof of establishment of a restricted account in a financial institution that conducts business in this state, acceptable to the department and of which the department is the sole beneficiary, that is in an amount equal to the amount by which the grain dealer’s allowable net assets failed to meet the allowable net asset requirement applicable under subsection (3).

(5) A person who acts or offers to act as a grain dealer without a license is guilty of a misdemeanor. Each day that the person acts or offers to act as a grain dealer without a license is a separate misdemeanor.

(6) If the director has probable cause to believe that a person is acting or offering to act as a grain dealer without a license, the director may review the books and records relating to the operations of the person.

(7) Upon application of the department, a court in this state shall issue a temporary or permanent injunction enjoining a person from acting as a grain dealer without a license, issuing a warehouse receipt or price later agreement without a license, or interfering with an employee of the department or a receiver appointed under this act that is performing his or her duties under this act.

285.64 License; conduct; term; display; term of new license.

Sec. 4. (1) The department may issue, amend, or renew a license if the department determines that the applicant has complied with this act and rules promulgated under this act.

(2) A licensee may receive farm produce for storage or processing, assess and collect storage or processing charges on farm produce stored or processed, issue warehouse receipts on stored farm produce, issue price later agreements, collect handling charges on price later agreements, and issue acknowledgment forms.

(3) Except as provided in subsection (4), a license is issued for a term of 1 year. A license is not transferable by the licensee. A licensee shall prominently display his or her license on the vehicle of a licensee who is a farm produce trucker or at the principal place of business of a licensee who is a grain merchandiser or at a facility, as applicable.

(4) The department may, in its discretion, issue a new license for a term of up to 21 months.

285.65 Revocation of license; application for new license; events; notice of event.

Sec. 5. (1) The department may revoke a grain dealer's license, but the grain dealer may apply for a new license, if any of the following events occur:

(a) The licensee is a party to a merger, consolidation, conversion, or similar transaction. The department may decide not to revoke the license if the successor to the licensee is licensed under this act and executes a successor's agreement acceptable to the department.

(b) Fifty percent or more of the shares, other than publicly traded shares, or other ownership interests in the licensee are sold, exchanged, or otherwise transferred. The department may decide not to revoke the license if the transferee is licensed under this act and executes a successor's agreement acceptable to the department.

(c) Fifty percent or more of the property and assets of the licensee are sold, leased, exchanged, or otherwise transferred. The department may waive this requirement if the transferee is licensed under this act and executes a successor's agreement acceptable to the department.

(d) The licensee ceases to pay its debts in the ordinary course of business, cannot pay its debts as they become due, or is insolvent under an applicable bankruptcy or insolvency law.

(e) If the grain dealer has 100 or more stockholders, members, partners, or owners, as applicable, more than 1/2 of the grain dealer's board of directors or other governing body or board are replaced with different individuals.

(f) The name of the grain dealer is changed.

(2) If an event described in subsection (1) occurs, the grain dealer shall file a notice of the event with the department within 1 business day of the event.

285.66 Temporary permit.

Sec. 6. (1) If a grain dealer has applied for a license but needs additional time to comply with the requirements of this act for issuance of a license, the department may issue 1 temporary permit to the applicant. A permit issued under this section expires on the expiration date set by the department, which may not be more than 30 days after the permit is issued, when a license is issued, or when the application for license is denied, whichever occurs first. The department may grant 1 extension of up to 30 days of a permit issued under this section.

(2) A grain dealer who has been granted a permit under this section has the same rights and obligations of a licensee under this act.

285.67 Grain dealer's license; application; form; contents; submission.

Sec. 7. (1) A grain dealer shall file an application for a new license or for renewal or amendment of a license with the department. The department may determine the time when an application is filed and the form of the application. A complete application shall include all of the following:

(a) The name and ownership interest of each owner, stockholder, member, or partner of the grain dealer who owns at least 5% of the shares, other than publicly traded shares, or other ownership interests of the grain dealer, or for a grain dealer described in section 9(3), at least 5% of the shares, other than publicly traded shares, or other ownership interests of the parent corporation.

(b) The location and storage capacity of each facility of the grain dealer.

(c) Proof of insurance for all farm produce stored at each facility of the grain dealer.

(d) A statement that none of the events described in section 10 have occurred within the 5 years preceding the date of the license application, or if any of those events have occurred, a description of those events.

(e) A statement of the total bushels of farm produce handled by the grain dealer during the grain dealer's most recent completed fiscal year.

(f) If the grain dealer's most recent completed fiscal year was for a period of less than 12 months or the grain dealer materially changed its farm produce handling practices in that fiscal year, a projection of the total bushels of farm produce the grain dealer expects to handle in the current fiscal year.

(g) Copies of all warehouse receipt forms, price later agreement forms, and acknowledgment forms used by the grain dealer.

(h) Copies of all of the grain dealer's facility lease agreements and bin charts.

(i) If the grain dealer does not maintain an office in this state and does not have a resident agent in this state, the application shall include a written appointment of a statutory agent upon whom process, notice, or demand may be served. The statutory agent shall be an individual residing in this state or a corporation whose principal place of business is located in this state. If the identity or address of the statutory agent changes while the application is pending or after a license is issued, the grain dealer shall within 3 days file with the department a written appointment of the new statutory agent or written notice of the new address, as applicable.

(2) The department shall issue or deny a license within 30 days after receipt of the completed application under this section, license fee described in section 8, and financial statement described in section 9.

(3) For a license renewal, the licensee shall submit the application, license fee, and financial statement to the department at least 30 days before the expiration of the current license term.

(4) If an application is withdrawn before a license or renewal is approved, the department shall retain \$50.00 for processing and return the remainder of the license fee to the grain dealer.

(5) By submitting an application, a grain dealer consents to inspection and auditing of its farm produce and financial records and its operations by the department. The grain dealer shall make the records available to the department in this state if the department makes a request to inspect or audit the records.

285.68 License fee; grain dealer’s fees fund; fee schedule adjustment.

Sec. 8. (1) A grain dealer shall pay a license fee to the department with an application for a license or renewal of a license. The license fee is the sum of all of the following that apply to the grain dealer:

- (a) For each receiving point of the grain dealer that has total bushel capacity of:
 - (i) 100,000 or less \$150.00
 - (ii) More than 100,000 and 200,000 or less \$225.00
 - (iii) More than 200,000 and 300,000 or less \$300.00
 - (iv) More than 300,000 and 400,000 or less \$375.00
 - (v) More than 400,000 \$450.00
- (b) For vehicles owned by a farm produce trucker:
 - (i) For 1 vehicle \$200.00
 - (ii) For each additional vehicle \$100.00
- (c) For a grain merchandiser’s license..... \$450.00

(2) The grain dealer’s fees fund is created in the state treasury. The department shall deposit license fees and administrative fines received under this act in the grain dealer’s fees fund, to be used pursuant to legislative appropriation by the director in carrying out those duties required by law. After the payment of the amounts appropriated by the legislature for the necessary expenses incurred in the administration of this act, the money remaining in the grain dealer’s fees fund shall not revert or be credited to the general fund at the close of the fiscal year but shall remain in the grain dealer’s fees fund.

(3) A license fee determined pursuant to subsection (1) is the fee for a 1-year license. If the department has issued a license for a period of longer than 1 year under section 4(3), it shall require a license fee increased on a proportionate basis to reflect the longer term of the license.

(4) Every 3 years, the department may adjust the fee schedule in subsection (1) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index over the 3-year period. An adjustment under this subsection shall not exceed 5% even if the amount determined by the state treasurer to reflect the cumulative annual percentage change over the 3-year period is more than 5%. A fee adjusted under this subsection shall be rounded to the nearest whole dollar. As used in this subsection, “Detroit consumer price index” means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

285.69 Application for license or renewal; financial statement.

Sec. 9. (1) A grain dealer shall include with an application for a license or renewal a financial statement for the grain dealer's most recent completed fiscal year. The financial statement shall be a reviewed or audited financial statement, prepared by a certified public accountant in accordance with generally accepted accounting principles. The end of the grain dealer's most recent completed fiscal year shall be within 6 months of the expiration date of the grain dealer's current license. The financial statement shall include at least all of the following:

(a) An accountant's report, a balance sheet, an income statement, and notes and disclosures.

(b) A statement of the grain dealer's allowable net assets for purposes of section 3.

(2) If a financial statement described in subsection (1) discloses that the grain dealer during the preceding fiscal year had a current asset to current liability ratio of less than 1 to 1, the licensee shall include with the application a plan and timetable to increase the current asset to current liability ratio to 1 to 1 or more.

(3) If a financial statement described in subsection (1) is a financial statement of the licensee's parent corporation or a consolidated financial statement of the licensee and its parent corporation, the application shall include a declaration of liability signed by an authorized representative of the parent corporation, by which the parent corporation assumes all financial obligations incurred by the licensee during the term of the license.

285.70 Revocation or refusal to issue or renew license; hearing; conditions.

Sec. 10. After a hearing conducted in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department may revoke or refuse to issue or renew a license, or require a fidelity bond in an amount and on terms determined by the department, if any of the following occurred within the 5 years preceding the date of the license application:

(a) The applicant, a manager employed by the applicant, or any other individual with management responsibilities for the farm produce handling business of the applicant was a principal in a grain dealer receivership or insolvency proceeding that resulted in losses to creditors or depositors.

(b) The applicant, a manager employed by the applicant, or any other individual with management responsibilities for the farm produce handling business of the applicant pled guilty or was convicted of any felony involving fraud, conversion, or embezzlement.

(c) The applicant's license under the United States warehouse act, 39 Stat. 486, 7 U.S.C. 241 to 273, was revoked or canceled due to a violation of that act.

285.71 Temporary facility.

Sec. 11. (1) A grain dealer who uses a temporary facility shall report to the department on the daily position report required under section 15 the address and bushel capacity of the temporary facility for any period that the temporary facility is in use. The grain dealer shall provide the department with a copy of the lease agreement and bin charts, if any, for the temporary facility if the grain dealer has not previously provided them.

(2) A grain dealer using a temporary facility shall pay an additional license fee, calculated under section 8, based on the bushel capacity of the temporary facility. The grain dealer shall pay the additional license fee to the department with the position report for the first month the grain dealer uses the temporary facility.

285.72 Destruction or damage of farm produce; certificate of insurance required; reimbursement to depositors; notice of cancellation or nonrenewal of insurance.

Sec. 12. (1) A licensee shall maintain on file with the department a current certificate of insurance evidencing an effective policy of insurance issued by an insurance company authorized to do business in this state. The policy shall insure in the name of the grain dealer all farm produce in the facilities of the grain dealer for the full market value of the farm produce against loss by fire, explosion, lightning, and windstorm. In addition to any other remedy available under this act, the department may deny, revoke, or suspend a license for a violation of this subsection.

(2) If fire, explosion, lightning, or windstorm destroys or damages any farm produce in a facility operated by a licensee, and the depositor of the farm produce demands reimbursement and provides the licensee with a warehouse receipt or other evidence of ownership of the farm produce, the licensee shall reimburse the depositor of the farm produce for the market price of the farm produce minus any charges or advances to the depositor. As used in this subsection, "market price" means the average price paid for farm produce of the same type, grade, and quality on the date of the loss at the location of the facility.

(3) A grain dealer shall reimburse all depositors whose farm produce is destroyed or damaged by fire, explosion, lightning, or windstorm, within 10 days after the licensee receives payment from an insurer under a policy described in subsection (1). In addition to any other remedy available under this act, the department may deny, revoke, or suspend a license for a violation of this subsection.

(4) If the department determines that a licensee's insurance is insufficient, even if the insurance was previously acceptable to the department, the department shall require that the licensee obtain additional insurance that conforms to the requirements of this act.

(5) An insurance company may not cancel or nonrenew insurance required by this act, including insurance provided by binder, unless it sends a notice of intent to cancel or nonrenew to the department by certified or registered mail more than 15 days before the cancellation or nonrenewal of the insurance is effective.

285.73 Availability of books and records; confidentiality; disclosure.

Sec. 13. (1) The director may require that a grain dealer make its books and records available for audit or inspection.

(2) Except as provided in subsection (3), financial information and daily position report information submitted to the department by an applicant or licensee for purposes of this act are confidential and are not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that disclosure of financial information or daily position report information may be made in any of the following circumstances:

(a) With the written consent of the applicant or licensee.

(b) Pursuant to a court proceeding.

(c) The disclosure is made to an agent or employee of the department.

(d) The disclosure is made to an agent or employee of a state or the federal government authorized by law to see or review the information.

(3) The department may disclose information described in subsection (2) in the form of an information summary or profile, or as part of a statistical study that includes data on

more than 1 grain dealer that does not identify the grain dealer to whom any specific information applies.

285.74 Commingling produce; limitations on transactions; warehouse receipt or acknowledgment; standard of care; failure of depositor to remove or sell farm produce; limitation on loan balance.

Sec. 14. (1) Upon request, the department shall provide to each grain dealer a current copy of this act, any rules promulgated under this act, and any amendments to the act or rules.

(2) A licensee may commingle a depositor's farm produce with other fungible farm produce, unless the licensee and depositor have executed a written agreement that requires the licensee to keep the depositor's farm produce separate from other farm produce and available for identification and delivery to or as directed by the depositor.

(3) A licensee that elects to limit the types of farm produce transactions it offers shall post a list of the types of farm produce transactions it offers at a readily visible location in each office or at each scale of the licensee.

(4) If a warehouse receipt or acknowledgment form issued under this act is outstanding by the grain dealer who issued it, the grain dealer shall not issue another warehouse receipt or acknowledgment form for all or any part of that farm produce except as provided in this subsection. If a warehouse receipt or acknowledgment form is lost, stolen, or destroyed, the holder of the warehouse receipt or acknowledgment form is entitled to a substitute warehouse receipt or acknowledgment form. If a substitute warehouse receipt or acknowledgment form is issued under this subsection, it has the same legal effect as the original warehouse receipt or acknowledgment form and the issuance of the substitute cancels the original warehouse receipt or acknowledgment form. A substitute warehouse receipt or acknowledgment form shall state the number and date of the original warehouse receipt or acknowledgment form; shall contain a notarized statement by the holder that the original was lost, stolen, or destroyed; and shall contain a notarized statement of the holder and grain dealer that the substitute warehouse receipt or acknowledgment form contains the same terms as and is issued to replace the original warehouse receipt or acknowledgment form. If the lost, stolen, or destroyed instrument is a negotiable warehouse receipt, the holder shall provide the grain dealer with a lost instrument bond in an amount equal to 2 times the current market value of the farm produce covered by that warehouse receipt, in a form prescribed by the department from a surety authorized to conduct business in this state.

(5) A grain dealer shall exercise due care as the custodian of the farm produce in his or her custody.

(6) If a depositor fails to remove or sell farm produce in accordance with the written terms of the depositor's agreement with the licensee, the licensee may sell the farm produce in accordance with the written terms of the depositor's agreement.

(7) A grain dealer may not borrow money or hold an outstanding loan balance secured by farm produce inventory in an amount greater than the net positive accumulated dollar value of farm produce, as reported on its daily position report, at any point in time.

285.75 Daily position report.

Sec. 15. (1) A grain dealer shall keep a complete and accurate daily position report. The grain dealer shall submit the daily position report for the last business day of the

preceding fiscal month to the department during the first 10 business days of the grain dealer's fiscal month.

(2) A daily position report shall include all of the following information about the grain dealer's operations, as of the last business day of the preceding fiscal month, on a form approved by the director:

(a) The quantity of each type of farm produce in inventory.

(b) The quantity of farm produce covered by outstanding warehouse receipts, open storage, and price later agreements, including price later agreements and warehouse receipts for farm produce in other grain dealers' facilities.

(c) The quantity of farm produce covered by collateral warehouse receipts.

(d) The total dollar amounts of loans against grain inventory.

(e) A description and quantity of any other farm produce obligations resulting in the grain dealer's balance position of farm produce.

(f) If a deficiency concerning price later agreements exists, the quantity of offsetting purchase commitments.

(3) If the department determines that there is a deficiency in any warehouse receipt position, the department shall notify the grain dealer and require that the grain dealer cover the shortage or furnish bond or security in an amount and on terms required by the department. If the grain dealer fails to comply, the department may seize grain assets for the benefit of claimants.

(4) If a net deficiency concerning price later agreements exists, based upon daily bid prices, the grain dealer shall cover the deficiency by placing in an escrow account cash, cash equivalents, or marketable securities equal to 80% of the deficiency and offsetting purchase commitments equal to at least 20% of the deficiency. The grain dealer shall file a copy of the escrow agreement with the department. The escrow agreement shall require that the escrow institution submit a monthly statement for the escrow account to the department.

(5) A violation of this section by a grain dealer may result in a fine or suspension or revocation of the grain dealer's license under section 22. If the violation is the intentional filing of a false daily position report, in addition to license revocation, the grain dealer is subject to the penalty described in section 23 for each violation.

285.76 Records and accounts.

Sec. 16. (1) A licensee shall keep a complete and accurate set of records and accounts of all transactions pertaining to the operation of each facility, including, but not limited to, records and accounts of all farm produce received in or withdrawn from a facility, of all unissued warehouse receipts and acknowledgment forms in the grain dealer's possession, and of all issued warehouse receipts and acknowledgment forms, copies of all contracts, and any warehouse receipts and acknowledgment forms returned to and settled by the licensee. A grain dealer shall retain a paper copy or a copy stored in electronic or other form of a warehouse receipt, acknowledgment form, or other document evidencing ownership of any farm produce or liability as a grain dealer for at least the period that the document is outstanding, and if the document has been canceled, for a period of not less than 3 years from the date of cancellation. A grain dealer shall retain any other records and the accounts for at least 7 years.

(2) A licensee shall keep its records and accounts concerning its farm produce handling business separate and distinct from the records and accounts of any other business conducted by the licensee.

(3) The department may examine the records and accounts pertaining to the grain dealer's farm produce handling business at any time during normal business hours.

(4) A grain dealer shall not intentionally maintain false or misleading books and records. A grain dealer who violates this subsection is subject to the penalty described in section 23.

285.77 Notice of intent to discontinue business.

Sec. 17. (1) If a grain dealer intends to discontinue his or her farm produce handling business at or before the expiration of his or her license, at least 30 days before the date the grain dealer intends to discontinue the business, the grain dealer shall by registered or certified mail provide notice of intent to discontinue business to the director, each person storing farm produce in a facility of the grain dealer, and each known holder of a warehouse receipt, acknowledgment form, or open storage or price later agreement issued by the grain dealer. If the holder of a warehouse receipt, acknowledgment form, or open storage or price later agreement is not known, the grain dealer shall publish the notice in a newspaper of general circulation in each county in which a facility is located.

(2) If a grain dealer has provided or published a notice of intent to discontinue business under subsection (1) and the department determines that there is sufficient farm produce to cover warehouse receipts and open storage arrangements, a depositor of farm produce under a warehouse receipt or open storage arrangement in a facility of the grain dealer may remove or direct the removal of the farm produce from the facility before the expiration of the 30-day period described in subsection (1).

(3) Within 14 days of discontinuing his or her farm produce handling business, the grain dealer shall file a list of all farm produce liabilities assumed by a purchaser of the business, or any person other than the licensee, with the department.

285.78 Receipt of farm produce; acknowledgment form.

Sec. 18. (1) A grain dealer shall acknowledge receipt of farm produce by issuing an acknowledgment form to the depositor. The depositor or his or her authorized agent must sign the acknowledgment form if it will be used as a price later agreement, and the depositor and grain dealer are not parties to a prior written agreement governing title and delivery of the farm produce. The grain dealer shall provide a copy of the acknowledgment form to the depositor at the time the farm produce is delivered to the grain dealer.

(2) An acknowledgment form must contain all of the following:

(a) The name and address of the grain dealer.

(b) The date of transfer, weight, and type of farm produce deposited.

(c) A statement that unless the parties agree to another disposition within 30 days of the delivery to the grain dealer, the farm produce transaction is a price later agreement transaction.

(3) Farm produce delivered to a grain dealer is in open storage, and the responsibilities of the grain dealer and depositor under an acknowledgment form are the same as if a nonnegotiable warehouse receipt had been issued for the farm produce, unless 1 of the following occurs:

(a) The acknowledgment form satisfies the requirements applicable to a price later agreement and is signed by the depositor and grain dealer or their authorized agents.

(b) The farm produce is sold for a set price at the time of delivery to the grain dealer or another disposition occurs.

(4) If a grain dealer obtains farm produce from a depositor and the farm produce is not being delivered to a facility of the grain dealer, the grain dealer shall issue a temporary acknowledgment form identifying the estimated quantity, type of farm produce, grain dealer's name and address, and the name of the driver of the transporting vehicle.

(5) A grain dealer shall record the disposition of the farm produce on the acknowledgment form unless he or she provides other settlement documentation referencing the acknowledgment form.

(6) If a depositor deposits farm produce at a facility in the name of another grain dealer, the grain dealer in whose name the farm produce is deposited shall issue the acknowledgment form for the farm produce.

(7) If a grain dealer's license is revoked or terminated, the grain dealer shall deliver all unused acknowledgment forms to the department.

285.79 Suspension or revocation of grain dealer's license; reservation of rights; weighing and inspecting produce.

Sec. 19. (1) A grain dealer shall post at each facility a notice that states that the grain dealer reserves the right to terminate storage, processing, shipping, and handling arrangements and collect outstanding charges if the grain dealer's license is suspended or revoked.

(2) A licensee receiving farm produce for deposit shall weigh and inspect the farm produce.

285.80 Warehouse receipt.

Sec. 20. (1) If the licensee and depositor agree, a licensee shall issue a warehouse receipt for any farm produce received from a depositor for storage.

(2) If a grain dealer issues a warehouse receipt for a deposit, the warehouse receipt must be on a form approved by the department that includes spaces for inserting all of the following information and statements, as applicable:

(a) The location of the facility.

(b) The date the warehouse receipt is issued.

(c) The grain dealer's storage rate and the calculation of the depositor's storage charge.

(d) The net weight and grade factors of the farm produce.

(e) Whether the warehouse receipt is negotiable or nonnegotiable, which shall be conspicuously printed on the form.

(f) The signature of the grain dealer or his or her authorized agent.

(g) An expiration date. At the expiration date, the grain dealer and holder shall renegotiate the terms of storage or settle at market price.

(h) A statement of the amount of advances made or liability incurred for which the grain dealer claims a lien. If the exact amount of advances made or liabilities incurred at the time of issuance of the warehouse receipt is unknown to the grain dealer, the warehouse receipt shall include a statement of the fact that advances have been made or liabilities incurred.

(i) A statement that the warehouse receipt is issued subject to this act and rules promulgated under this act.

(3) The holder of a warehouse receipt has legal title to farm produce held under the warehouse receipt.

(4) A grain dealer shall sequentially number its warehouse receipts and issue them in numerical sequence and retain any voided warehouse receipts.

(5) If a grain dealer's license is revoked or terminated, the grain dealer shall deliver all unused warehouse receipts to the department.

(6) A person shall not do any of the following:

(a) Issue a warehouse receipt for farm produce except on a form approved by the director under this section.

(b) Falsely make, alter, forge, or counterfeit a warehouse receipt.

(c) Knowingly deposit farm produce under a warehouse receipt without disclosing any lien or lack of title.

(7) If a grain dealer delivers from storage a portion of the farm produce for which he or she has issued a negotiable warehouse receipt, the grain dealer shall cancel the original warehouse receipt and issue a new warehouse receipt for the remainder of the farm produce still in storage. The new warehouse receipt shall contain the number and date of the original warehouse receipt in addition to meeting the other requirements of this section.

(8) A warehouse receipt issued for farm produce identified and stored separately shall describe the storage location of the farm produce.

(9) A licensee may issue a collateral warehouse receipt only against farm produce owned and unencumbered by the licensee at the time of issuance.

(10) A grain dealer shall place farm produce held in a grain bank or feed bank on a warehouse receipt.

285.81 Price later agreement.

Sec. 21. (1) If there is no other disposition within 30 days after the delivery of farm produce to a grain dealer, the farm produce transaction is a price later agreement transaction.

(2) Title of farm produce subject to a price later agreement is transferred to the grain dealer at the time the price later agreement is executed.

(3) A grain dealer shall maintain a separate file in numerical sequence of noncanceled price later agreements that is available for inspection during normal business hours by the department. The grain dealer shall include in the records an account of any information required by the director to document the grain dealer's obligation to a depositor under a price later agreement.

(4) A grain dealer shall not include a charge for storage in any transaction that includes a price later agreement.

(5) The form and content of a price later agreement shall be approved by the department. Each price later agreement must contain blank lines or spaces for inserting all of the following information, statements, and provisions, as applicable:

(a) The date of receipt of the farm produce.

(b) The grain dealer's handling charge rates and the calculation of the depositor's charges.

(c) The net weight, type, and grade factors of the farm produce.

(d) The signature of the grain dealer or his or her authorized agent.

(e) The name and address of the depositor.

(f) The signature of the depositor or, if signed by an authorized agent of the depositor, the name and signature of the depositor's authorized agent. This subdivision does not apply to a transaction described in subsection (1).

(g) An expiration date.

(h) A statement that the price later agreement is issued subject to this act and rules promulgated under this act.

(6) A person shall not knowingly deposit farm produce under a price later agreement without disclosing any lien on or lack of title to the farm produce.

(7) A price later agreement shall not be converted to a warehouse receipt.

(8) At the expiration date of a price later agreement, a grain dealer shall settle at market price or renegotiate.

285.82 Administration and enforcement of act; rules; powers and duties of director.

Sec. 22. (1) The director shall administer and enforce this act. In addition to any other powers conferred by this act, the director may do any of the following:

(a) Audit and investigate the receiving, storing, processing, buying, selling, and handling of farm produce and any complaints concerning the receiving, storing, processing, buying, selling, and handling of farm produce.

(b) Require a grain dealer to terminate receiving, storing, processing, buying, selling, or other farm produce handling upon revocation, suspension, or summary suspension of his or her license.

(c) Administer oaths and issue subpoenas to compel the attendance and testimony of witnesses and the production of records in connection with any investigation or hearing under this act.

(d) Prescribe and approve all forms, within the limitations set forth in this act, including the forms of warehouse receipts, acknowledgment forms, and applications for licenses.

(e) Employ investigatory personnel, including, but not limited to, a certified public accountant or an individual with accounting background and specialized investigative training and experience.

(2) The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer this act.

(3) The director may revoke or suspend the license of a grain dealer or deny a license to a grain dealer if the director finds that the licensee has done any of the following:

(a) Engaged in fraudulent or deceptive practices.

(b) Violated or attempted to violate this act or rules promulgated under this act.

(c) Failed to maintain insurance coverage required by this act.

(d) Failed to maintain accurate and complete records as required by this act.

(e) Failed to pay a fee required by this act.

(f) Refused to allow any authorized representative of the department to examine the applicant's or licensee's accounting records, accounts, farm produce inventories, or facilities during regular business hours.

(g) Failed to possess sufficient farm produce to cover the outstanding warehouse receipts or acknowledgment forms issued or assumed by the applicant or licensee.

(h) Issued a warehouse receipt in violation of this act or any rules adopted under this act.

- (i) Failed to maintain the net allowable assets required by this act.
- (j) Failed to submit a financial statement in compliance with this act.
- (k) Failed to secure his or her obligations for price later agreements.

(4) In a proceeding to suspend or revoke a license pursuant to subsection (3), the director shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The director may order a summary suspension of a license pursuant to section 92(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

(5) The director shall post a notice on the property of a grain dealer whose license has been restricted, suspended, or revoked that states the limitations or restrictions imposed on the grain dealer. The notice shall not be removed from the property without written authorization from the director.

(6) If a grain dealer's license is suspended or revoked, the grain dealer may terminate storage, processing, shipping, or handling arrangements and collect outstanding charges.

(7) If a grain dealer's license is suspended or revoked, the director shall notify all known warehouse receipt holders and unpaid depositors of the grain dealer.

(8) If the director revokes a license under this section or a license expires, the grain dealer shall terminate all arrangements for farm produce handling in any facility of the grain dealer covered by the license in the manner prescribed by the director. Under the direction or supervision of the director, the grain dealer may liquidate farm produce previously received by the grain dealer.

(9) If the director suspends a grain dealer's license under this act, the grain dealer may under direction or supervision of the director operate the grain dealer's facilities, but shall not receive any farm produce for handling during the term of the suspension.

(10) During a license suspension or revocation proceeding, on behalf of this state and for the protection of holders of warehouse receipts or open storage or price later agreements of the licensee, the director may seize and protect the assets of the licensee by any legal, civil, or criminal proceedings necessary. If the grain dealer's license is revoked, the director may liquidate the grain dealer's warehouse receipts, open storage and price later agreements, and other assets. The director shall distribute the proceeds, first to the holders of warehouse receipts and open storage agreements, then to the secured holders of price later agreements, and then to all remaining holders of price later agreements. The director shall return any remaining proceeds to the grain dealer.

285.83 Violation of act or rule; prohibited conduct; penalty.

Sec. 23. (1) Unless otherwise provided in this act, a person who violates this act is guilty of a misdemeanor and is also liable for all damages sustained by a depositor for farm produce handled in violation of this act. In an enforcement action, a court may order restitution to a party injured by the handling of farm produce in violation of this act in addition to any other penalty provided by law.

(2) A grain dealer who violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than \$5,000.00 for each offense.

(3) A grain dealer who intentionally violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than \$10,000.00 for each offense. The court may allow the department to recover reasonable costs of investigation incurred in a prosecution resulting in a conviction for a violation described in this subsection.

(4) A person who does any of the following is guilty of a felony punishable by a fine of not more than \$20,000.00 or by imprisonment for not more than 5 years, or both:

(a) Intentionally alters or destroys a warehouse receipt or price later agreement or a record of warehouse receipts or price later agreements required by this act.

(b) Intentionally falsifies a position sheet, or issues a warehouse receipt if the farm produce or commodities enumerated in the warehouse receipt is not in fact in the facility stated in the warehouse receipt.

(c) With intent to defraud, issues a second or other warehouse receipt or agreement for farm produce if a valid warehouse receipt or agreement is outstanding and in force for the farm produce.

(d) While a valid warehouse receipt is outstanding and in force and without the consent of the holder of the warehouse receipt, sells, pledges, mortgages, encumbers, or transfers farm produce in violation of this act or permits the sale, pledge, mortgage, encumbrance, or transfer of farm produce in violation of this act.

(e) Knowingly receives farm produce from a person in violation of subdivision (d).

(f) Intentionally files a false daily violation report.

(g) Intentionally maintains false or misleading records and accounts required under section 16.

285.84 Violation of act or rule; administrative fines; warning; action by attorney general; license revocation; disposition of fine, costs, and recovery.

Sec. 24. (1) In addition to any other penalty provided by law, a person who individually, or by the action of his or her agent or employee, or as the employee or agent of another, violates this act or a rule promulgated under this act is subject to 1 of the following administrative fines:

(a) For a first violation, a fine of not less than \$50.00 or more than \$1,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(b) For a second violation within 2 years from the date of the first violation, a fine of not less than \$100.00 or more than \$5,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(c) For a third violation within 2 years from the date of the first violation, a fine of not less than \$500.00 or more than \$10,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(2) Upon the request of a person to whom the director has assessed an administrative fine under subsection (1), the director shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) If the director finds that a violation of this act has occurred despite the exercise of due care, the director may issue a warning instead of imposing an administrative fine under subsection (1).

(4) The director may advise the attorney general of the failure of a person to pay an administrative fine imposed under subsection (1), and the attorney general may bring an action in a court of competent jurisdiction to recover the fine.

(5) The director may revoke the license of a licensee who does not pay an administrative fine imposed under subsection (1).

(6) An administrative fine, costs, and the recovery of any economic benefit associated with a violation collected by the department under this section shall be retained by the department and used pursuant to legislative appropriation for the administration of this act.

285.85 Injunction; applicability of penalties to public officials; civil or criminal liability; hearing; local ordinance, regulation, or resolution; preemption.

Sec. 25. (1) The director may bring an action to enjoin the violation or threatened violation of this act or a rule promulgated under this act in a state court in the county in which the violation occurs or is threatened to occur or in Ingham county.

(2) The penalties provided for a violation of this act do not apply to a public official of this state or the federal government engaged in the performance of his or her official duties in administering the laws, rules, or regulations of this state or the federal government.

(3) Enactment of this amendatory act does not terminate or in any way modify any civil or criminal liability under this act in existence on or before the effective date of the amendatory act adding this section.

(4) A person aggrieved by an order of the director issued under this act may request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) Beginning on the effective date of the amendatory act that added this section, this act preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act. A local unit of government shall not adopt or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act.

285.86 Possession, liquidation, and distribution of assets; satisfaction of claims; reduction.

Sec. 26. (1) If a grain dealer fails, the director shall take possession of, liquidate, and distribute the assets and proceeds of the assets to satisfy claims as follows:

(a) To all of the following on a pro rata basis, if any:

(i) Claimants, including lenders, who possess warehouse receipts for farm produce stored by the grain dealer.

(ii) Claimants who possess acknowledgment forms or other written evidence of ownership other than warehouse receipts that disclose a storage obligation of the grain dealer.

(iii) Claimants who surrendered warehouse receipts to the grain dealer as part of a farm produce transaction but were not fully paid for the farm produce within 21 days after the surrender.

(b) If assets or proceeds of assets remain after satisfying all claims described in subdivision (a), the remaining assets or proceeds of assets shall be distributed pro rata to claimants who possess price later agreements.

(c) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a) and (b), the remaining assets or proceeds of assets shall be distributed pro rata to claimants who possess acknowledgment forms, similar forms of farm produce delivery contracts, or other written evidence of the sale of farm produce and who completed delivery and pricing of the farm produce within 30 days prior to the failure of the grain dealer.

(d) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a), (b), and (c), the remaining assets or proceeds of assets shall be distributed

pro rata to all other claimants who possess written evidence of the sale of farm produce to the grain dealer.

(e) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a), (b), (c), and (d), the remaining assets or proceeds of assets shall be distributed to the grain dealer.

(2) The director may reduce the amount of a claim under subsection (1) to reflect the liabilities owed to the grain dealer by the claimant.

285.87 Grain dealer license; surety bond; requirements; security for warehouse receipts and open storage transactions.

Sec. 27. (1) Before a license is issued to a grain dealer other than a grain merchandiser or farm produce trucker, the grain dealer shall provide a bond to the department that secures only the grain dealer's warehouse receipts and open storage transactions. Except as provided in subsection (3), the amount of the bond shall be \$15,000.00 for the first 10,000 bushels of storage capacity of the dealer's facility used for open storage and storage under warehouse receipts, plus \$5,000.00 for each additional 10,000 bushel capacity or fraction of that capacity used for open storage and storage under warehouse receipts other than collateral warehouse receipts.

(2) A bond provided under this section shall name the department as payee, be executed by the applicant as principal, and be issued by a surety authorized to conduct business in this state. The department shall prescribe the form and terms and conditions of the bond. The bond shall contain the address and storage capacity of the facility of the grain dealer.

(3) A grain dealer who owns 2 or more facilities and is required to provide a bond under subsection (1) may furnish separate bonds for each facility or a blanket surety bond to satisfy his or her obligation under subsection (1). The amount of a blanket surety bond shall be the lesser of the cumulative amount determined by applying subsection (1) to each facility or \$400,000.00. A blanket security bond shall contain the address and storage capacity of each facility of the grain dealer.

(4) A bond provided under this section shall secure the faithful performance of the grain dealer of his or her obligations under all warehouse receipts and open storage agreements outstanding on or after the effective date of the bond and outstanding at the time the license of the grain dealer is revoked or the bond is canceled as provided in this act, whichever occurs first. The bond shall secure the grain dealer's faithful performance of those obligations whether the grain dealer is licensed or not.

(5) A bond provided under subsection (1) shall have a continuous term and shall not have a fixed expiration or termination date.

(6) The total aggregate liability of a surety under a bond provided under this section is limited to the amount of the bond without regard to the number of claimants involved in a transaction in which a claim on the bond is made. The liability of a surety on a bond provided under this section shall not accumulate for any successive license period.

(7) A person required to provide a bond to the department under this section may at his or her option provide the department with a certificate of deposit or other security acceptable to the department in lieu of all or part of the bond, payable to the department. The principal amount of the certificate of deposit or other security provided, or the aggregate amount of the bond provided and the principal amount of the certificate of deposit or other security provided, shall be the same as the amount of the bond otherwise required under this section. The interest on the certificate of deposit or other security provided under this subsection shall be made payable to the person or other purchaser of

the certificate of deposit or other security. The certificate of deposit or other security shall remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this section that apply to a bond required under this section apply to a certificate of deposit or other security provided under this subsection.

(8) Holders of collateral warehouse receipts or warehouse receipts issued in the name of the grain dealer may not recover against a bond provided under subsection (1).

(9) If the department determines that a bond previously provided under this section is insufficient, the department shall require that the grain dealer provide an additional bond. The additional bond shall be in an amount determined by the department and conform with all other requirements of this section.

(10) A grain dealer shall not cancel a bond required by this section without the consent of the department and the department's prior approval of a substitute bond.

(11) The surety on a bond required by this section may not cancel the bond unless it sends a notice of intent to cancel to the department more than 60 days before it cancels the bond. If the department receives a notice from a surety under this subsection, it shall promptly notify the grain dealer that provided the bond. The department may suspend or revoke the license of a licensee who fails to provide a new bond within 60 days after the department receives notice of intent to cancel from a surety.

285.88 Grain merchandiser or farm produce trucker; surety bond; requirements.

Sec. 28. (1) Before a license is issued to a grain merchandiser or farm produce trucker, the grain merchandiser or farm produce trucker shall provide a bond to the department in the amount of \$100,000.00.

(2) A bond provided under this section shall name the department as payee, be executed by the applicant as principal, and be issued by a surety authorized to conduct business in this state. The department shall prescribe the form and terms and conditions of the bond.

(3) A bond provided under this section shall secure the faithful performance of the grain merchandiser or farm produce trucker of his or her obligations in any farm produce transaction outstanding on or after the effective date of the bond and outstanding at the time the license of the grain merchandiser or farm produce trucker is revoked or the bond is canceled as provided in this act, whichever occurs first. The bond shall secure the faithful performance by the grain merchandiser or farm produce trucker of those obligations whether the grain merchandiser or farm produce trucker is licensed or not.

(4) The total aggregate liability of a surety under a bond provided under this section is limited to the amount of the bond without regard to the number of claimants involved in a transaction in which a claim on the bond is made. The liability of a surety on a bond provided under this section shall not accumulate for any successive license period.

(5) A grain merchandiser or farm produce trucker required to provide a bond to the department under this section may at his or her option provide the department with a certificate of deposit or other security acceptable to the department in lieu of all or part of the bond, payable to the department as trustee. The principal amount of the certificate of deposit or other security provided, or the aggregate amount of the bond provided and the principal amount of the certificate of deposit or other security provided, shall be the same as the amount of the bond otherwise required under this section. The interest on the certificate of deposit or other security provided under this subsection shall be made payable to the grain merchandiser or farm produce trucker or other purchaser of the certificate of deposit or other security. The certificate of deposit or other security shall

remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this section that apply to a bond required under this section apply to a certificate of deposit or other security provided under this subsection.

(6) If the department determines that a bond previously provided under this section is insufficient, the department shall require that the grain merchandiser or farm produce trucker provide an additional bond. The additional bond shall be in an amount determined by the department and conform with all other requirements of this section.

(7) A grain merchandiser or farm produce trucker shall not cancel a bond required by this section without the consent of the department and the department's prior approval of a substitute bond.

(8) The surety on a bond required by this section may not cancel the bond unless it sends a notice of intent to cancel to the department more than 60 days before it cancels the bond. If the department receives a notice from a surety under this subsection, it shall promptly notify the grain merchandiser or farm produce trucker that provided the bond. The department shall revoke the license of a grain merchandiser or farm produce trucker who fails to provide a new bond within 60 days after the department receives notice of intent to cancel from a surety.

Repeal of §§ 285.66a, 285.66b, 285.67a, 285.69a, 285.71a, and 285.82a.

Enacting section 1. Sections 6a, 6b, 7a, 9a, 11a, and 22a of the grain dealers act, 1939 PA 141, MCL 285.66a, 285.66b, 285.67a, 285.69a, 285.71a, and 285.82a, are repealed.

Approved March 25, 2002.

Filed with Secretary of State March 25, 2002.

[No. 81]

(HB 4860)

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43524 (MCL 324.43524), as amended by 1996 PA 585.

The People of the State of Michigan enact:

324.43524 Wild turkey hunting license; fees; lottery; issuance of license; use of fees.

Sec. 43524. (1) A person shall not hunt wild turkey without a wild turkey hunting license. The fee for a resident wild turkey hunting license is \$15.00. The fee for a nonresident wild turkey hunting license is \$69.00. Subject to the requirements of section 40113a, the commission may issue an order requiring that all applications for wild turkey hunting licenses, or applications for wild turkey hunting licenses for certain geographic

areas, be entered into a lottery designed and run by the department. A person selected in a lottery, upon meeting the requirements of this part, is authorized to purchase a wild turkey hunting license. The license shall be issued for a specified hunting period and shall confer upon the holder of the license the right to hunt wild turkeys.

(2) The department may charge a nonrefundable application fee not to exceed \$4.00 for each application for a wild turkey hunting license that is entered into a lottery pursuant to subsection (1).

(3) From fees collected under subsection (1) or (2), the following amounts shall be used for scientific research, biological survey work on wild turkeys, and wild turkey management in this state:

- (a) Resident wild turkey hunting license..... \$ 9.50
- (b) Nonresident wild turkey hunting license \$50.00
- (c) Senior wild turkey hunting license \$ 1.00
- (d) Wild turkey hunting application..... amount of application fee, if any,
but not more than \$ 3.00.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 25, 2002.

[No. 82]

(HB 5026)

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 231a (MCL 750.231a).

The People of the State of Michigan enact:

750.231a Exceptions to § 750.227(2); definitions.

Sec. 231a. (1) Subsection (2) of section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by his or her state of residence except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded in a closed case or container designed for the storage of firearms in the trunk of a vehicle.

(d) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372,

MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in the trunk of the vehicle.

(e) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in a vehicle that does not have a trunk and is not readily accessible to the occupants of the vehicle.

(2) As used in this section:

(a) “Antique firearm” means either of the following:

(i) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica of such a firearm, whether actually manufactured before or after 1898.

(ii) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) “Lawful purpose” includes the following:

(i) While en route to or from a hunting or target shooting area.

(ii) While transporting a pistol en route to or from his or her home or place of business and place of repair.

(iii) While moving goods from 1 place of abode or business to another place of abode or business.

(iv) While transporting a licensed pistol en route to or from a law enforcement agency for the purpose of having a safety inspection performed on the pistol as is required by section 9 of 1927 PA 372, MCL 28.429, or for the purpose of having a law enforcement official take possession of the weapon.

(v) While en route to or from his or her abode or place of business and a gun show or places of purchase or sale.

(vi) While en route to or from his or her abode to a public shooting facility or public land where discharge of firearms is permitted by law, rule, regulation, or local ordinance.

(vii) While en route to or from his or her abode to a private property location where the pistol is to be used as is permitted by law, rule, regulation, or local ordinance.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 83]

(SB 884)

AN ACT to amend 1919 PA 149, entitled “An act to accept the requirements and benefits of an act of the sixty-fourth congress of the United States, approved February 23, 1917, known as the Smith-Hughes act, or Public Act No. 347, relating to appropriations to be made by the federal government to the several states for the support and control of instruction in agriculture, the trades, industries, and home economics, and for the

preparation of teachers of vocational subjects; to designate a state board of control for vocational education; to provide for the proper custody and administration of funds received by the state from such appropriations; and to provide for appropriations by the state and by local school authorities to meet the conditions of said act of congress,” by amending sections 7 and 8 (MCL 395.7 and 395.8).

The People of the State of Michigan enact:

395.7 State board of control; inspection of schools; certification of amounts due; payment.

Sec. 7. The state board of control for vocational education shall provide for the proper inspection of the work in the schools and institutions which operate under the provisions of this act. And upon the approval of the work done and the receipt of satisfactory reports from each school or institution, the state superintendent of public instruction shall certify to the state treasurer the amount of the state and federal money due to each board of education, or board of control of any school maintaining a vocational school or department, and to the board of control of each institution engaged in the training of teachers of vocational subjects according to the provisions of this act. The state treasurer shall, upon the certificate of the superintendent of public instruction, draw his or her warrant for the amount of money due to each school district or institution and payable to the treasurer of the board of education or of the board of control of the institution, and those amounts shall be forwarded to the treasurers.

395.8 State board of control; estimate of money to meet federal appropriations; report to state treasurer; tax levy.

Sec. 8. The state board of control for vocational education shall estimate the amount of money which should be appropriated by the state to meet federal allotments during each succeeding biennial period, and when the state board of control shall have estimated the amount of money necessary to meet the federal appropriations, they shall report said estimate to the state treasurer, who shall include that amount of money in the state tax levy for each year as reported to the state legislature.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 84]

(SB 885)

AN ACT to amend 1939 PA 280, entitled “An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of

dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates,” by amending section 15 (MCL 400.15).

The People of the State of Michigan enact:

400.15 Gifts; acceptance by commission; duties of attorney general.

Sec. 15. The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift, or assignment of money, bonds, or choses in action, or any property, real or personal, and accept that property, so that the right and title to that property shall pass to the state of Michigan. All bonds, notes, or choses in action, or the proceeds of the bonds, notes, or choses in action when collected, and all other property or things of value received by the commission shall be reported to the state treasurer and used for the purposes set forth in the grant, devise, bequest, donation, gift, or assignment if such purposes are within the powers conferred on the commission. If it is necessary to protect or assert the right or title to any property received or derived under this section, or to collect or reduce into possession any bond, note, bill, or chose in action, the attorney general, upon request of the commission, shall take the necessary and proper proceedings and bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and prosecute all such suits.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 85]

(SB 886)

AN ACT to amend 1921 PA 59, entitled “An act to relieve the county and state from the support of certain classes of aliens who are subject to deportation from the United States; making an appropriation therefor and providing penalties for the non-performance of duties under the provisions of this act,” by amending section 2 (MCL 404.32).

The People of the State of Michigan enact:

404.32 Institutional records; contents; blanks for recording.

Sec. 2. The keeper, manager, superintendent, warden, or person in charge of any institution described in section 1 shall keep a record of all persons committed to or who become inmates of that institution. The record shall contain the following information: name, age, whether married or single, whether he or she can read or write, place of birth, nationality, names and addresses of parents or nearest relatives, or friends, date of arrival in United States, port of arrival, name of steamship, and if a naturalized citizen of the

United States the date and place of naturalization. The state treasurer, upon request, shall furnish each of the institutions described in this act printed blanks for the purpose of recording the information described in this section.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 86]

(SB 888)

AN ACT to amend 1846 RS 21, entitled “Of specific state taxes and duties,” by amending section 30 (MCL 446.30).

The People of the State of Michigan enact:

446.30 Statement on oath; forwarding to state treasurer; payment over of duties.

Sec. 30. Each county treasurer shall, immediately after receiving the statement, forward it to the state treasurer, and shall pay over all auction duties received by him or her to the state treasurer, in the manner directed by the state treasurer.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 87]

(SB 890)

AN ACT to repeal 1909 PA 263, entitled “An act to authorize the Michigan dairymen’s association to hold an annual meeting and such auxiliary meetings as may be determined by the association, and making an appropriation therefor,” (MCL 453.451 to 453.452).

The People of the State of Michigan enact:

Repeal of §§ 453.451 to 453.452.

Enacting section 1. 1909 PA 263, MCL 453.451 to 453.452, is repealed.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 88]

(SB 894)

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 26a of chapter XIV and section 6 of chapter XVI (MCL 774.26a and 776.6), section 26a of chapter XIV as amended by 1980 PA 506.

The People of the State of Michigan enact:

CHAPTER XIV

774.26a Blank forms for recording information concerning money received in criminal case; approval; completion.

Sec. 26a. (1) The county treasurer shall provide a municipal court within the county with blank forms which have been approved by the state treasurer. The forms shall provide space for recording the following information with respect to all sums of money which the municipal court receives in a criminal case on account of any forfeiture of bail, bond, recognizance, fine, penalty, or taxation of costs:

- (a) Receipt number.
- (b) Docket number.
- (c) Nature of offense.
- (d) Amount of the fine.
- (e) Amount of statutory court fees.
- (f) Officers' fees.
- (g) Other receipts, including a forfeited bond.
- (h) Total receipts.
- (i) Disposition of the case.
- (j) Name of defendant.
- (k) The name of the municipal judge.
- (l) The name of the city.

(2) Each municipal judge shall complete the forms and shall furnish 1 copy to the county treasurer, and 1 copy either to the county clerk or to the controller or board of auditors, in counties having a controller or board of auditors, and shall retain 1 completed form for the municipal court files.

CHAPTER XVI

776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.

Sec. 6. The governor of this state may in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other state or territory, or from the executive authority of any foreign government, any fugitive from justice or any person charged with treason; and the accounts of the agents appointed for that purpose shall, unless otherwise directed by the governor, be audited by the state treasurer and paid out of the state treasury.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 89]

(SB 895)

AN ACT to amend 1893 PA 118, entitled "An act to revise and consolidate the laws relative to state prisons, to state houses of correction, and branches of state prisons and reformatories, and the government and discipline thereof and to repeal all acts inconsistent therewith," by amending sections 49 and 61 (MCL 800.49 and 800.61).

The People of the State of Michigan enact:

800.49 Conveyance of convict to prison; fees and expenses; payment.

Sec. 49. The fees and actual expenses of sheriffs in conveying convicts to a prison shall be made out in a bill containing the fees or expenses, and shall be presented to the warden when the prisoner is delivered at the prison. The warden shall certify on it that the prisoner has been received, and the bill, including the sheriff's actual expenses in returning to the county from where the prisoner was sent, shall be audited by the state treasurer and paid from the state treasury. Before drawing his or her warrant the state treasurer shall correct any errors in the bill as to form, items, or amount, and the sheriff shall be paid for the services, his or her actual traveling expenses and the expenses of the convict, and the sum of \$3.00 for each and every day so employed.

800.61 Escaped convicts; measures for apprehension; reward; sentence.

Sec. 61. Whenever any convict shall escape from a prison, the warden shall take all proper measures for the apprehension of the convict, and for that purpose he or she may offer a reward not exceeding \$50.00 for the apprehension and delivery of that convict; but with the consent of his or her board the reward may be increased to a sum not exceeding \$500.00. All suitable rewards and other sums of money, necessarily paid for advertising

and apprehending any convict who may escape from prison, shall be audited by the state treasurer, and paid out of the state treasury. If any prisoner shall be retaken, the time between the escape and his or her recommittal shall not be computed as part of the term of imprisonment, but he or she shall remain in the prison a sufficient length of time after the term of his or her sentence would have expired, if he or she had not escaped, to equal the period of time he or she may have been absent by reason of the escape.

This act is ordered to take immediate effect.

Approved March 25, 2002.

Filed with Secretary of State March 26, 2002.

[No. 90]

(SB 690)

AN ACT to amend 1945 PA 327, entitled “An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state and by political subdivisions; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics,” (MCL 259.1 to 259.208) by amending the title and by adding chapter VIA; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer

of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics.

CHAPTER VIA. ACQUISITION AND OPERATION OF
AIRPORTS, LANDING FIELDS, AND OTHER AERONAUTICAL
FACILITIES BY PUBLIC AIRPORT AUTHORITIES

259.108 Short title of chapter.

Sec. 108. This chapter shall be known and may be cited as the “public airport authority act”.

259.109 Definitions.

Sec. 109. As used in this chapter:

(a) “Airport” means a publicly owned airport licensed by the state transportation department, bureau of aeronautics under section 86 and includes all airport facilities at the airport. An airport is “publicly owned” if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or any agency or department of the United States, this state, a local government or any municipality or other political subdivision of this state, or any other governing body, public agency, or other public corporation. Property to be included as part of an airport shall include all of the following:

(i) Property within the area identified in the latest exhibit A, the property map based on deeds, title opinions, land surveys, an approved airport layout plan, and project documentation included with or attached to federal grant agreements executed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction over the airport to an authority created under this chapter, and lands purchased with federal funds and passenger facility charges related to the airport.

(ii) Other property acquired with the proceeds of any airport generated revenues, passenger facility charges, federal grants-in-aid related to the airport, or other federal grants for airport purposes by the local government that owns the airport over which operational jurisdiction is being transferred to an authority.

(iii) Other property owned or acquired by an authority for airport purposes.

(b) “Airport facilities” means any of the following at an airport:

(i) Real or personal property, or interest in real or personal property, used for the landing, taking off, taxiing, parking, storing, shelter, supply, or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used for airport buildings or other airport facilities, and all appurtenant rights-of-way.

(ii) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for over-flight, for noise abatement or noise buffers, for clear zones, or for side transition zones.

(iii) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for the full or partial satisfaction of environmental mitigation requirements imposed by any federal, state, county, or other municipal government or agency as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local unit of government that owns the airport over which operational jurisdiction is transferred pursuant to this chapter.

(iv) Other structures, improvements, and buildings of all types used or useful for airport related purposes for the convenience of the public or for commercial or general aviation activities, located on the property acquired by or under the operational jurisdiction of the authority, including, but not limited to, restaurants, hotels, motels, exhibition halls, convention facilities, automotive parking facilities, retail stores, aircraft fueling systems, automotive service centers, cargo buildings, warehouses, kitchen facilities, drainage systems, utilities, roadways, automobile and aircraft bridges, and surface transportation terminals and facilities.

(v) Beacons, markers, communications systems, and all navigation facilities for use in aid of air navigation.

(vi) Any and all other improvements or facilities necessary, useful, or desirable to serve the occupants, passengers, users, employees, operators, airlines, or lessees of any portion of the property or facilities of the authority, or which are otherwise deemed by the authority to be in the public interest, including, but not limited to, facilities necessary, used, useful, or intended for use for handling, parking, storing, display, sale, or servicing of aircraft, either private or commercial; for the accommodation of persons and handling of freight, mail, and other items transported by air, for the furnishing and supplying of goods, commodities, services, things, and facilities that are deemed by the authority to be appropriate for the safety or convenience of the traveling public or of the operators of aircraft, or otherwise in the public interest; and in or for the equipping, operation, and maintenance of any airport facilities of the authority.

(c) “Approval date” means the effective date of the issuance by the federal aviation administration to the authority assuming operational jurisdiction of an airport of a certificate under part 139 of chapter 14 of the code of federal regulations with respect to the airport, and the concurrence by the FAA of the designation of the authority as a sponsor of the airport, including the FAA’s approval of the assignment of existing grant agreements to the authority.

(d) “Authority” means a public airport authority created by or pursuant to section 110 and governed by a board.

(e) “Board” means the governing body of an authority appointed pursuant to section 111.

(f) “Department” means the state transportation department.

(g) “Enplanement” means a domestic, territorial, or international revenue passenger who boards an aircraft at an airport in scheduled or nonscheduled service of aircraft in intrastate, interstate, or foreign service and includes an in-transit passenger who boards an international flight that transits an airport in the United States for nontraffic purposes.

(h) “FAA” means the federal aviation administration of the United States department of transportation, or any successor agency.

(i) “Fiscal year” means that annual period that is the fiscal year of the local government that owns the airport over which an authority has assumed operational jurisdiction or, if the local government is not required to include the authority in the financial statements of the local government, that annual period established by the board.

(j) “Legislative body” means the elected body of a local government having legislative powers.

(k) “Local chief executive officer” means the mayor or manager of a city or village, the township supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(l) “Local government” means a county, city, township, or village that owns or operates an airport.

(m) “Passenger facility charge” or “PFC” means a passenger facility fee authorized under section 40117 of title 49 of the United States Code, 49 U.S.C. 40117, and designated as a passenger facility charge under part 158 of title 14 of the code of federal regulations.

(n) “Qualified airport” means an airport, other than a military airport, that has 10,000,000 or more enplanements in any 12-month period.

(o) “Sponsor” means the public agency authorized by subchapter I of chapter 471 of title 49 of the United States Code, 49 U.S.C. 47101 to 47134, to submit requests for, and thereafter accept, and be responsible for performing all of the assurances associated with accepting grant agreements with respect to airports from the FAA or this state and to impose a passenger facility charge at airports, and to perform certain duties and responsibilities previously assumed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction of the airport to an authority created under this chapter by virtue of the local government’s acceptance prior to the approval date of grants for the benefit of the airport from the FAA or any other agency of the United States or this state.

259.110 Public airport authority; political subdivision and instrument of local government; public agency; airport manager; qualified airport; powers of authority; incorporation of authority; presumption of validity; court jurisdiction; state transportation department as party; rules prohibited.

Sec. 110. (1) Except as otherwise provided in this chapter, an authority created under or pursuant to this section shall be a political subdivision and instrumentality of the local government that owns the airport and shall be considered a public agency of the local government for purposes of state and federal law. An authority created under or pursuant to this section also shall be the airport owner for purposes of appointing and designating an airport manager under this act. An authority shall not levy a tax or special assessment.

(2) For a local government that owns or operates a qualified airport on the effective date of this chapter, there is created an authority on the effective date of this chapter. For a local government that operates an airport that becomes a qualified airport after the effective date of this chapter, there is created an authority on the date the airport becomes a qualified airport. An authority is vested with powers granted by this chapter to manage and operate the qualified airport and airport facilities of a qualified airport and any other airport and related airport facilities owned or operated by the local government on the approval date. Before the approval date, an authority may organize and exercise all powers granted under this chapter, except those powers related to the management and operation of a qualified airport. Officials and employees of the local government and the authority shall actively cooperate with the local government, the authority, this state, and the federal government to the end that the FAA will recognize the authority as the sponsor of the qualified airport, and to obtain FAA approval of the transfers contemplated by this chapter. Any action required by this state related to the approval shall be coordinated by the department. The local government shall execute such additional

documents as necessary to obtain FAA approval of the transfers contemplated by this chapter and to obtain recognition of the authority as the sponsor with respect to the qualified airport.

(3) A local government that owns or operates an airport that is not a qualified airport may, by resolution, declare its intention to incorporate an authority. In the resolution of intent, the legislative body of the local government shall set a date for the holding of a public hearing on the adoption of a proposed resolution incorporating the authority. After a public hearing, which shall be held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, if the legislative body of the local government intends to proceed with the incorporation of the authority, it shall adopt, by majority vote of its members, a resolution incorporating the authority. The adoption of the resolution is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the local chief executive officer or other officer of the local government and the adoption of an ordinance over his or her veto. The resolution shall take effect upon being filed with the secretary of state.

(4) The validity of the creation or incorporation of the authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation or incorporation of the authority under this chapter. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner. The state transportation department is a necessary party in any action under this subsection.

(5) The department shall not promulgate rules under this chapter.

259.111 Public airport authority; board; membership; appointment; terms; qualifications; violation of subsection 5(b); chief executive officer; chief financial officer; duties.

Sec. 111. (1) An authority created under or pursuant to this chapter shall be directed and governed by a board consisting of 7 members.

(2) The members of a board created under section 110(2) shall be appointed as follows:

(a) Two board members shall be appointed by the governor, with 1 board member appointed for an initial term of 6 years and 1 board member appointed for an initial term of 8 years.

(b) One board member shall be appointed by the legislative body of the local government that owns the airport, for an initial term of 4 years. Notwithstanding any other statute, law, ordinance, or charter provision to the contrary, the board member appointed by the legislative body may be a member of the legislative body of the local government that owns the airport, but only while continuing to serve as a member of the legislative body of that local government.

(c) Four board members shall be appointed by the local chief executive officer of the local government that owns the airport, with 1 board member appointed for an initial term of 4 years, 1 board member appointed for an initial term of 2 years, and 2 board members appointed for an initial term of 6 years.

(d) Each appointing entity shall file each appointment under this subsection with the department. Each subsequent appointment by an appointing entity to fill a vacancy on the board shall also be filed with the department.

(3) Upon incorporation of an authority pursuant to section 110(3), the local chief executive officer, with the consent of the legislative body of the local government if the local chief executive officer is not elected, shall appoint the members of the board. Of the

board members first appointed under this subsection, 1 board member shall be appointed for a term of 2 years, 2 board members shall be appointed for terms of 4 years each, 3 board members shall be appointed for terms of 6 years each, and 1 board member shall be appointed for a term of 8 years.

(4) A board member appointed pursuant to subsection (2)(b) or (c) or (3) must be a citizen of the United States and a resident of the local government that owns the airport over which operational jurisdiction will be transferred to an authority. A board member appointed pursuant to subsection (2)(a) must be a citizen of the United States and a resident of the area within the jurisdiction of the regional planning commission created under 1945 PA 281, MCL 125.11 to 125.25, in which the airport over which operational jurisdiction will be transferred is located. Except as permitted by subsection (2)(b), a person shall not be appointed under subsection (2) or (3) as a board member if he or she is, or was during the 12 months preceding the date of appointment, an elected public official or employee of this state or an agency or instrumentality of this state, a local government or an agency or instrumentality of a local government, or the federal government or an agency or instrumentality of the federal government.

(5) A board member appointed pursuant to subsection (2) or (3), a chief executive officer, and chief financial officer of an authority, shall, at time of appointment or hiring and subject to subsection (6), meet all of the following qualifications:

(a) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, are actively engaged or employed in any other business, vocation, or employment of any civil aeronautics enterprise connected with the airport under the control of the authority.

(b) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, have a combined 15% or greater direct pecuniary interest in any civil aeronautics enterprise connected with the airport under the control of the authority.

(c) The board member or the chief executive officer or chief financial officer would not be considered to have a conflict of interest under 1968 PA 318, MCL 15.301 to 15.310, in respect to any contract or subcontract involving the airport if the board member or the chief executive officer or chief financial officer were considered a state officer under 1968 PA 318, MCL 15.301 to 15.310.

(6) A board member who, at any time during his or her term of service, becomes in violation of subsection (5)(b) shall have 30 days to divest, or arrange for the divestment of, the interest that caused the violation. If the board member or his or her relative is still in violation of subsection (5)(b) after the expiration of the 30-day period, the entity that appointed that board member shall remove the board member from office.

(7) Notwithstanding any law or charter provision to the contrary, appointments by a local chief executive officer under subsection (2) shall not be subject to the approval by the legislative body of the local government.

(8) The board shall appoint a chief executive officer who shall be an ex officio member, without vote, of the board and shall not be considered in determining the presence of a quorum, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. The board may enter into a contract with the chief executive officer for a commercially reasonable length of time commensurate with the length of time for contracts of airport chief executive officers, directors, or managers

with similar responsibilities at other airports or airport authorities within or without this state with a comparable number of annual enplanements.

(9) The chief executive officer shall appoint a chief financial officer who shall be the treasurer of the authority, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. Notwithstanding any law or charter provision to the contrary, it shall be the duty and right of the chief financial officer of the authority to receive all money belonging to the authority, or arising or received in connection with the airport over which operational jurisdiction has been transferred to the authority, from whatever source derived. Money of the authority shall be deposited, invested, and paid by the chief financial officer only in accordance with policies, procedures, ordinances or resolutions adopted by the board. Upon the approval date, the authority shall be considered to be the owner of all money or other property then or thereafter received by the treasurer of the local government or deposited in the treasury of a local government to the credit of the airport for which operational jurisdiction has been transferred to the authority. The authority shall be entitled to all interest and other earnings on those funds on and after the latter of the effective date of this chapter or the date on which the authority is created or incorporated. The treasurer of any local government receiving or having custody of money or other property belonging to an authority under this chapter shall promptly transfer the money and other property to the custody of the chief financial officer of the authority. The chief financial officer shall provide the board with copies of all reports made by the chief financial officer to the chief executive officer.

259.112 Full term appointments; terms; expiration date; resignation; vacancy; removal; oath of office.

Sec. 112. (1) Upon the expiration of the term of an initial appointment under section 111(2) or (3), all full term appointments shall be for a term of 6 years. The expiration date of the term of office of a member of the board shall be on October 1 of the year in which the term is to expire, but a member of the board shall hold office until the board member's successor is appointed and qualified, or until resignation or removal. If a member of the board is unable to complete his or her term of office, a successor shall be appointed in the same manner as the original appointment to complete the term. A member of the board may resign by written notice to the authority. The resignation is effective upon its receipt by the secretary or chairperson of the authority or at a subsequent time as set forth in the notice of resignation.

(2) A member of the board may not be appointed to serve more than 2 consecutive full terms. For purposes of this subsection, an initial term under section 111(2) and an appointment to fill a vacancy in a term with more than 3 years remaining count as full terms.

(3) The appointing entity for any board member appointed under section 111(2) or (3) may only remove a board member appointed by the appointing entity for cause.

(4) Before assuming the duties of office, a member of the board shall qualify by taking and subscribing to the constitutional oath of office.

259.113 First meeting of board; compliance with open meetings act; delegation of power; reimbursement of expenses; action by resolution or ordinance; voting.

Sec. 113. (1) Upon the appointment of at least 4 members of the board under section 111(2), the board may hold its first meeting. If less than 4 members of the board have been appointed under section 111(2) within 30 days after the date on which the authority is

created, a majority of those board members appointed may hold the first meeting of the board after the expiration of that 30-day period. The first meeting of the board shall not be held more than 60 days after the creation date of the authority. Not later than 60 days after an authority is incorporated under section 110(3), the board of the authority shall hold its first meeting. At the first meeting, the board shall organize by electing a chairperson, a vice-chairperson, a secretary, and additional officers of the board as the board considers necessary. All officers of the board shall be elected annually by the board. All officers of the authority, except the chief executive officer and the chief financial officer, must be members of the board.

(2) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings.

(3) Except for those powers reserved or delegated to the chief executive officer of an authority by this chapter or by the board, the board shall not delegate any power of the board to any other officer or committee of the authority except as provided in section 114(3). The board may withdraw from the chief executive officer any power that the board had delegated to the chief executive officer.

(4) Members of a board may be reimbursed by an authority for actual and necessary expenses incurred in the discharge of their official duties. The members of the board shall not be compensated for service to the authority or attendance at any meetings.

(5) A board may act only by resolution or ordinance. A majority of the members of the board then in office, or of any committee of the board, shall constitute a quorum for the transaction of business. A vote of a majority of the members of the board serving at the time of the vote is necessary to approve the issuance by the authority of bonds, including special facilities bonds, or other obligations payable from revenues, including special facilities revenues, derived from the airport, or to approve or amend the annual budget of the authority or hire, remove or discharge, or set the salary of the chief executive officer. Except as otherwise provided in this chapter, a vote of the majority of the board members present at a meeting at which a quorum is present constitutes the action of the board or of the committee.

259.114 Meetings; frequency; special meeting; system of accounts; reports; bond; audit committee; appointment; meetings; duty to recommend 3 independent certified public accounting firms; selection; contract terms and conditions; appointment and compensation of chief executive officer; duties and responsibilities; power and authority; contracting policies and procedures; conflicts of interest; ethics manual; airport noise and fumes mitigation.

Sec. 114. (1) After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board shall meet not less than quarterly per year. The board chairperson shall call a special meeting upon request of 3 members of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall keep a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) A board shall provide for a system of accounts to conform to a uniform system required by law and for the auditing at least once a year of the accounts of the authority by an independent certified public accountant selected by the audit committee pursuant to subsection (3). A board shall meet any and all auditing or financial reporting requirements imposed by law and shall file a copy of its annual audit with the department and with the clerk of the house of representatives and the secretary of the senate. An authority shall provide the necessary reports to the local government that owns the airport over which operational jurisdiction has been transferred in a timely manner in order for the local government to be able to comply with the reporting requirements of the government finance officers association of the United States and Canada. A board shall require of the chief financial officer and chief executive officer of the authority a suitable bond of not less than \$100,000.00 by a responsible bonding company, and the cost of the premium of the bond shall be paid by the authority.

(3) A board appointed under section 111(3) shall appoint an audit committee consisting of 3 members of the board. With respect to boards appointed pursuant to section 111(2), the board shall have a 3-member audit committee with each appointing entity represented on the board designating 1 board member appointee to serve on the audit committee. The audit committee shall hold its first meeting within 60 days after the creation or incorporation of the authority under this chapter. A majority of members appointed and designated as audit committee members by an appointing entity under this subsection may conduct the business of the committee. The audit committee shall meet not less than 4 times each year with the chief financial officer, the chief executive officer of the authority, and the authority's independent public auditors to review the reports related to the financial condition, operations, performance, and management of the authority and airport including, but not limited to, all contractors and subcontractors, and may also order special investigations or audits, the cost of which shall be reimbursed by the authority. The audit committee shall also review the activities and reports of the internal auditor of the authority who shall be appointed by the chief executive officer of the authority. The audit committee of a board appointed pursuant to section 111(2) shall once every 2 years, recommend 3 independent certified public accounting firms that, in the judgment of the audit committee, possess sufficient resources and qualifications to conduct annual financial audits of the accounts of the authority. Not less than 90 days prior to the first full fiscal year of the authority and the last fiscal year of each subsequent contract period for which financial audits will be conducted under section 114(2), the 3 recommendations of the audit committee shall be presented to the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred pursuant to this chapter. From the 3 recommendations of the audit committee, the legislative body of the local government may select, not more than 30 days after receipt of the recommendations of the audit committee, the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits for the succeeding 2 fiscal years of the accounts of the authority. If the legislative body does not select 1 of the recommended independent certified public accounting firms to conduct annual financial audits for the next 2 fiscal years of the authority within 30 days after receipt of the recommendations of the audit committee, the audit committee shall have the sole power to select the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits of the accounts of the authority for the next 2 fiscal years. The terms and conditions of a contract to be entered into with the independent certified public accounting firm selected by the legislative body of the local government shall be exclusively established by the authority. The legislative body of the local government shall not have the right or power to modify any proposed terms and conditions of a contract between the

authority and an independent certified public accounting firm recommended by the audit committee. Neither the legislative body nor any member of the legislative body of the local government shall impose any requirement, restriction or condition upon, or solicit any agreement or contribution from, the independent certified public accounting firm or any member or employee of the independent certified public accounting firm, selected or considered by the legislative body of the local government. No charter provision or resolution of the local government shall contradict, supplement, or expand this subsection. A person may not prevent or prohibit the internal auditor or the audit committee from carrying out or completing any audit or investigation. The internal auditor and members of the audit committee shall be protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) A board shall appoint and fix the compensation of a chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The board shall prescribe those duties and responsibilities of the chief executive officer of the authority that are in addition to the duties and responsibilities imposed upon the chief executive officer of the authority by this chapter. The chief executive officer of an authority shall serve at the pleasure of the board and the board may remove or discharge the chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The chief executive officer of an authority shall supervise, and be responsible for, all of the following:

(a) The day-to-day operation of the airport, including the control, supervision, management, and oversight of the functions of the airport.

(b) The issuance of bonds and notes approved by the board.

(c) The negotiation and establishment of compensation and other terms and conditions of employment for employees of the authority.

(d) The appointment, dismissal, discipline, demotion, promotion, and classification of employees of the authority.

(e) The negotiation, supervision, and enforcement of contracts entered into by the authority, and the supervision of contractors and subcontractors of the authority in their performance of their duties.

(f) The appointment of an internal auditor who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such an official, and who shall:

(i) Report to the chief executive officer and provide information to the board and its audit committee as required under this chapter.

(ii) Receive and investigate any allegations that false or misleading information was received in evaluating the authority's internal accounting and administrative control system.

(iii) Conduct and supervise audits relating to financial activities of the authority's operations.

(iv) Recommend policies for activities to protect the authority's assets and to prevent and detect fraud and abuse.

(v) Conduct other audit and investigative activities as assigned by the board, the audit committee, or the chief executive committee.

(vi) Adhere to appropriate professional and auditing standards.

(vii) Provide to the audit committee on an annual basis a report prepared by the internal auditor on the evaluation of the authority's internal accounting and administrative

control system. For the period reviewed, the report shall include, but not be limited to, both of the following:

(A) A description of any material inadequacy or weakness discovered in connection with the evaluation of the authority's internal accounting and administrative control system and a time schedule for correcting the internal accounting and administrative control system, described in detail.

(B) A listing of each audit or investigation performed by the internal auditor pursuant to this chapter.

(5) The chief executive officer of an authority shall have the power and authority to execute and deliver, and to delegate signatory power for, contracts, leases, obligations, and other instruments approved by the board or for which power to approve has been delegated to the chief executive officer of the authority. The chief executive officer of an authority shall have all powers incident to the performance of his or her duties that are prescribed by this chapter or by the board. The board may delegate additional powers to the chief executive officer of the authority not enumerated in this chapter. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with law. The chief executive officer of an authority shall attend the meetings of the board and shall render to the board a regular report covering the activities and financial condition of the airport. If the chief executive officer of an authority is temporarily absent or disabled, the chief executive officer of the authority may designate a qualified person as acting chief executive officer of the authority to perform the duties of the office. If the chief executive officer of an authority fails or is unable to designate an acting chief executive officer of the authority, the board shall designate an acting chief executive officer of the authority for the period of absence or disability of the chief executive officer of the authority. The chief executive officer of the authority shall furnish the board with information or reports governing the operation of the airport as the board requires.

(6) The authority shall establish contracting policies and procedures providing for all of the following:

(a) Except for the negotiated construction contracts permitted under this subdivision, a contract shall not be awarded by an authority or the chief executive officer of the authority for the construction, repair, remodeling, or demolition of an airport facility unless the contract is let pursuant to a procedure that requires a competitive bidding. A negotiated construction contract shall not be required to be let by competitive bidding if the board or the chief executive officer of the authority with delegated authority to enter into contracts determines that any of the following apply:

(i) The negotiated contract amount is less than \$50,000.00. However, if the contract amount, including change orders, subsequently exceeds \$50,000.00, the authority shall detail, in writing, the reasons why the contract amount exceeded \$50,000.00.

(ii) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the contract is for emergency repair or construction necessitated by a sudden, unforeseen occurrence or situation of a serious and urgent nature and is not for convenience or expediency.

(iii) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the repair or construction is necessary to ensure passenger safety or otherwise protect life or property.

(b) The authority shall establish policies and procedures for hiring professional service contractors.

(c) The authority shall utilize competitive bidding for all purchases and all other contracts unless the board, or, if authorized by the board to approve procurements, the chief executive officer of the authority, determines and details in writing the reason that competitive solicitation of bids or proposals is not appropriate, that procurement by competitive bids is not practicable to efficiently and effectively meet the authority's needs, or that another procurement method is in the public's best interests.

(7) The authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased. The authority may enter into a cooperative purchasing agreement with the state or other public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) The chief executive officer of an authority shall comply with all federal and state contracting requirements pertaining to disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises and shall seek to ensure maximum participation of disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises in contracting opportunities with the authority.

(9) Members of the board and officers, appointees, and employees of the authority are public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a member of the board or a chief executive officer or chief financial officer who has a direct interest in any matter before the authority disclose the member's or officer's interest and any reasons reasonably known to the member of the board or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(10) An authority shall establish an ethics manual governing the conducting of airport business and the conduct of airport employees. An authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving members of the board and employees of the authority. At a minimum, these policies shall include compliance by each member of the board and employees of the authority who regularly exercise significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that would reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee or member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(11) An authority shall work collaboratively with appropriate local governmental units in the implementation of any federally sanctioned and funded programs for the mitigation of aircraft noise and fuel fumes.

259.115 Preparation of annual budget.

Sec. 115. Before the beginning of each fiscal year, the board shall prepare a budget containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of the

airport under the jurisdiction of the board, and the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the ensuing fiscal year or which have previously matured and are unpaid, and an estimate of the revenue of the authority from all sources for the ensuing fiscal year. The board shall adopt that budget in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

259.116 Authority as public body corporate; powers; personal liability; transfer of operational jurisdiction; indemnification for local government with civil claim; imposition of fees or charges; airport revenues, facilities, or assets as security; prohibited actions; completion of airport or facility project; preparation, submission, and administration of grants; custodian of funds.

Sec. 116. (1) An authority is a public body corporate with the following powers:

(a) An authority may adopt a corporate seal.

(b) An authority may sue or be sued in any court of the state.

(c) An authority has the power and duty of planning, promoting, extending, maintaining, acquiring, purchasing, constructing, improving, repairing, enlarging, and operating all airports and airport facilities under the operational jurisdiction of or owned by the authority.

(d) An authority has the power to assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document between or by the local government that owns the airport for which operational jurisdiction has been transferred to the authority pursuant to this chapter and the state or the federal aviation administration relative to grants for the airport or airport facilities.

(e) An authority may take by grant, purchase, devise, or lease, or by the exercise of the right of eminent domain, or otherwise acquire and hold, real and personal property, in fee simple or any lesser interest or easement, as an authority may deem necessary either for the construction of any airport facilities or for the efficient operation or for the extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, to hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the authority. If land is acquired by condemnation, the provisions of the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.76, or any successor statute, shall be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The acquisition of any land by an authority for an airport or airport facilities in furtherance of the purposes of the authority, and the exercise of any other powers of the authority, are hereby declared as a matter of legislative determination to be public, governmental and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) An authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with any department or agency of the United States, with any state or local governmental agency, or with any other person, public or private, upon those terms and conditions acceptable to the authority consistent with section 114(6).

(g) An authority has the exclusive responsibility to study and plan any improvements, expansion, or enhancements that affect the airport.

(h) An authority may commission planning, engineering, economic, and other studies to provide information for making decisions about the location, design, management, and other features of the airport or airport facilities.

(i) An authority is responsible for developing all aspects of the airport and airport facilities, including, but not limited to, all of the following:

(i) The location of terminals, hangars, aids to air navigation, parking lots and structures, cargo facilities, and all other facilities and services necessary to serve passengers and other customers of the airport.

(ii) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(j) An authority may act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the federal aviation administration or any other agency of the United States or of this state, with respect to the airport under the operational jurisdiction of the authority, and to perform the duties and responsibilities previously assumed by the local government that owns the airport under the operational jurisdiction of the authority by virtue of its acceptance of grants from the federal aviation administration or any other agency of the United States or this state.

(k) An authority may enter into agreements to use the facilities or services of the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for that consideration or pursuant to that cost allocation formula that may be acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state, including, but not limited to, policies of the FAA prohibiting revenue diversion or the payment of fees exceeding the value of services provided by a governmental agency.

(l) An authority may allow the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government to utilize airport facilities or the services of the authority as necessary or desirable to accomplish the purposes of this chapter, for consideration acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(m) An authority may adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities owned by the authority or under its operational jurisdiction. The authority may establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this subdivision to the same extent as the local government that owns the airport.

(n) An authority may enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for terms not exceeding 50 years, for granting the privilege of using or improving, or having access to the airport or any airport facility, or any portions of the airport or the authority's airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(o) An authority may enter into exclusive or nonexclusive contracts, leases, or other arrangements not described in subdivision (n) for commercially reasonable terms

consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(p) Subject to section 119, an authority may appoint and vest with police powers airport law enforcement officers, guards, or police officers under this chapter. The law enforcement officers, guards, or police officers of the authority shall have the full police powers and the authority of peace officers within the areas over which the authority has operational jurisdiction, including, but not limited to, the prevention and detection of crime, the power to investigate and enforce the laws of this state, rules, regulations, and ordinances issued by the authority, and, to the extent permitted or required by federal law and regulations, requirements of federal law and regulations governing airport security. The officers may issue summons, make arrests, and initiate criminal proceedings. An authority is responsible for all actions of its officers committed under color of their official position and authority.

(q) An authority may procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the authority.

(r) An authority may invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(s) Except as otherwise prohibited by this chapter, an authority shall have all the powers of a political subdivision under this act, but shall not levy or impose a tax or special assessment.

(t) An authority may exercise its powers and duties under this chapter notwithstanding any charter provision, ordinance, resolution, contract, regulation, or rule of a local government to the contrary. This subdivision does not apply to a contract entered into by a local government after the authority is created if the contract also has been approved or ratified by the authority. Nothing in this chapter shall be construed to limit the exercise of the powers of a local government in which an airport is located to zone property under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, or to engage in land planning under 1931 PA 285, MCL 125.31 to 125.45, with respect to property that is not part of the airport.

(u) An authority may fix, charge, and collect rates, fees, rentals, and charges within and for the use and operation of the airport or airports under the operational jurisdiction of the authority.

(2) A member of the board or an officer, appointee, or employee of the authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may defend and indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority. The authority may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the authority, whether or not the authority would have the power to indemnify the person against that liability under this subsection. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(3) An authority shall indemnify and hold harmless the local government that owns the airport over which operational jurisdiction has been transferred to the authority for any civil claim existing or any civil action or proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the obligations of the local government issued or incurred with respect to the airport which was pending at the time of, or which had been incurred prior to, the transfer of operational jurisdiction of the airport to the authority.

(4) Notwithstanding any other provision of law to the contrary, an authority does not have the power to impose or levy taxes, except the authority has the power to impose fees or charges permitted by federal law.

(5) Unless an authority obtains the approval of the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred to the authority pursuant to section 117, the authority shall not incur any indebtedness pledging, on a parity or superior basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged.

(6) Upon the creation or incorporation of an authority under this chapter, the local government that owns the airport over which operational jurisdiction may be transferred pursuant to section 117 shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure airport revenue bonds issued for airport capital improvement projects after the creation or incorporation of the authority and prior to the approval date.

(7) An authority shall not take any action contrary to obligations assumed or entered into under federal rules or regulations or any agreement entered into or assumed with respect to state or federal grants.

(8) A local government shall not take any action contrary to obligations or covenants under applicable federal law, regulations, and assurances associated with the state or federal government. A local government, or an official of the local government acting in an official capacity, shall take no action, including, but not limited to, action pursuant to charter provision, ordinance, resolution, contract, regulation, or rule, to impede the exercise of powers or duties under this chapter.

(9) If a local government previously acted as a sponsor and action by, or concurrence of, the local government is required to complete a project related to the airport or airport facilities, the local government shall not withhold, condition, or delay concurrence with any authority action necessary to complete the project in accordance with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(10) The authority to which operational jurisdiction for an airport is transferred shall be the agent of a local government for the preparation, submission, and administration of all state or federal grants pending as of the approval date. The authority shall also be the custodian of all funds received or to be received by the local government or the authority for the projects for which the grants were awarded.

259.117 Actions, commitments, and proceedings occurring on approval date; exclusive rights and authority; acquisitions or transfers.

Sec. 117. (1) All of the following occur on the approval date:

(a) The authority acquires, succeeds to, and assumes the exclusive right, responsibility, and authority to occupy, operate, control, and use the airport and the airport

facilities of an airport owned by the local government on that date, including all lands, buildings, improvements, structures, aviation easements, rights of access, and all other privileges and appurtenances pertaining to the airport, subject only to those restrictions imposed by this act.

(b) The authority acquires and succeeds to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government that owned the airport. The officers of the local government that owns the airport under the operational jurisdiction of the authority shall execute those instruments of conveyance, assignment, and transfer as may be necessary or appropriate to accomplish the foregoing.

(c) The authority assumes, accepts, and becomes liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government that owns the airport under the operational jurisdiction of the authority, whether known or unknown, contingent or matured, but excepting any full faith and credit pledge of the local government in respect of bonds issued by the local government for airport purposes, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law. Consistent with this chapter, this assumption includes, and there shall be transferred to the authority, all licenses, permits, approvals, or awards related to the airport, all grant agreements, grant pre-applications, the right to receive the balance of any funds payable under the agreements, the right to receive any amounts, including PFCs, payable to the local government on the approval date and amounts paid to the local government after the approval date, as well as the benefit of contracts and agreements, and all of the local government's duties, liabilities, responsibilities, and obligations as sponsor of the airport, except for any obligation or liabilities contested in good faith by the authority.

(d) The authority assumes unfunded obligations to provide pensions or retiree health insurance in an amount and manner determined by a professional actuary acceptable to the authority and the local government. However, the authority shall not assume any such obligations in excess of the amount properly allocable to the airport over which the authority is exercising operational jurisdiction under the local government's allocation procedures in effect on the date the authority is created or incorporated, and the amount of obligations so assumed by the authority shall not exceed its pro rata share of such obligations, based upon the percentage which the amount of such obligations attributable to employees of the authority is of the amount of all such obligations prior to such assumption.

(2) All lawful actions, commitments, and proceedings, including, but not limited to, revenue bond financings for which a notice of intent resolution has been adopted, of the local government made, given, or undertaken before the date of assumption by the authority under this section are ratified, confirmed, and validated upon assumption by the authority. All actions, commitments, or proceedings undertaken shall, and all actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government in respect of the airport may, from and after the date of assumption by the authority under this section, be undertaken and completed by the authority in the manner and at the times provided in this chapter or other applicable law and in any lawful agreements made by the local government before the date of assumption by the authority under this section.

(3) The exclusive right and authority to occupy, operate, control, and use the airport facilities includes, but is not limited to, all of the following:

(a) Operational jurisdiction over all real property of the airport, including, but not limited to, all terminals, runways, taxiways, aprons, hangars, aids to air navigation, emergency vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport, subject to any liens on the real property and restrictions and limitations on the use of the real property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under leases, concessions, and other contracts for airport facilities.

(4) The acquisitions, assumptions, successions, or transfers described under this section include, but are not limited to, all of the following:

(a) All contracts with airlines, tenants, concessionaires, leaseholders, and others at the airport.

(b) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.

(c) All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction has been transferred to an authority, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government that have been assumed by the authority, and all of the accounts receivable or choses in action arising from operations of the airport as well as all benefits of contracts and agreements.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

259.118 Operational jurisdiction over airport; transfer to authority; effect.

Sec. 118. (1) The transfer of the operational jurisdiction over an airport to the authority may not in any way impair any contracts with airlines, vendors, tenants, bondholders, or other parties in privity with the local government that owns the airport over which operational jurisdiction has been transferred to an authority.

(2) Upon the transfer of operational jurisdiction over an airport pursuant to section 117, a local government shall be relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of that airport, except as otherwise required under obligations retained by the local government under this chapter or as otherwise agreed by the local government.

(3) A local government that owns an airport for which an authority has been created or incorporated under this chapter shall comply with all of the following:

(a) Refrain from any action that would impair an authority's exercise of the powers granted to the authority under this chapter or that would impair the efficient operation and management of the airport.

(b) Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government for which operational jurisdiction has been transferred without the consent of the authority and, where necessary, the federal aviation administration.

(c) Take all action reasonably necessary to cure any defects in title to airport facilities over which an authority has been transferred operational jurisdiction.

(d) At the request of an authority that has been transferred operational jurisdiction of an airport owned by the local government, grant any license, easement, or right-of-way in

connection with the airport to the extent the authority has not been empowered to take these actions.

(e) Upon creation or incorporation of an authority and before the approval date, conduct operations of the airport in the ordinary and usual course of business.

(f) Maintain and repair, including providing snow removal for, any road providing ingress and egress to the airport over which responsibility for maintenance and repair is retained by the local government pursuant to agreement or law.

(4) At the request of the authority, a local government that owns a qualified airport over which operational jurisdiction has been transferred to an authority shall provide the authority with transitional services previously performed by the local government and related to the operation of the qualified airport until the date the authority elects to assume these services. The reasonable cost of these services shall be paid by the authority.

259.119 Election by employees to transfer to authority; requirements.

Sec. 119. (1) For employees who elect to transfer to the authority under subsection (2) and who are covered by the terms of a collective bargaining agreement with the local government that owns an airport over which operational jurisdiction will be transferred, the authority shall assume and be bound by those existing collective bargaining agreements for the remainder of the term of the agreement. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government, pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employees or group of employees after the employees transfer to the authority and the authority shall honor all obligations of a public sector employer after the expiration of any collective bargaining agreement with respect to transferring employees.

(2) Local government employees employed at an airport from which operational jurisdiction will be transferred to an authority may agree to transfer to the employment of the authority on or before a date established by the authority. The date established by the authority shall not be later than the approval date. Local government employees, who do not agree to transfer to the employment of the authority, shall be reassigned within the local government. The local government shall not, as a result of the creation or incorporation of an authority for a period of not more than 1 year, layoff or reduce the pay or benefits of any employee of the local government into whose position a local government employee who was previously employed at the airport is reassigned. The authority shall consider any person hired by the authority to fill a position that had been previously filled with a local government employee who did not agree to transfer to the employment of the authority to be under the collective bargaining agreement covering, and to be represented by the collective bargaining representative of, the local government employee who did not agree to transfer to the authority. The authority shall accept the transfers without a break in employment, subject to all rights and benefits held by the transferring employees under a collective bargaining agreement. Transferring employees shall not be placed in a worse position by reason of the transfer for a period of 1 year after the approval date, or any longer period as may be required in connection with the assumption of any applicable collective bargaining agreement, with respect to wages, workers' compensation, pension, seniority, sick leave, vacation, or health and welfare insurance or any other term and condition of employment that a transferring employee may have under a collective bargaining agreement that the employee received as an employee of the local government. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement except that any employee who