		For Fiscal Year Ending Sept. 30, 2005
Appropriated from:		
Special revenue funds:		
Auto theft prevention fund	$	1,165,000
State general fund/general purpose	$	0
(3) SUPPORT SERVICES		
Management services	$	200,000
Communications		980,000
GROSS APPROPRIATION	$	1,180,000
Appropriated from:		
Federal revenues:		
DOT		200,000
DHS		980,000
Special revenue funds:		
State general fund/general purpose	$	0
(4) CRIMINAL JUSTICE INFORMATION CENTER		
Criminal justice information division	$	500,000
GROSS APPROPRIATION	$	500,000
Appropriated from:		
Special revenue funds:		
Sex offenders registration fund		500,000
State general fund/general purpose	$	0
(5) FORENSIC SCIENCES		
DNA analysis program	$	225,000
GROSS APPROPRIATION	$	225,000
Appropriated from:		
Special revenue funds:		
Forensic science reimbursement fees		225,000
State general fund/general purpose	$	0
(6) UNIFORM SERVICES		
At-post troopers	$	387,000
GROSS APPROPRIATION	$	387,000
Appropriated from:		
Special revenue funds:		
Highway safety fund		387,000
State general fund/general purpose	$	0
(7) SPECIAL OPERATIONS		
Operational support	$	77,000
GROSS APPROPRIATION	$	77,000
Appropriated from:		
Special revenue funds:		
Private donations		77,000
State general fund/general purpose	$	0
(8) INFORMATION TECHNOLOGY		
Information technology services and projects	$	1,304,100
GROSS APPROPRIATION	$	1,304,100
Appropriated from:		
Special revenue funds:		
Local - LEIN fees		562,600
Property sale revenue fund		741,500
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
State transportation department.		
Sec. 120. STATE TRANSPORTATION DEPARTMENT		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(4,869,000)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(4,869,000)
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		(4,869,000)
State general fund/general purpose	$	0
(2) EXECUTIVE DIRECTION		
Commission audit		
Salaries and fringe benefits	$	(161,000)
Travel		(3,300)
Other operational expenses		(3,600)
Subtotal - commission audit		(167,900)
GROSS APPROPRIATION	$	(167,900)
Appropriated from:		
Special revenue funds:		
State trunkline fund		(167,900)
State general fund/general purpose	$	0
(3) FINANCE, CONTRACTS, AND SUPPORT SERVICES		
Financial operations		
Other operational expenses	$	(103,600)
Subtotal - financial operations		(103,600)
Technical and support services		
Travel		(105,000)
Other operational expenses		(244,300)
Subtotal - technical and support services		(349,300)
GROSS APPROPRIATION	$	(452,900)
Appropriated from:		
Special revenue funds:		
State trunkline fund		(452,900)
State general fund/general purpose	$	0
(4) TRANSPORTATION PLANNING		
Statewide planning services		
Salaries and fringe benefits	$	(202,500)
Subtotal - statewide planning services		(202,500)
GROSS APPROPRIATION	$	(202,500)
Appropriated from:		
Special revenue funds:		
Michigan transportation fund		(202,500)
State general fund/general purpose	$	0
(5) DESIGN AND ENGINEERING SERVICES		
Engineering services		
Salaries and fringe benefits		(2,708,600)

		For Fiscal Year Ending Sept. 30, 2005
Subtotal - engineering services	$	(2,708,600)
Program services		
Salaries and fringe benefits		(1,287,100)
Subtotal - program services		(1,287,100)
GROSS APPROPRIATION	$	(3,995,700)
Appropriated from:		
Special revenue funds:		
State trunkline fund		(3,995,700)
State general fund/general purpose	$	0
(6) AERONAUTICS SERVICES		
Aviation services		
Other operational expenses	$	(50,000)
Subtotal - aviation services		(50,000)
GROSS APPROPRIATION	$	(50,000)
Appropriated from:		
Special revenue funds:		
State aeronautics fund		(50,000)
State general fund/general purpose	$	0

Department of treasury.

Sec. 121. DEPARTMENT OF TREASURY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,687,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,687,500
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		1,687,500
State general fund/general purpose	$	0
(2) LOCAL GOVERNMENT PROGRAMS		
Local finance	$	143,200
GROSS APPROPRIATION	$	143,200
Appropriated from:		
Special revenue funds:		
Municipal finance fees		143,200
State general fund/general purpose	$	0
(3) BANKING AND MANAGEMENT SERVICES		
Unclaimed property	$	500,000
Human resources optimization user charges		44,300
GROSS APPROPRIATION	$	544,300
Appropriated from:		
Special revenue funds:		
Delinquent tax collection revenue		44,300
Escheats revenue	$	500,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
(4) FINANCIAL PROGRAMS		
School bond loan program reform	$	1,000,000
GROSS APPROPRIATION	$	1,000,000
Appropriated from:		
Special revenue funds:		
School bond fees		1,000,000
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. (1) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under part 1 for fiscal year 2004-05 is $279,149,900.00. State payments to local units of government under part 1 are $46,375,200.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

CAPITAL OUTLAY		
Department of agriculture - farmland and open space preservation	$	2,500,000
Department of natural resources - waterways	$	4,800,000
Department of natural resources - trust fund grant-in-aid	$	14,419,000
Department of transportation - salt storage buildings	$	1,900,000
Department of transportation - state aeronautics program	$	19,256,200
DEPARTMENT OF EDUCATION		
Community service state grants	$	1,750,000
DEPARTMENT OF ENVIRONMENTAL QUALITY		
Scrap tire grants	$	1,750,000
TOTAL	$	46,375,200

Appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 202. The appropriations made and the expenditures authorized under this part and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under part 1 are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

CAPITAL OUTLAY GENERAL SECTIONS

Notice of approximate shortfall.

Sec. 401. If it appears to the principal executive officer of a department or branch that state spending to local units of government will be less than the amount that was

projected to be expended under this act, the principal executive officer shall immediately give notice of the approximate shortfall to the state budget director.

Definitions.

Sec. 402. As used in sections 401 to 481:

(a) "ADA" means the Americans with disabilities act.

(b) "Board" means the state administrative board.

(c) "Community college" does not include a state agency or university.

(d) "Department" means the department of management and budget.

(e) "Director" means the director of the department of management and budget.

(f) "DAG" means the United States department of agriculture.

(g) "DOD" means the United States department of defense.

(h) "DOI" means the United States department of interior.

(i) "DOT" means the United States department of transportation.

(j) "Fiscal agencies" means the senate fiscal agency and the house fiscal agency.

(k) "HHS-HCFA" means the United States department of health and human services, health care financing administration.

(*l*) "ICF/MR" means intermediate care facilities for the mentally retarded.

(m) "IDG" means interdepartmental grant.

(n) "JCOS" means the joint capital outlay subcommittee of the appropriations committees.

(o) "MDOT" means the Michigan department of transportation.

(p) "Self-liquidating project" means a project constructed by a community college or university with money raised through the use of a debt instrument or other fund sources including, but not limited to, gifts, grants, federal funds, or institutional sources, that is expected to generate revenues to amortize the loan. A self-liquidating project may or may not be a self-supporting project. Examples of a self-liquidating project include dormitories, parking facilities, and stadia.

(q) "Self-supporting project" means a project of a community college or university that will house a function or activity from which revenue is generated that will cover all the direct and indirect operating costs of the project without the additional transfer of any other general fund money of the community college or university.

(r) "State agency" means an agency of state government. State agency does not include a community college or university.

(s) "State building authority" means the authority created under 1964 PA 183, MCL 830.411 to 830.425.

(t) "University" means a 4-year university supported by the state. University does not include a community college or a state agency.

(u) "Utility system" means a utility supply or distribution system, or a combination utility supply and distribution system.

Purchase of non-Michigan goods or services.

Sec. 403. Funds appropriated in part 1 shall not be used for the purchase of non-Michigan goods or services, or both, if competitively priced and of comparable quality Michigan goods or services, or both, are available.

Reporting requirements; use of Internet.

Sec. 404. Unless otherwise specified, departments and agencies receiving appropriations in part 1 shall use the Internet to fulfill the reporting requirements of this act. This requirement may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

DEPARTMENT OF AGRICULTURE

Farmland and open space development acquisition; purchase of development rights and awarding of grants.

Sec. 410. Of the amounts appropriated in part 1 for farmland and open space development acquisition, the funds shall be used for the purchase of development rights and the awarding of grants by the agriculture preservation fund board under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

DEPARTMENT OF CORRECTIONS

Watchtowers.

Sec. 415. A maximum security prison that is constructed or completed after October 1, 1986 shall have operating staffed watchtowers equipped with the weaponry, lighting, sighting, and communications devices necessary for effective execution of its function. The watchtowers shall be constructed pursuant to the American correctional association standards for watchtowers.

Construction of new correctional facility; approval; "site" defined.

Sec. 416. (1) An appropriation and authorization contained in this act or a previous appropriations act for the construction of a new correctional facility, including a correctional camp, for which a specific site was not identified with the appropriation shall not be expended until approved by JCOS.

(2) For the purposes of this section, "site" means a city, village, township, or county in which a correctional facility may be located.

CAPITAL OUTLAY PROCESSES, PROCEDURES, AND REPORTS

Compliance with MCL 18.1101 to 18.1594.

Sec. 420. Each capital outlay project authorized in this act or any previous capital outlay act shall comply with the procedures required by the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Statement of proposed facility's operating cost.

Sec. 421. A statement of a proposed facility's operating cost shall be included with the facility's program statement and planning documents when the plans are presented to JCOS for approval.

Community colleges and universities; final planning and construction for projects; agreement; provisions; maintenance of financial and policy interests.

Sec. 422. (1) Before proceeding with final planning and construction for projects at community colleges and universities included in an appropriations bill, the community college or university shall sign an agreement with the department that includes the following provisions:

(a) The university or community college agrees to construct the project within the total authorized cost established by the legislature pursuant to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and an appropriations act.

(b) The design and program scope of the project shall not deviate from the design and program scope represented in the program statement and preliminary planning documents approved by the department.

(c) Any other items as identified by the department that are necessary to complete the project.

(2) The department retains the authority and responsibility normally associated with the prudent maintenance of the public's financial and policy interests relative to the state-financed construction projects managed by a community college or university.

Reports; "project" defined.

Sec. 423. (1) The department shall provide JCOS and the fiscal agencies with reports as considered necessary relative to the status of each planning or construction project financed by the state building authority, by this act, or by previous acts.

(2) Before the end of each fiscal year, the department shall report to JCOS and the fiscal agencies for each capital outlay project other than lump sums all of the following:

(a) The account number and name of each construction project.

(b) The balance remaining in each account.

(c) The date of the last expenditure from the account.

(d) The anticipated date of occupancy if the project is under construction.

(e) The appropriations history for the project.

(f) The professional service contractor.

(g) The amount of a project financed with federal funds.

(h) The amount of a project financed through the state building authority.

(i) The total authorized cost for the project and the state authorized share if different than the total.

(3) Before the end of each fiscal year, the department shall report the following for each project by a state agency, university, or community college that is authorized for planning but is not yet authorized for construction:

(a) The name of the project and account number.

(b) Whether a program statement is approved.

(c) Whether schematics are approved by the department.

(d) Whether preliminary plans are approved by the department.

(e) The name of the professional service contractor.

(4) As used in this section, "project" includes appropriation line items made for purchase of real estate.

Capital outlay appropriation in public act; notice; definition.

Sec. 424. (1) If a capital outlay appropriation is contained in a public act that was not reviewed by JCOS during the legislative process, the director shall notify JCOS of an expenditure of that capital outlay appropriation not less than 60 days before the expenditure.

(2) For the purposes of this section, "capital outlay appropriation" means an appropriation that provides for the construction, renovation, or repair of a capital facility or acquisition or development of land and that is normally reviewed by JCOS.

Availability of federal and other money; matching funds.

Sec. 425. A state agency, college, or university shall take steps necessary to make available federal and other money indicated in this act, to make available federal or other money that may become available for the purposes for which appropriations are made in this act, and to use any part or all of the appropriations to meet matching requirements that are considered to be in the best interest of this state. However, the purpose, scope, and total estimated cost of a project shall not be altered to meet the matching requirements.

Capital outlay project; submission of comparative cost analysis; definition.

Sec. 426. (1) Before money is released for the construction or lease of a capital outlay project costing over $1,000,000.00, at the request of JCOS the department shall submit to JCOS, with preliminary planning documents, a detailed comparative cost analysis. The cost analysis shall include a comparison of the financial and other benefits of construction, financing, operation, and maintenance of the proposed facility between all of the following:

(a) The state.

(b) The private sector.

(c) A combination of the state and the private sector.

(d) A lease agreement.

(2) If the department's recommendation for financing is inconsistent with the findings of the comparative cost analysis, the department shall present written documentation to JCOS outlining the rationale for the recommendation.

(3) For purposes of this section, "capital outlay project" means a construction project or lease requiring JCOS approval including, but not limited to, a general office facility, special use facility, warehouse, institutional facility, or utility system designed for use by a state agency or university. Capital outlay project does not include a special maintenance and remodeling project, grant-in-aid project, prison facility, legislative facility, judicial facility, community college facility, or self-liquidating project constructed by a university.

Five-year capital outlay plans and priority requests.

Sec. 427. Pursuant to section 242(2) of the management and budget act, 1984 PA 431, MCL 18.1242, the department shall submit 5-year capital outlay plans and capital outlay priority requests developed by state agencies (and as approved by the department of management and budget), universities, and community colleges to the chairperson and ranking vice-chairperson of JCOS and the fiscal agencies upon the release of the executive budget recommendation.

USE AND FINANCE STATEMENTS

Use and finance statement; approval required; exceptions; violation; additional requirements; submission.

Sec. 430. (1) A university or community college shall not let a contract for new construction of a self-funded project estimated to cost more than $1,000,000.00 unless the project is authorized by JCOS through approval of a use and financing statement defined

by a policy adopted by JCOS. If the project results in, or is funded by, a direct surcharge or increase in tuition, fees, special assessment, or other mandatory charge, then a use and finance statement is required regardless of cost. The request for legislative authorization shall be initially submitted for review to JCOS, the fiscal agencies, and the department. The use and financing statement for a nonstate-funded project shall contain the estimated total construction cost and all associated estimated operating costs including a statement of anticipated project revenues. As used in this section, "new construction" includes land or property acquisition, remodeling and additions, and maintenance projects, roads, landscaping, equipment, telecommunications, utilities, and parking lots. Certificate of need forms may be submitted in lieu of a use and finance form where applicable.

(2) When health or safety concerns warrant, a project may be completed without prior approval of a use and finance statement. However, timely submission of a use and finance statement as soon as possible after the event is expected.

(3) A project that is constructed in violation of this section shall not receive state appropriations for purposes of operating the project, or support for future infrastructure enhancements that are necessitated, in part or in total, by construction of the project. In addition, the violation shall result in the loss of any state capital outlay funding for the institution for 2 years, and a prohibition of doing self-funded projects of any kind, except for emergencies where health or safety concerns warrant, for 1 year.

(4) A state agency, including the department of military affairs, shall not let a contract, including those for a direct federally-funded capital outlay construction or major maintenance or remodeling project if the total project is estimated to cost more than $1,000,000.00 and is to be constructed on state-owned lands, unless the project is approved by the department and by JCOS through approval of a use and financing statement defined by a policy adopted by JCOS. For projects over $1,000,000.00, the state agency shall submit a use and financing statement as required for community colleges and universities in subsection (1). As used in this subsection, "direct federally-funded" refers to a project for which federal payments are made directly to the construction vendor and not to the state of Michigan.

(5) A public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund shall not let a contract for new construction estimated to cost more than $1,000,000.00 unless the project is authorized by JCOS through the approval of a use and financing statement defined by a policy adopted by JCOS. For purposes of this subsection, the use and financing statement for a project shall contain the estimated total construction cost and all associated estimated operating costs. As used in this subsection, "new construction" means land or property acquisition, remodeling or additions, lease or lease purchase, and maintenance projects for the corporate office of the public body corporate described in this subsection.

(6) The chair of JCOS shall annually transmit to each community college and public university the current requirements and guidelines for the submission of use and finance statements.

LUMP SUMS AND SPECIAL MAINTENANCE

Allocation of lump-sum appropriations; projects; priority; availability; report.

Sec. 435. (1) The director shall allocate lump-sum appropriations made in this act for remodeling and addition, special maintenance, major special maintenance, energy

conservation, demolition, ICF/MR, air-conditioning, and fire protection projects. The director shall allocate other lump sums in order of program priority and need of the various state agencies or as otherwise based on actual building inspection reports by regulatory agencies.

(2) The state budget director may authorize that funds appropriated for lump-sum special maintenance shall be available for no more than 2 fiscal years following the fiscal year in which the original appropriation was made. Any remaining balance from allocations made in this section shall lapse to the fund from which it was appropriated pursuant to the lapsing of funds as provided in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(3) Before the end of each fiscal year, the department shall submit a report to JCOS and the fiscal agencies indicating the total cost and status of all lump-sum projects funded under this act and any previous act that have been designated as proposed, designed, bid, under construction, or completed within the current fiscal year.

Demolition project; notification; disapproval period.

Sec. 436. (1) A state agency shall provide notification to JCOS prior to commencing a demolition project not authorized by law. The demolition project may be disapproved by JCOS within 30 days after the date of notification, and if disapproved within that time, the demolition project shall not be authorized. The notification to JCOS shall identify the building or facility to be demolished and its location, the estimated cost of the demolition project, estimated project schedule, and the source of financing.

(2) The 30-day disapproval period does not apply to any notifications submitted during a period when the legislature will not be in session for 15 days or more. In these situations, the 30-day disapproval period begins on the first scheduled session day.

Special maintenance, remodeling, additions, or other purposes; limitation on expenditures.

Sec. 437. Pursuant to department policy, state agencies may expend not more than $600,000.00 from their operating budget for special maintenance, remodeling, additions, or other capital outlay purposes, unless specifically authorized by the legislature.

COLLEGES AND UNIVERSITIES

Community colleges; remodeling and additions, special maintenance, or construction of certain buildings; funding sources; release of funds; applicability of act; receipt of federal money from prior year application.

Sec. 440. (1) This section applies only to projects for community colleges.

(2) State support is directed towards the remodeling and additions, special maintenance, or construction of certain community college buildings. The community college shall obtain or provide for site acquisition and initial main utility installation to operate the facility. Funding shall be comprised of local and state shares, and the state share shall include 50% of any federal money awarded for projects appropriated in this act. Not more than 50% of a capital outlay project, not including a lump-sum special maintenance project or remodeling and addition project, for a community college shall be appropriated from state and federal funds, unless otherwise appropriated by the legislature.

(3) An expenditure under this act is authorized when the release of the appropriation is approved by the board upon the recommendation of the director. The director may recommend to the board the release of any appropriation in part 1 only after the director is assured that the legal entity operating the community college to which the appropriation is made has complied with this act and has matched the amounts appropriated as required by this act. A release of funds in part 1 shall not exceed 50% of the total cost of planning and construction of any project, not including lump-sum remodeling and additions and special maintenance, unless otherwise appropriated by the legislature. Further planning and construction of a project authorized by this act or applicable sections of the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, shall be in accordance with the purpose and scope as defined and delineated in the approved program statements and planning documents. This act is applicable to all projects for which planning appropriations were made in previous acts.

(4) The community college shall take the steps necessary to secure available federal construction and equipment money for projects funded for construction in this act if an application was not previously made. If there is a reasonable expectation that a prior year unfunded application may receive federal money in a subsequent year, the college shall take whatever action necessary to keep the application active. If federal money is received, the state share shall be adjusted accordingly as provided by this act.

Receipt of matching revenues; effect of reduced amount.

Sec. 441. If matching revenues are received in an amount less than the appropriations contained in this act, the state funds of the appropriation shall be reduced in proportion to the amount of matching revenue received.

Project match; submission of documentation by community colleges and universities.

Sec. 442. (1) The director may require that community colleges and universities that have an authorized project listed in part 1 submit documentation regarding the project match and governing board approval of the authorized project not more than 60 days after the beginning of the fiscal year.

(2) If the documentation required by the director under subsection (1) is not submitted, or does not adequately authenticate the availability of the project match or board approval of the authorized project, the authorization may terminate. The authorization terminates 30 days after the director notifies JCOS of the intent to terminate the project unless JCOS convenes to extend the authorization.

DEPARTMENT OF MANAGEMENT AND BUDGET

Lease report.

Sec. 450. (1) The department shall provide JCOS and the fiscal agencies a report, not more than 15 days after the reporting date, of privately owned leased space by state agencies, by March 31 and September 30 of each year, consisting of the following:

(a) Department.

(b) Agency division and leased number.

(c) Building location (address and city).

(d) Type of building.

(e) County.

(f) Name and address of lessor.

(g) Square footage and net square footage rate.

(h) Monthly and annual cost.

(i) Date lease started and expires.

(j) Options and services.

(2) The lease report shall be summarized for office space, group homes, and other space for the Lansing area and statewide, excepting the Lansing area.

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

Availability of federal and state funds.

Sec. 455. The appropriations in part 1 for department of military and veterans affairs design and construction projects are contingent upon the availability of federal and state restricted funds for financing.

Cancellation of appropriation.

Sec. 456. The following department of military and veterans affairs design and construction project is canceled: a total of $6,700,000.00 appropriated in 2003 PA 193 for design and construction of a new United States property and fiscal office.

DEPARTMENT OF NATURAL RESOURCES

Harbors and docks program; appropriation; purpose; allocation; limitation; matching funds.

Sec. 460. The appropriation made in this act for the harbors and docks program is for the purpose of participating with the federal government and assisting political entities and subdivisions of this state in the construction and improvement of recreational boating facilities within this state. Subject to the approval of the board, this money shall be allocated by the department of natural resources to the federal government, or to the political entities or local units of government involved in the particular projects. An allocation shall not exceed the state portion as listed with each project description. The department of natural resources shall take the steps necessary to match federal money available for the construction and improvement of recreational boating facilities within this state, and to meet requirements of the federal government.

Project status report.

Sec. 461. Before the end of each fiscal year, the department of natural resources shall report each year to JCOS the status of each project that received an appropriation in any capital outlay act, if the project is either not completed or has a balance remaining in its account. The report shall be in the same form and contain the information as required under section 404. The report shall be separated into the following areas, by fund sources:

(a) Waterways projects.

(b) Urban recreation projects.

(c) State park projects.

(d) Wildlife and fisheries projects.

(e) Other projects.

Transfer of amount from harbor development fund to state waterways fund.

Sec. 462. The department of natural resources may transfer $1,000,000.00 from the harbor development fund to the state waterways fund for the purposes appropriated in part 1 of this act.

Administration of natural resources trust fund grants; agreements with local units of government.

Sec. 463. The department of natural resources shall require local units of government to enter into agreements with the department for the purpose of administering the natural resources trust fund grants identified in part 1. Among other provisions, the agreements shall require that grant recipients agree to dedicate to public outdoor recreation uses in perpetuity the land acquired or developed; to replace lands converted or lost to other than public outdoor recreation use; and for parcels acquired that are over 5 or more acres in size, to provide the state with a nonparticipating 1/6 minimum royalty interest in any acquired minerals that are retained by the grant recipient. The agreements shall also provide that the full payments of grants can be made only after proof of acquisition, or completion of the development project, is submitted by the grant recipient and all costs are verified by the department of natural resources.

Reversion of balance in natural resources trust fund.

Sec. 464. Any unobligated balance in any natural resources trust fund appropriation made in part 1 shall not revert to the funds from which appropriated at the close of the fiscal year, but shall continue until the purpose for which it was appropriated is completed for a period not to exceed 3 fiscal years. The unexpended balance of any natural resources trust fund appropriation made in part 1 remaining after the purpose for which it was appropriated is completed shall revert to the Michigan natural resources trust fund and be made available for appropriation.

STATE TRANSPORTATION DEPARTMENT

Airport construction and improvement.

Sec. 470. (1) From federal-state-local project appropriations contained in part 1 for the purpose of assisting political entities and subdivisions of this state in the construction and improvement of publicly used airports and landing fields within this state, the state transportation department may permit the award of contracts on behalf of units of local government for the authorized locations not to exceed the indicated amounts, of which the state allocated portion shall not exceed the amount appropriated in part 1.

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

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

(4) From the appropriations contained in part 1 for airport programs, no funds shall be allocated for any runway extensions, taxiway extensions, or apron extensions at the Detroit-Willow Run airport.

Project status report.

Sec. 471. Before the end of each fiscal year, the state transportation department shall report to JCOS the status of projects funded in part 1 with the estimated dollars allocated for each project. If there has to be a delay in reporting, the state transportation department shall notify JCOS in writing of the date the report will be received.

Airport program; availability of planning or construction project; lapsing of remaining funds.

Sec. 472. (1) A planning project or construction project appropriated for the airport program shall be made available for no more than 2 fiscal years following the fiscal year in which the original appropriation was made.

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

MISCELLANEOUS

Antenna site management revolving fund.

Sec. 480. (1) Revenue collected from licenses issued under the antenna site management project shall be deposited into the antenna site management revolving fund created for this purpose in the department of information technology. The department may receive and expend funds from the fund for costs associated with the antenna site management project, including the cost of the third-party site manager. Any excess revenue remaining in the fund at the close of the fiscal year shall be proportionately transferred to the appropriate state restricted funds as designated in statute or by constitution.

(2) An antenna shall not be sited pursuant to this section without prior compliance with the respective local zoning codes and local unit of government processes.

Site preparation economic development fund.

Sec. 481. (1) A site preparation economic development fund is hereby created in the department of management and budget. As used in this section, "economic development sites" means those state-owned sites declared as surplus property pursuant to section 251 of the management and budget act, 1984 PA 431, MCL 18.1251, that would provide economic benefit to the area or to the state. The Michigan economic development corporation board and the state budget director shall determine whether or not a specific state-owned site qualifies for inclusion in the fund created under this subsection.

(2) Proceeds from the sale of any sites designated in subsection (1) shall be deposited into the fund created in subsection (1) and shall be available for site preparation expenditures, unless otherwise provided by law. The economic development sites authorized in subsection (1) are hereby authorized for sale consistent with state law. Expenditures from the fund are hereby authorized for site preparation activities that enhance the marketable sale value of the sites. Site preparation activities include, but are not limited to, demolition, environmental studies and abatement, utility enhancement, and site excavation.

(3) A cash advance in an amount of not more than $25,000,000.00 is hereby authorized from the general fund to the site preparation economic development fund.

(4) An annual report shall be transmitted to the senate and house of representatives appropriations committees not later than December 31 of each year. This report shall detail both of the following:

(a) The revenue and expenditure activity in the fund for the preceding fiscal year.

(b) The sites identified as economic development sites under subsection (1).

Triangle property located at Kalamazoo Street and Grand Avenue in Lansing; expenditure of funds prohibited.

Sec. 482. No funds shall be spent on any building, lease, or other development project on property commonly referred to as the triangle property located at Kalamazoo Street and Grand Avenue in downtown Lansing. Any and all previously approved building, lease, or other development projects on the triangle property are hereby canceled. Any proposed building, lease, or other development project for any state agency on the site of the triangle property shall require prior approval of the joint capital outlay subcommittee.

DEPARTMENT OF CORRECTIONS

Benton Harbor corrections center.

Sec. 501. The negative appropriation in part 1 for the department of corrections, corrections centers, is $271,000.00. The department shall cancel lease number 7621 located at 497 Waukonda Avenue, Benton Harbor, Michigan, effective June 1, 2005, upon prior written notice to the lessor. The department is prohibited from expending appropriations for rental payments or operational expenses for the Benton Harbor corrections center effective June 1, 2005.

Michigan youth correctional facility in Baldwin.

Sec. 502. It is the intent of the legislature that neither the management services contract nor the lease for the Michigan youth correctional facility in Baldwin shall be cancelled prior to October 1, 2005.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Carrying forward certain revenues.

Sec. 601. Revenues remaining in intradepartmental transfers, laboratory services at the end of the fiscal year shall carry forward into fiscal year 2005-2006.

Sites receiving funds for redevelopment and cleanup activities.

Sec. 602. The funds appropriated in part 1 for the environmental cleanup and redevelopment program shall be used to fund redevelopment and cleanup activities on the following sites:

Detroit Riverfront	Wayne
Pullman Oil Field	Allegan
Coloma DCPA Site	Berrien
Verona Well Field	Calhoun
Cass Street, Edwardsburg	Cass
992 South Main, Cheboygan	Cheboygan
Cannelton Industries	Chippewa
Gladstone Creosote Discharge	Delta
Petoskey Manufacturing Inc.	Emmet
Bentley Sludge Pit	Gladwin
Buckeye Sludge Pit	Gladwin
Pine River Downstream of St. Louis	Gratiot
Velsicol Chemical Corporation	Gratiot
Spring Arbor Wash & Dry	Jackson
Portage Creek/Kalamazoo River, Morrow Dam to Lake Michigan	Kalamazoo
Walker Oil Field	Kent
Butterworth #2 Landfill	Kent
Franklin Metal Trading Corp.	Kent
Millennium Park Oil Well	Kent
Spartan Chemical Co.	Kent
Hoff Industries	Kent
Gay Stampsands	Keweenaw
Adrian Silos	Lenawee
Shiawassee River, M-59 to State Rd.	Livingston
Whitmore Lake Rd.	Livingston
Diamond Chrome	Livingston
10 Mile Drain Area	Macomb
Consolidated Packaging Corp.	Monroe
Darling Rd. Dump Site	Monroe
Broton Road Area GW	Muskegon
Story Chemical Co. Ott	Muskegon
Green Ridge Subdivision	Muskegon
North Oxford Area GW Contamination	Oakland
Waterford Hills Sanitary Landfill	Oakland
Hoskins Manufacturing	Oscoda
Stevenson Oil Company	Otsego
Fenske Landfill	Ottawa
Ferro Met Salvage Yard	Saginaw
Huron Development Landfill	St. Clair
Winchester Disposal	St. Clair
Leonidas Area Wells	St. Joseph
Park Township Dachtahl	St. Joseph
Armens Cleaners	Washtenaw

Cyanokem	Wayne
CYB Tool (former)	Wayne
Wayne County/Detroit Area Historical Smelter	Wayne
Downriver Soil Assessment Project	Wayne

Environmental cleanup and redevelopment program; carrying forward unencumbered funds; work project; compliance.

Sec. 603. The unexpended funds appropriated in part 1 for the environmental cleanup and redevelopment program are considered work project appropriations and any unencumbered or unallotted funds are carried forward into the succeeding fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried forward is to provide contaminated site cleanup.

(b) The projects will be accomplished by contract.

(c) The total estimated cost of all projects is identified in each line-item appropriation.

(d) The tentative completion date is September 30, 2009.

HIGHER EDUCATION

Reductions to state university and community college appropriations; applicability to monthly payments; appropriation amounts; limitation.

Sec. 701. (1) The impact of the reductions to state university and community college appropriations contained in Executive Order No. 2005-7 shall not be applied to the monthly payments made by the state to those institutions before August 1, 2005.

(2) If the estimate of fiscal year 2004-05 combined general fund/general purpose and school aid fund revenues as determined at the May 2005 consensus revenue estimating conference is greater than the estimate as determined at the January 2005 consensus revenue estimating conference, the combined increase, up to a maximum of $30,000,000.00, is appropriated for the state fiscal year ending September 30, 2005, for state university and community college operations. The fund source of these appropriations shall be general fund/general purpose revenues. If the general fund/general purpose increase is not sufficient to support these appropriations, the general fund contribution to the school aid fund may be adjusted as needed to support these appropriations. If the total amount appropriated is $30,000,000.00, the funds appropriated shall be paid in the amounts listed in this subsection. If the total amount appropriated is less than $30,000,000.00, the funds shall be paid in amounts directly proportional to the amounts listed in this subsection as follows:

STATE UNIVERSITIES		
Central Michigan University	$	1,403,300
Eastern Michigan University		1,357,400
Ferris State University		859,900
Grand Valley State University		1,016,800
Lake Superior State University		222,900

Michigan State University	$	5,049,100
Michigan Technological University		855,600
Northern Michigan University		803,700
Oakland University		844,800
Saginaw Valley State University		459,000
University of Michigan - Ann Arbor		5,631,100
University of Michigan - Dearborn		433,600
University of Michigan - Flint		372,800
Wayne State University		3,823,800
Western Michigan University		1,946,600
Total	$	25,080,400

COMMUNITY COLLEGES

Alpena Community College	$	85,400
Bay de Noc Community College		82,600
Delta College		231,000
Glen Oaks Community College		38,800
Gogebic Community College		70,700
Grand Rapids Community College		290,500
Henry Ford Community College		354,100
Jackson Community College		196,000
Kalamazoo Valley Community College		200,000
Kellogg Community College		157,100
Kirtland Community College		47,700
Lake Michigan College		84,600
Lansing Community College		502,400
Macomb Community College		536,100
Mid Michigan Community College		71,500
Monroe County Community College		69,600
Montcalm Community College		50,300
C.S. Mott Community College		254,000
Muskegon Community College		144,600
North Central Michigan College		49,000
Northwestern Michigan College		147,500
Oakland Community College		338,200
St. Clair County Community College		113,300
Schoolcraft College		198,500
Southwestern Michigan College		106,500
Washtenaw Community College		201,700
Wayne County Community College		260,800
West Shore Community College		37,100
Total	$	4,919,600

(3) If the amount appropriated under subsection (2) is less than $30,000,000.00 and an unreserved general fund/ general purpose balance exists at the close of the state fiscal year ending September 30, 2005, an amount up to a maximum of $30,000,000.00 is appropriated from that balance for the state fiscal year ending September 30, 2005 for the purposes specified in subsection (2). The total amount of funds appropriated under this subsection and subsection (2) shall not exceed $30,000,000.00. Any funds appropriated under this subsection shall be paid in direct proportion to the amounts listed in subsection (2).

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

Life sciences initiative; homeland security and automotive initiative; funding; technology tri-corridor steering committee; good manufacturing practice facility; competitive business commercial development fund; repayment; exemption of certain records from disclosure.

Sec. 801. (1) From the funds appropriated in part 1 for the technology tri-corridor: life sciences initiative, $30,000,000.00 is appropriated for the life sciences initiative. All funding for the areas of homeland security and automotive initiative shall be funded from the Indian casino revenue or other federal sources. The program shall be administered by the Michigan economic development corporation.

(2) A technology tri-corridor steering committee, appointed by the governor, shall consist of 19 members including the CEO, the director, the state treasurer, a member from Michigan State University, the University of Michigan, Wayne State University, Western Michigan University, and the Van Andel Institute, 2 members representing the legislature, 1 of whom is chosen by the speaker of the house of representatives and 1 of whom is chosen by the majority leader of the senate, and 2 members actively engaged in each of the 3 targeted business sectors. The remaining members shall be appointed at large and may include members from the private sector, public sector, or other Michigan universities. Committee members are authorized to designate alternate members. The purpose of the steering committee is to provide advice and oversight of the initiative, including the development of criteria for the awards to qualifying universities, institutions, companies, or individuals. The steering committee will make decisions regarding distribution of these funds.

(3) Of the funds appropriated, $1,500,000.00 shall be allocated to a private research institute that has received a specific federal appropriation prior to 2005 for the creation of a good manufacturing practice facility. The facility shall be used for the production of drugs approved for use in clinical trials, as approved by the United States food and drug administration and shall work to market the core technology alliance for the purposes of commercialization and providing access to advanced technologies to researchers affiliated with universities, private research institutes, and biotech or pharmaceutical firms. It is the intent of the legislature that $1,500,000.00 shall be made available for these purposes in fiscal years 2006 and 2007.

(4) Of the funds appropriated, up to $2,500,000.00 may be used for administering the life sciences initiative including the monitoring of previous years' awards. Not more than $10,000,000.00 shall be used to support a competitive business commercial development fund to support business commercialization research opportunities in Michigan. In allocating funding to the business commercial development fund, the steering committee shall give maximum priority to supporting all potential commercialization opportunities that appear to have merit. Of the remaining funds appropriated for the life sciences initiative, 55% are allocated for a basic research fund, to be distributed on a competitive basis to Michigan universities or Michigan nonprofit research institutes, or both, for basic research in health-related areas. In addition, 45% of the remaining appropriated funds for the life sciences initiative are earmarked for a collaborative research fund to support peer-reviewed collaborative grants among Michigan universities and/or private research facilities, with emphasis on research testing or developing emerging discoveries.

(5) Repayment of any funds received as a result of awards made under 1999 PA 120, 2000 PA 292, 2001 PA 80, 2002 PA 517, 2003 PA 169, or this act including, but not limited

to, funds received as interest or return on investment shall be deposited in the business commercial development fund. These funds are authorized for expenditure upon receipt and shall not lapse to the general fund.

(6) The records of the steering committee involving a proposal submitted by an eligible entity that are of a scientific, technical, or proprietary nature, the release of which could cause competitive harm to the eligible entity as determined by the steering committee, are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

REPEALERS

Repeal of sections 315 and 401 of 2004 PA 352; repeal of section 510 of 2004 PA 354.

Sec. 1001. (1) Sections 315 and 401 of 2004 PA 352 are repealed.

(2) Section 510 of 2004 PA 354 is repealed.

Conditional effective date.

Enacting section 1. This act does not take effect unless Senate Bill No. 235 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 28, 2005.
Filed with Secretary of State April 28, 2005.

Compiler's note: Senate Bill No. 235, referred to in enacting section 1, was filed with the Secretary of State April 28, 2005, and became 2005 PA 10, Imd. Eff. Apr. 28, 2005.

[No. 12]

(HB 4570)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 34d (MCL 211.34d), as amended by 1996 PA 476.

The People of the State of Michigan enact:

211.34d Definitions; tabulation of taxable values; computation of amounts; calculation of millage reduction fractions and compounded millage reduction fractions; transmittal of computations; certification; tax levy; limitation on number of mills; application of millage reduction fraction or limitation; voter approval of tax levy; incorrect millage reduction fraction; recalculation and rounding of fractions; publication of inflation rate; permanent reduction in maximum rates.

Sec. 34d. (1) As used in this section or section 27a, or section 3 or 31 of article IX of the state constitution of 1963:

(a) For taxes levied before 1995, "additions" means all increases in value caused by new construction or a physical addition of equipment or furnishings, and the value of property that was exempt from taxes or not included on the assessment unit's immediately preceding year's assessment roll.

(b) For taxes levied after 1994, "additions" means, except as provided in subdivision (c), all of the following:

(*i*) Omitted real property. As used in this subparagraph, "omitted real property" means previously existing tangible real property not included in the assessment. Omitted real property shall not increase taxable value as an addition unless the assessing jurisdiction has a property record card or other documentation showing that the omitted real property was not previously included in the assessment. The assessing jurisdiction has the burden of proof in establishing whether the omitted real property is included in the assessment. Omitted real property for the current and the 2 immediately preceding years, discovered after the assessment roll has been completed, shall be added to the tax roll pursuant to the procedures established in section 154. For purposes of determining the taxable value of real property under section 27a, the value of omitted real property is based on the value and the ratio of taxable value to true cash value the omitted real property would have had if the property had not been omitted.

(*ii*) Omitted personal property. As used in this subparagraph, "omitted personal property" means previously existing tangible personal property not included in the assessment. Omitted personal property shall be added to the tax roll pursuant to section 154.

(*iii*) New construction. As used in this subparagraph, "new construction" means property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to the provisions set forth in section 27(2)(a) to (o). For purposes of determining the taxable value of property under section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

(*iv*) Previously exempt property. As used in this subparagraph, "previously exempt property" means property that was exempt from ad valorem taxation under this act on the immediately preceding tax day but is subject to ad valorem taxation on the current tax day under this act. For purposes of determining the taxable value of real property under section 27a:

(A) The value of property previously exempt under section 7u is the taxable value the entire parcel of property would have had if that property had not been exempt, minus the product of the entire parcel's taxable value in the immediately preceding year and the lesser of 1.05 or the inflation rate.

(B) The taxable value of property that is a facility as that term is defined in section 2 of 1974 PA 198, MCL 207.552, that was previously exempt under section 7k is the taxable value that property would have had under this act if it had not been exempt.

(C) The value of property previously exempt under any other section of law is the true cash value of the previously exempt property multiplied by 0.50.

(*v*) Replacement construction. As used in this subparagraph, "replacement construction" means construction that replaced property damaged or destroyed by accident or act of God and that occurred after the immediately preceding tax day to the extent the construction's true cash value does not exceed the true cash value of property that was damaged or destroyed by accident or act of God in the immediately preceding 3 years. For purposes of determining the taxable value of property under section 27a, the value of the replacement construction is the true cash value of the replacement construction multiplied by a fraction the numerator of which is the taxable value of the property to which the construction was added in the immediately preceding year and the denominator of which is the true cash value of the property to which the construction was added in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate.

(*vi*) An increase in taxable value attributable to the complete or partial remediation of environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree of remediation based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The increase in taxable value attributable to the remediation is the increase in true cash value attributable to the remediation multiplied by a fraction the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

(*vii*) An increase in the value attributable to the property's occupancy rate if either a loss, as that term is defined in this section, had been previously allowed because of a decrease in the property's occupancy rate or if the value of new construction was reduced because of a below-market occupancy rate. For purposes of determining the taxable value of property under section 27a, the value of an addition for the increased occupancy rate is the product of the increase in the true cash value of the property attributable to the increased occupancy rate multiplied by a fraction the numerator of which is the taxable value of the property in the immediately preceding year and the denominator of which is the true cash value of the property in the immediately preceding year, and then multiplied by the lesser of 1.05 or the inflation rate.

(*viii*) Public services. As used in this subparagraph, "public services" means water service, sewer service, a primary access road, natural gas service, electrical service, telephone service, sidewalks, or street lighting. For purposes of determining the taxable value of real property under section 27a, the value of public services is the amount of increase in true cash value of the property attributable to the available public services multiplied by 0.50 and shall be added in the calendar year following the calendar year when those public services are initially available.

(c) For taxes levied after 1994, additions do not include increased value attributable to any of the following:

(*i*) Platting, splits, or combinations of property.

(*ii*) A change in the zoning of property.

(*iii*) For the purposes of the calculation of the millage reduction fraction under subsection (7) only, increased taxable value under section 27a(3) after a transfer of ownership of property.

(d) "Assessed valuation of property as finally equalized" means taxable value under section 27a.

(e) "Financial officer" means the officer responsible for preparing the budget of a unit of local government.

(f) "General price level" means the annual average of the 12 monthly values for the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

(g) For taxes levied before 1995, "losses" means a decrease in value caused by the removal or destruction of real or personal property and the value of property taxed in the immediately preceding year that has been exempted or removed from the assessment unit's assessment roll.

(h) For taxes levied after 1994, "losses" means, except as provided in subdivision (i), all of the following:

(*i*) Property that has been destroyed or removed. For purposes of determining the taxable value of property under section 27a, the value of property destroyed or removed is the product of the true cash value of that property multiplied by a fraction the numerator of which is the taxable value of that property in the immediately preceding year and the denominator of which is the true cash value of that property in the immediately preceding year.

(*ii*) Property that was subject to ad valorem taxation under this act in the immediately preceding year that is now exempt from ad valorem taxation under this act. For purposes of determining the taxable value of property under section 27a, the value of property exempted from ad valorem taxation under this act is the amount exempted.

(*iii*) An adjustment in value, if any, because of a decrease in the property's occupancy rate, to the extent provided by law. For purposes of determining the taxable value of real property under section 27a, the value of a loss for a decrease in the property's occupancy rate is the product of the decrease in the true cash value of the property attributable to the decreased occupancy rate multiplied by a fraction the numerator of which is the taxable value of the property in the immediately preceding year and the denominator of which is the true cash value of the property in the immediately preceding year.

(*iv*) A decrease in taxable value attributable to environmental contamination existing on the immediately preceding tax day. The department of environmental quality shall determine the degree to which environmental contamination limits the use of property based on information available in existing department of environmental quality records or information made available to the department of environmental quality if the appropriate assessing officer for a local tax collecting unit requests that determination. The department of environmental quality's determination of the degree to which environmental contamination limits the use of property shall be based on the criteria established for the categories set forth in section 20120a(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a. The decrease in taxable value attributable to the contamination is the decrease in true cash value attributable to the contamination multiplied by a fraction the numerator of which is the taxable value of the property had it not been contaminated and the denominator of which is the true cash value of the property had it not been contaminated.

(i) For taxes levied after 1994, losses do not include decreased value attributable to either of the following:

(*i*) Platting, splits, or combinations of property.

(*ii*) A change in the zoning of property.

(j) "New construction and improvements" means additions less losses.

(k) "Current year" means the year for which the millage limitation is being calculated.

(*l*) "Inflation rate" means the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

(2) On or before the first Monday in May of each year, the assessing officer of each township or city shall tabulate the tentative taxable value as approved by the local board of review and as modified by county equalization for each classification of property that is separately equalized for each unit of local government and provide the tabulated tentative taxable values to the county equalization director. The tabulation by the assessing officer shall contain additions and losses for each classification of property that is separately equalized for each unit of local government or part of a unit of local government in the township or city. If as a result of state equalization the taxable value of property changes, the assessing officer of each township or city shall revise the calculations required by this subsection on or before the Friday following the fourth Monday in May. The county equalization director shall compute these amounts and the current and immediately preceding year's taxable values for each classification of property that is separately equalized for each unit of local government that levies taxes under this act within the boundary of the county. The county equalization director shall cooperate with equalization directors of neighboring counties, as necessary, to make the computation for units of local government located in more than 1 county. The county equalization director shall calculate the millage reduction fraction for each unit of local government in the county for the current year. The financial officer for each taxing jurisdiction shall calculate the compounded millage reduction fractions beginning in 1980 resulting from the multiplication of successive millage reduction fractions and shall recognize a local voter action to increase the compounded millage reduction fraction to a maximum of 1 as a new beginning fraction. Upon request of the superintendent of the intermediate school district, the county equalization director shall transmit the complete computations of the taxable values to the superintendent of the intermediate school district within that county. At the request of the presidents of community colleges, the county equalization director shall transmit the complete computations of the taxable values to the presidents of community colleges within the county.

(3) On or before the first Monday in June of each year, the county equalization director shall deliver the statement of the computations signed by the county equalization director to the county treasurer.

(4) On or before the second Monday in June of each year, the treasurer of each county shall certify the immediately preceding year's taxable values, the current year's taxable values, the amount of additions and losses for the current year, and the current year's millage reduction fraction for each unit of local government that levies a property tax in the county.

(5) The financial officer of each unit of local government shall make the computation of the tax rate using the data certified by the county treasurer and the state tax commission. At the annual session in October, the county board of commissioners shall not authorize the levy of a tax unless the governing body of the taxing jurisdiction has certified that the requested millage has been reduced, if necessary, in compliance with section 31 of article IX of the state constitution of 1963.

(6) The number of mills permitted to be levied in a tax year is limited as provided in this section pursuant to section 31 of article IX of the state constitution of 1963. A unit of local government shall not levy a tax rate greater than the rate determined by reducing

its maximum rate or rates authorized by law or charter by a millage reduction fraction as provided in this section without voter approval.

(7) A millage reduction fraction shall be determined for each year for each local unit of government. For ad valorem property taxes that became a lien before January 1, 1983, the numerator of the fraction shall be the total state equalized valuation for the immediately preceding year multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus new construction and improvements. For ad valorem property taxes that become a lien after December 31, 1982 and through December 31, 1994, the numerator of the fraction shall be the product of the difference between the total state equalized valuation for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total state equalized valuation for the current year minus additions. For ad valorem property taxes that are levied after December 31, 1994, the numerator of the fraction shall be the product of the difference between the total taxable value for the immediately preceding year minus losses multiplied by the inflation rate and the denominator of the fraction shall be the total taxable value for the current year minus additions. For each year after 1993, a millage reduction fraction shall not exceed 1.

(8) The compounded millage reduction fraction for each year after 1980 shall be calculated by multiplying the local unit's previous year's compounded millage reduction fraction by the current year's millage reduction fraction. Beginning with 1980 tax levies, the compounded millage reduction fraction for the year shall be multiplied by the maximum millage rate authorized by law or charter for the unit of local government for the year, except as provided by subsection (9). A compounded millage reduction fraction shall not exceed 1.

(9) The millage reduction shall be determined separately for authorized millage approved by the voters. The limitation on millage authorized by the voters on or before April 30 of a year shall be calculated beginning with the millage reduction fraction for that year. Millage authorized by the voters after April 30 shall not be subject to a millage reduction until the year following the voter authorization which shall be calculated beginning with the millage reduction fraction for the year following the authorization. The first millage reduction fraction used in calculating the limitation on millage approved by the voters after January 1, 1979 shall not exceed 1.

(10) A millage reduction fraction shall be applied separately to the aggregate maximum millage rate authorized by a charter and to each maximum millage rate authorized by state law for a specific purpose.

(11) A unit of local government may submit to the voters for their approval the levy in that year of a tax rate in excess of the limit set by this section. The ballot question shall ask the voters to approve the levy of a specific number of mills in excess of the limit. The provisions of this section do not allow the levy of a millage rate in excess of the maximum rate authorized by law or charter. If the authorization to levy millage expires after 1993 and a local governmental unit is asking voters to renew the authorization to levy the millage, the ballot question shall ask for renewed authorization for the number of expiring mills as reduced by the millage reduction required by this section. If the election occurs before June 1 of a year, the millage reduction is based on the immediately preceding year's millage reduction applicable to that millage. If the election occurs after May 31 of a year, the millage reduction shall be based on that year's millage reduction applicable to that millage had it not expired.

(12) A reduction or limitation under this section shall not be applied to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for

the payment of assessments or contract obligations in anticipation of which bonds are issued that were authorized before December 23, 1978, as provided by section 4 of chapter I of former 1943 PA 202, or to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued that are approved by the voters after December 22, 1978.

(13) If it is determined subsequent to the levy of a tax that an incorrect millage reduction fraction has been applied, the amount of additional tax revenue or the shortage of tax revenue shall be deducted from or added to the next regular tax levy for that unit of local government after the determination of the authorized rate pursuant to this section.

(14) If as a result of an appeal of county equalization or state equalization the taxable value of a unit of local government changes, the millage reduction fraction for the year shall be recalculated. The financial officer shall effectuate an addition or reduction of tax revenue in the same manner as prescribed in subsection (13).

(15) The fractions calculated pursuant to this section shall be rounded to 4 decimal places, except that the inflation rate shall be computed by the state tax commission and shall be rounded to 3 decimal places. The state tax commission shall publish the inflation rate before March 1 of each year.

(16) Beginning with taxes levied in 1994, the millage reduction required by section 31 of article IX of the state constitution of 1963 shall permanently reduce the maximum rate or rates authorized by law or charter. The reduced maximum authorized rate or rates for 1994 shall equal the product of the maximum rate or rates authorized by law or charter before application of this section multiplied by the compounded millage reduction applicable to that millage in 1994 pursuant to subsections (8) to (12). The reduced maximum authorized rate or rates for 1995 and each year after 1995 shall equal the product of the immediately preceding year's reduced maximum authorized rate or rates multiplied by the current year's millage reduction fraction and shall be adjusted for millage for which authorization has expired and new authorized millage approved by the voters pursuant to subsections (8) to (12).

This act is ordered to take immediate effect.
Approved April 28, 2005.
Filed with Secretary of State April 28, 2005.

[No. 13]

(HB 4318)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending sections 1, 3, and 18 (MCL

125.1651, 125.1653, and 125.1668), section 1 as amended by 2004 PA 196 and section 3 as amended by 2004 PA 521.

The People of the State of Michigan enact:

125.1651 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a downtown development authority created pursuant to this act.

(d) "Board" means the governing body of an authority.

(e) "Business district" means an area in the downtown of a municipality zoned and used principally for business.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the project area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (y), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development plan set forth in section 17.

(j) "Development program" means the implementation of the development plan.

(k) "Downtown district" means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act. A downtown district may include 1 or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality is a city that surrounds another city and that other city lies between the 2 separate and distinct geographic areas. If the downtown district contains more than 1 separate and distinct geographic area in the downtown district, the separate and distinct geographic areas shall be considered 1 downtown district.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after

August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(n) "Fire alarm system" means a system designed to detect and annunciate the presence of fire, or by-products of fire. Fire alarm system includes smoke detectors.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Governing body of a municipality" means the elected body of a municipality having legislative powers.

(q) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (y). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(r) "Municipality" means a city, village, or township.

(s) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(t) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by the municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(u) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(v) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*), (*iii*), or (*iv*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area, or both, if all of the following requirements are met:

(A) The authority purchased the real property in 1993.

(B) Before June 30, 1995, the authority enters a contract for the development of the real property located within the development area.

(C) In 1993, the authority or municipality on behalf of the authority received approval for a grant from both of the following:

(I) The department of natural resources for site reclamation of the real property.

(II) The department of consumer and industry services for development of the real property.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a

series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) A loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

(*vii*) Funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Michigan department of transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

(*viii*) For taxes captured in 1994, an obligation described in this subparagraph issued or incurred to finance a project. An obligation is considered issued or incurred to finance a project described in this subparagraph only if all of the following are met:

(A) The obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved.

(B) The obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991.

(C) The obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994.

(D) The authority or municipality captured school taxes during 1994.

(w) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(x) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (aa)(*ii*) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(y) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the

method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(z) "State fiscal year" means the annual period commencing October 1 of each year.

(aa) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*) or (*v*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of subsubparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*) or (*v*).

(*v*) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer, attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and

personal property in the development area of an authority established in a city with a population of 750,000 or more to pay for, or reimburse an advance for, not more than $8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than $8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.

125.1653 Resolution of intent to create and provide for operation of authority; public hearing on proposed ordinance creating authority and designating boundaries of downtown district; notice; exemption of taxes from capture; adoption, filing, and publication of ordinance; altering or amending boundaries; agreement with adjoining municipality.

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, or to permit the development of a new commercial property with a total cash value after development of not less than $100,000,000.00, which includes more than 2 detached buildings containing together not less than 500,000 square feet, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed district and for a public hearing to be held after February 15, 1994 to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to

create the authority. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

(6) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

125.1668 Ordinance approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 18. (1) The governing body, before adoption of an ordinance approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the downtown district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the downtown district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain: a description of the proposed development area in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing; and other information that the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented thereat.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

[No. 14]

(HB 4013)

AN ACT to amend 1980 PA 450, entitled "An act to prevent urban deterioration and encourage economic development and activity and to encourage neighborhood revitalization and historic preservation; to provide for the establishment of tax increment finance authorities and to prescribe their powers and duties; to authorize the acquisition and disposal of interests in real and personal property; to provide for the creation and implementation of development plans; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to permit the issuance of bonds and other evidences of indebtedness by an authority; to permit the use of tax increment financing; to reimburse authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state agencies and officers," by amending sections 3 and 17 (MCL 125.1803 and 125.1817), section 3 as amended by 1983 PA 148.

The People of the State of Michigan enact:

125.1803 Resolution of intent; determinations; notice of public hearing; adoption, filing, and publication of resolution establishing authority and designating boundaries of authority district; alteration or amendment of boundaries; validity of proceedings establishing authority.

Sec. 3. (1) If the governing body of a municipality determines that it is in the best interests of the public to halt a decline in property values, increase property tax valuation, eliminate the causes of the decline in property values, and to promote growth in an area in the municipality, the governing body of that municipality may declare by resolution its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Notice shall also be mailed to the property taxpayers of record in the proposed authority district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district. At that hearing, a citizen, taxpayer, or property owner of the municipality has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed authority district. The governing body of the municipality shall not incorporate land into the authority district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the authority district in the final determination of the boundaries.

(3) After the public hearing, if the governing body intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, a resolution establishing the authority and designating the boundaries of the authority district within which the authority shall exercise its powers. The adoption of the resolution is subject to

any applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(4) The governing body may alter or amend the boundaries of the authority district to include or exclude lands from the authority district in accordance with the same requirements prescribed for adopting the resolution creating the authority.

(5) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution as adopted.

(b) Filing of the resolution with the secretary of state.

125.1817 Public hearing on development plan; publication, mailing, and contents of notice; presentation of data; record.

Sec. 17. (1) The governing body, before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Notice shall also be mailed to all property taxpayers of record in the development area not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the proposed development area in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

[No. 15]

(HB 4012)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," by amending sections 4 and 16 (MCL 125.2154 and 125.2166), section 4 as amended by 2000 PA 248.

The People of the State of Michigan enact:

125.2154 Resolution of intent; notice of public hearing; hearing; resolution exempting taxes from capture; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities.

Sec. 4. (1) The governing body of a municipality may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements prescribed for adopting the resolution creating the authority.

(6) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution creating the authority as adopted.

(b) Filing of the resolution creating the authority with the secretary of state.

(7) Except as otherwise provided by this subsection, if 2 or more municipalities desire to establish an authority under section 3(2), each municipality in which the authority district will be located shall comply with the procedures prescribed by this act. The notice required by subsection (2) may be published jointly by the municipalities establishing the authority. The resolutions establishing the authority shall include, or shall approve an agreement including, provisions governing the number of members on the board, the method of appointment, the members to be represented by governmental units or agencies, the terms of initial and subsequent appointments to the board, the manner in which a member of the board may be removed for cause before the expiration of his or her term, the manner in which the authority may be dissolved, and the disposition of assets upon dissolution. An authority described in this subsection shall not be considered established unless all of the following conditions are satisfied:

(a) A resolution is approved and filed with the secretary of state by each municipality in which the authority district will be located.

(b) The same boundaries have been approved for the authority district by the governing body of each municipality in which the authority district will be located.

(c) The governing body of the county in which a majority of the authority district will be located has approved by resolution the creation of the authority.

125.2166 Adoption of resolution approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 16. (1) Before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, the governing body shall hold a

public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the property to which the plan applies in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the matter. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

[No. 16]

(HB 4415)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the

provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 26 (MCL 421.26), as amended by 1984 PA 172.

The People of the State of Michigan enact:

421.26 Unemployment compensation fund.

Sec. 26. (a) There is established as a special fund, separate and apart from all public money or funds of this state, an unemployment compensation fund, herein referred to as the fund, which shall be administered by the commission exclusively for the purposes of this act. The fund shall consist of (1) all contributions and payments in lieu of contributions collected under the provisions of this act as well as reimbursement payments by the federal government for its portion of sharable extended benefits; (2) interest earned upon any moneys in the fund; (3) any property or securities acquired through the use of money belonging to the fund; (4) all earnings of such property or securities; (5) amounts transferred from the contingent fund pursuant to section 10; (6) all money collected, including fines, civil penalties, and interest, under section 22b; and (7) any other money received by the commission for unemployment compensation, except interest, penalties, and damages collected under other provisions of this act. All money in the fund shall be mingled and undivided.

(b) The commission shall designate a treasurer and custodian of the fund who shall administer the fund in accordance with the directions of the commission and shall issue his or her vouchers upon it in accordance with the regulations as the commission prescribes. The treasurer shall maintain within the fund 3 separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All money payable to the fund, upon receipt by the commission, shall be forwarded to the treasurer who shall immediately deposit it in the clearing account. Refunds payable pursuant to section 16 may be paid from the clearing account upon vouchers issued by the treasurer under the direction of the commission. After clearance of the vouchers, all other money in the clearing account, except amounts needed for refunds and judgments, shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the social security act, 42 USC 1104. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as otherwise provided in this act, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the commission, in any depository designated by the commission.

(c) (1) Except as provided in paragraph (2) of this subsection, money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the commission. The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account in that fund, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt, the treasurer shall deposit the requisitioned money in the benefit account and shall issue his or her vouchers for the payment of benefits solely from the benefit account. All vouchers issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter-signature of a member of the commission or its duly authorized agent for that purpose. Any balance of money requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for,

and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b).

(2) The commission may requisition from this state's account in the unemployment trust fund such amounts, or portions thereof, as have been specifically appropriated by the legislature for the administration of this act in accordance with the provisions of section 903(c)(2) of the federal social security act, 42 USC 1103(c)(2). Upon receipt, the treasurer shall deposit that money in the administration fund, but it shall remain a part of the unemployment compensation fund until expended.

(d) The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only while the unemployment trust fund continues to exist and until the secretary of the treasury of the United States of America continues to maintain for this state a separate account of all funds deposited in it by this state for benefit purposes, together with this state's proportionate share of the earnings of the unemployment trust fund, from which no other state is permitted to make withdrawals. If the unemployment trust fund ceases to exist, or the separate account is no longer maintained, all money, properties, or securities therein, belonging to the unemployment compensation fund of this state, shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release the money, properties, or securities in a manner approved by the commission, in bonds or other interest bearing obligations of the United States of America or of this state. The investments shall be so made that all the assets of the fund are readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commission.

(e) The unemployment compensation fund shall be audited by the auditor general at the times requested by the state administrative board.

(f) The commission may designate an assistant treasurer who, in the absence of the treasurer and custodian as designated by the commission under the authority conferred upon it under subsection (b), may perform the duties conferred upon the treasurer and custodian under this act.

(g) The commission may enter into agreements that are necessary to secure any advance or grant of funds by the secretary of the treasury of the United States in accordance with the authority extended under section 1201 of the social security act, 42 USC 1321, or under any other act of congress extending that authority.

Any amount transferred to the unemployment trust fund by the secretary of the treasury of the United States under the terms of any agreement entered into in accordance with the authority extended in this subsection shall be repaid to the secretary of the treasury of the United States for the unemployment trust fund.

Whenever all interest bearing advances from the federal government have been repaid, if employers will be able to avoid, under the provisions of section 3302(g) of the federal unemployment tax act, 26 USC 3302(g), direct payment of the additional federal unemployment tax imposed under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302(c)(2), funds sufficient to qualify for avoidance shall be transferred from the account of this state in the federal unemployment trust fund to the federal unemployment account in that trust fund, unless precluded by federal law.

Any interest required to be paid on advances under title XII of the social security act, 42 USC 1321 to 1324, shall be paid in a timely manner and shall not be paid, directly or indirectly by an equivalent reduction in contributions or payments in lieu of contributions, from amounts in this state's account in the federal unemployment trust fund.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2005.

Conditional effective date.

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

(a) Senate Bill No. 171.

(b) Senate Bill No. 174.

(c) House Bill No. 4414.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 171 was filed with the Secretary of State May 4, 2005, and became 2005 PA 18, Eff. July 1, 2005.
Senate Bill No. 174 was filed with the Secretary of State May 4, 2005, and became 2005 PA 19, Eff. July 1, 2005.
House Bill No. 4414 was filed with the Secretary of State May 4, 2005, and became 2005 PA 17, Eff. July 1, 2005.

[No. 17]

(HB 4414)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 22 (MCL 421.22).

The People of the State of Michigan enact:

421.22 Transfer of business.

Sec. 22. (a) If an employer subject to this act transfers any of the assets of the business by any means otherwise than in the ordinary course of trade and there is not substantially common ownership, management, or control of the transferor and the transferee, the

transfer shall be deemed a "transfer of business" for the purposes of this section if the commission determines both of the following:

(1) That the transferee is an employer subject to this act on the transfer date, has become subject to this act as of the transfer date under section 41(2)(a) or elects to become subject to this act as of the transfer date under section 25.

(2) That the transferee has acquired and used the transferor's trade name or good will, or that the transferee has continued or within 12 months after the transfer resumed all or part of the business of the transferor either in the same establishment or elsewhere.

(b) Notwithstanding subsection (a), a transfer of assets to a transferee that involves less than 75% of the transferor's assets shall not be deemed a transfer of business unless all of the following occur:

(1) The commission is notified of the transfer of assets by the transferor or transferee within 30 days after the end of the quarter in which the transfer occurred.

(2) The commission receives within 30 days after its request written approval by the transferor and transferee of an experience account transfer determined in accordance with the provisions of subsection (c).

(3) In the case of a transferee who elects under section 25 to become subject as of the transfer date, the commission receives the election within 30 days after the mailing of a notice of the right to elect.

(c) (1) In the case of a transfer of business as defined in subsection (a) or (b), the commission shall assign the transferor's experience account, or a pro rata part of the account, to the transferee. The commission shall make the assignment as of the date on which the business is transferred or as of June 30 of the year in which the business was transferred, whichever date is earlier. The pro rata part of the transferor's experience account to be assigned to the transferee shall be determined on the basis of the percentage relationship to the nearest 1/2 of 1% that the insured payroll for the 4 completed calendar quarters immediately before the date of transfer properly allocable to the transferred portion of the business bears to the insured payroll for the same period allocable to the entire business of the transferor immediately before the date of the transfer.

(2) When the commission transfers an employer's experience account in whole or in part under this section, it shall also transfer a proportionate share of the amount of the total wages and wages subject to contributions under this act paid by the transferor and properly allocable to the transfer of business; and the transferred account shall be chargeable for all benefit payments based on employment in the business or portion of the business transferred.

(3) In determining whether the transferee qualifies for a contribution rate that includes a chargeable benefits component under section 19, the experience of the transferred account shall be included as part of the experience of the transferee's experience account. If on the date of the transfer the transferee qualified for a contribution rate that includes a chargeable benefits component and the transferor did not qualify because of the provisions of section 19(a)(1), the transferee shall not thereby lose the qualified status.

(d) In the case of a transfer of business as defined in subsection (a) or (b) of this section, contribution rates are determined as follows:

(1) The rates of contributions applicable to the transferor and transferee for the calendar year after the calendar year of the transfer shall be respectively determined in

accordance with section 19. In case of a transfer of part of an employer's experience account under subsection (c), the rate of contributions applicable to the transferor and transferee shall not be changed for the portion of the current calendar year remaining on the transfer date. In case of a transfer of an employer's entire experience account under subsection (c), all of the following apply:

(*i*) The transferor shall have no further interest in the experience account.

(*ii*) The transferor's coverage shall be terminated as of the effective date of the transfer under section 24(b).

(*iii*) If the transferor again becomes an employer as defined in section 41 in the same calendar year in which coverage is terminated, the transferor's contribution rate for the remainder of the calendar year shall be 2.7% as provided in section 19.

(*iv*) The rate of contributions applicable to the transferee shall not be changed for the portion of the current calendar year remaining on the transfer date.

(2) A transferee that has no rate of contributions applicable immediately before the transfer date shall, beginning with the first day of the quarter in which the transfer occurs, be assigned the same rate of contributions that applied to the transferor on the date of the transfer and a contribution rate of 2.7% for any portion of the calendar year before the first day of the quarter in which the transfer occurs.

(3) If transfers of businesses simultaneously involve 2 or more transferors and a single transferee who has no rate of contributions applicable immediately before the transfer date, the transferee shall be assigned a contribution rate beginning with the first day of the quarter in which the transfers occur based upon the experience account percentage determined by the transferred experience account balances and the total and insured payrolls properly allocable to the transferee as of the date on which the businesses were transferred, or as of June 30 of the year in which the businesses were transferred, whichever is earlier, and a contribution rate of 2.7% for any portion of the calendar year before the first day of the quarter in which the transfers occur. If none of the transferors was an employer entitled to an adjusted contribution rate, then a contribution rate of 2.7% shall apply to the transferee for the calendar year in which the transfers occur.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2005.

Conditional effective date.

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

(a) Senate Bill No. 171.

(b) Senate Bill No. 174.

(c) House Bill No. 4415.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 171 was filed with the Secretary of State May 4, 2005, and became 2005 PA 18, Eff. July 1, 2005.
Senate Bill No. 174 was filed with the Secretary of State May 4, 2005, and became 2005 PA 19, Eff. July 1, 2005.
House Bill No. 4415 was filed with the Secretary of State May 4, 2005, and became 2005 PA 16, Eff. July 1, 2005.

[No. 18]

(SB 171)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," (MCL 421.1 to 421.75) by adding section 22b.

The People of the State of Michigan enact:

421.22b Transferring trade or business with intent to reduce contribution rate or reimbursement payments.

Sec. 22b. (1) A person shall not do either of the following:

(a) Transfer the person's trade or business or a portion of the trade or business to another employer for the sole or primary purpose of reducing the contribution rate or reimbursement payments in lieu of contributions required under this act.

(b) Acquire a trade or business or a part of a trade or business for the sole or primary purpose of obtaining a lower contribution rate than would otherwise apply under this act.

(2) The following provisions apply to assignment of rates and transfer of the unemployment experience of a trade or business to prevent or remedy transfers of trade or business in violation of subsection (1):

(a) If an employer transfers its trade or business or a portion of its trade or business to another employer and there is substantially common ownership, management, or control of the 2 employers at the time of the transfer, the unemployment experience attributable to the transferred trade or business shall be transferred to the transferee employer. The agency shall recalculate the contribution rates of both employers under section 19 and apply the new rates in the same manner as for a transfer of business under section 22(c)(1) and (d)(1). However, if, after a transfer of experience under this subdivision the agency determines that the sole or primary purpose of the transfer of trade or business was to obtain reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the account.

(b) If the unemployment insurance agency determines that a person who is not an employer under this act at the time of a transfer acquires a trade or business, or a portion

of a trade or business, solely or primarily for the purpose of obtaining a lower contribution rate, the unemployment insurance agency shall assign that employer the applicable new employer rate under section 19.

(c) In addition to any sanction available under section 54(b) or 54b, if a person knowingly violates or attempts to violate subsection (1), or if a person knowingly advises another person so as to cause a violation of subsection (1), the person is subject to the following:

(*i*) If the person is a transferring or acquiring employer, the employer shall be assigned the higher of the following contribution rates:

(A) The highest contribution rate assignable under this act for the rate year during which the violation or attempted violation occurs and for the 3 rate years immediately following that rate year.

(B) If the employer's business is already at the highest rate assignable for a year in which the violation occurs or if the highest rate assignable would result in an increase of less than 2% of taxable wages, an additional penalty rate of 2% of taxable wages for that year.

(*ii*) If the person is not an employer, the person is subject to a civil fine of not more than $5,000.00.

(d) Notwithstanding the restrictions in section 26(a), the money recovered under this section as contributions, reimbursements in lieu of contributions, civil fines, civil penalties, or interest shall be credited to the unemployment compensation fund.

(e) The unemployment insurance agency shall establish procedures to identify the transfer or acquisition of a trade or business, or part of a trade or business, for purposes of this section. This subdivision does not grant authority to promulgate rules to define SUTA dumping.

(f) Beginning January 1, 2006, the unemployment insurance agency shall provide an annual written report to the chairpersons of the standing committees and the appropriations subcommittees of the house and senate having jurisdiction over legislation pertaining to unemployment compensation. The report shall include all of the following information in a form that does not identify individual employers:

(*i*) The procedures the agency has adopted to prevent SUTA dumping.

(*ii*) The number of SUTA dumping investigations opened during the year.

(*iii*) The average length of time to resolve a SUTA dumping investigation and the number of investigations pending for more than 6 months and for more than 1 year.

(*iv*) The number of cases brought before an administrative law judge or the board of review and the agency's success rate in those cases.

(*v*) The amount of money recovered as a result of implementing the provisions of this section.

(*vi*) The amount of the balance or deficit in the unemployment compensation fund.

(*vii*) The estimated fiscal impact of SUTA dumping on the unemployment compensation fund balance and the factual basis for the estimate.

(*viii*) The number of full-time employees assigned to, and the number of employee hours devoted to, SUTA dumping prevention, investigation, and remediation.

(*ix*) The number of SUTA dumping investigations that involved the transfer of employees to or from an employee leasing company.

(*x*) The number of investigations in which an employee leasing company was found to have participated in SUTA dumping.

(*xi*) The number of employee leasing companies operating in Michigan.

(3) For purposes of this section, the unemployment insurance agency shall determine whether a transfer is made for the sole or primary purpose of obtaining a lower contribution rate using objective factors, such as the cost of acquiring the business, continuity in operating the business enterprise of the acquired business, the length of time the business enterprise continues to operate, and the number of new employees hired to perform duties unrelated to the business activity or trade conducted before the acquisition.

(4) Notwithstanding any other provision of this act, the following provisions apply to changes in status between reimbursing employer and contributing employer:

(a) If a contributing employer, including an employer described in section 13*l* that elected to be a contributing employer, elects to become a reimbursing employer, any negative balance the employer incurred while a contributing employer must be paid to the agency before the employer may become a reimbursing employer.

(b) Any benefit charges incurred as a result of services performed for a contributing employer that are charged to the employer's account after it has become a reimbursing employer shall be transferred to the employer's reimbursing account and paid by means of reimbursement to the agency.

(c) If a reimbursing employer or an employer described in section 13*l* of this act applies to become a contributing employer and the agency permits the reimbursing employer to become a contributing employer, or if the agency converts a reimbursing employer to a contributing employer, then the employer shall continue to pay the agency as reimbursement payments those benefit charges that were incurred based on wages paid while the employer was a reimbursing employer, and benefit charges incurred based on wages paid after the reimbursing employer became a contributing employer shall be used to calculate the employer's contribution rate.

(5) As used in this section:

(a) "Knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for, the prohibition involved.

(b) "Person" means that term as defined in section 7701 of the internal revenue code of 1986, 26 USC 7701.

(c) "SUTA" means state unemployment tax act.

(d) "SUTA dumping" means transferring a trade or business, or a part of a trade or business, solely or primarily for the purpose of reducing the contribution rate or reimbursement payments in lieu of contributions required under this act.

(e) "Trade or business" includes the employer's employees, but the transfer of some or all of an employer's employees to another employer shall be considered a transfer of trade or business for purposes of this section if, as a result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred employees and that trade or business is performed by the transferee employer.

(6) This section is intended to be interpreted and applied in a manner so as to meet the minimum requirements of the SUTA dumping prevention act of 2004, Public Law 108-295, and implementing federal regulations.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2005.

Conditional effective date.

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

(a) Senate Bill No. 174.

(b) House Bill No. 4414.

(c) House Bill No. 4415.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 174 was filed with the Secretary of State May 4, 2005, and became 2005 PA 19, Eff. July 1, 2005.
House Bill No. 4414 was filed with the Secretary of State May 4, 2005, and became 2005 PA 17, Eff. July 1, 2005.
House Bill No. 4415 was filed with the Secretary of State May 4, 2005, and became 2005 PA 16, Eff. July 1, 2005.

[No. 19]

(SB 174)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 41 (MCL 421.41).

The People of the State of Michigan enact:

421.41 "Employer" defined.

Sec. 41. "Employer" means any of the following:

(1) An employing unit that in each of 20 different calendar weeks within a calendar year, whether or not the weeks were consecutive, has or had in employment 1 or more individuals irrespective of whether the same individual was employed in each week, or by which total remuneration of $1,000.00 or more for employment was paid or payable within the calendar year.

(2) (a) Any individual, legal entity, or employing unit that acquires the organization, trade, or business, or 75% or more of the assets of another organization, trade, or business, which at the time of the acquisition was an employer subject to this act.

(b) Any individual, legal entity, or employing unit that becomes a transferee of business assets by any means otherwise than in the ordinary course of trade from an employer, if there is substantially common ownership, management, or control of the transferor and transferee at the time of transfer.

(3) Any employing unit that has become an employer under subdivision (1), (2), (4), (5), (6), (7), or (9) but has not, under section 24 or 25, ceased to be an employer subject to this act.

(4) For the effective period of its election pursuant to section 25, any other employing unit that has elected to become fully subject to this act.

(5) (a) An employing unit that for some portion of a day in each of 20 different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed 10 or more individuals performing agricultural service, regardless of whether the individuals were employed at the same moment of time, or that, during any calendar quarter in either the current or the preceding calendar year, paid remuneration in cash of $20,000.00 or more to employees performing agricultural service.

(b) For the purposes of this subdivision an individual who is a member of a crew furnished by a farm labor contractor to perform agricultural service for any farm operator shall be treated as an employee of that farm labor contractor if the farm labor contractor holds a valid certificate of registration under the migrant and seasonal agricultural worker protection act, 29 USC 1801 to 1872; or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the farm labor contractor; and if the farm labor contractor is not an employee of the farm operator within the meaning of this act.

(c) For the purposes of this subdivision, in the case of an individual who is furnished by a farm labor contractor to perform agricultural service for a farm operator and who is not treated as an employee of the farm labor contractor under paragraph (b), the farm operator and not the farm labor contractor shall be treated as the employer of the individual, and the farm operator shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the farm labor contractor, either on the farm labor contractor's own behalf or on behalf of the farm operator, for the agricultural service performed for the farm operator.

(d) For the purposes of this subdivision, the term "farm labor contractor" means an individual who does all of the following:

(*i*) Furnishes individuals to perform agricultural service for a farm operator.

(*ii*) Pays, either on the individual's own behalf or on behalf of a farm operator, the individuals furnished by the individual for the agricultural service performed by them.

(*iii*) Has not entered into a written agreement with the farm operator under which the farm labor contractor is designated as an employee of the farm operator.

(6) An employing unit that paid cash remuneration of $1,000.00 or more for domestic service in any calendar quarter in the current calendar year or the preceding calendar year. An employing unit that is determined to be an employer under this subdivision shall not be considered an employer of other covered services unless it meets the test of being an employer under another subdivision of this section.

(7) Any employing unit not an employer by reason of any other paragraph of this section for which services in employment are performed with respect to which the employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; but services performed for the employing unit shall constitute employment for the purposes of this act only to the extent that those services constitute employment with respect to which the federal tax is payable.

(8) For purposes of this section, a week that falls in 2 calendar years shall be considered to fall entirely within the calendar year that contains the majority of days of that week.

(9) Notwithstanding subdivision (1), after December 31, 1977, "employer" includes any employing unit for which services are performed as defined in section 42(8) or (9).

(10) For the purpose of determining the amount of contributions due pursuant to section 44(2), the provisions of subdivisions (5) and (6) shall first apply with respect to remuneration paid after December 31, 1977, for services performed after that date.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2005.

Conditional effective date.

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

(a) Senate Bill No. 171.

(b) House Bill No. 4414.

(c) House Bill No. 4415.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 4, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 171 was filed with the Secretary of State May 4, 2005, and became 2005 PA 18, Eff. July 1, 2005.
House Bill No. 4414 was filed with the Secretary of State May 4, 2005, and became 2005 PA 17, Eff. July 1, 2005.
House Bill No. 4415 was filed with the Secretary of State May 4, 2005, and became 2005 PA 16, Eff. July 1, 2005.

[No. 20]

(HB 4227)

AN ACT to amend 1966 PA 261, entitled "An act to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 15 (MCL 46.415), as amended by 1980 PA 187.

The People of the State of Michigan enact:

46.415 County board of commissioners; compensation and mileage reimbursement of members.

Sec. 15. (1) A member of the county board of commissioners shall receive the compensation and mileage reimbursement fixed by resolution of the county board of

commissioners or for a county which has a county officers compensation commission, fixed by a determination of the county officers compensation commission which is not rejected.

(2) The per mile mileage reimbursement fixed by the county board of commissioners or the county officers compensation commission shall not exceed the mileage reimbursement set for state officers as determined by the state officers compensation commission.

(3) Except as provided under subsection (5), changes in compensation shall become effective only after the time members of the county board of commissioners commence their terms of office after a general election, provided that it is voted upon before the commencement of the new terms of office, or for a county which has a county officers compensation commission, after the beginning of the first odd numbered year after the determination is made by the county officers compensation commission and is not rejected.

(4) This section shall not be construed to prohibit a structured change in compensation implemented in phases over the term of office.

(5) A change in compensation under subsections (1) and (3) may be made in 2005 to be effective on or after January 1, 2006.

(6) As used in this section, "compensation" shall not include mileage reimbursement.

This act is ordered to take immediate effect.
Approved May 4, 2005.
Filed with Secretary of State May 5, 2005.

[No. 21]

(SB 199)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 1021 (MCL 436.2021), as amended by 2002 PA 725.

The People of the State of Michigan enact:

436.2021 Sale or serving of food; removal of liquor from premises; removal of partially consumed bottle of wine from premises; class A or B hotel.

Sec. 1021. (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.