

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2010-2

12.194 Creation of Michigan finance authority within department of treasury; transfer of certain powers and duties of Michigan forest finance authority, Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, Michigan public educational facilities authority, Michigan strategic fund, Michigan tobacco settlement finance authority, Michigan underground storage tank financial assurance authority; state higher education facilities commission, state hospital finance authority, and state land bank fast track authority to Michigan finance authority; transfer of certain powers and duties of Michigan forest finance authority, not otherwise transferred to Michigan finance authority, from Michigan forest finance authority to department of natural resources and environment by type II transfer; transfer of certain powers and duties of Michigan higher education assistance authority to department of treasury; transfer of certain powers and duties of state land bank fast track authority from department of energy, labor, and economic growth to department of treasury; transfer of Michigan state housing development authority from department of energy, labor, and economic growth to the department of treasury.

WHEREAS, Section

1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, under current law the administrative functions of certain public finance authorities have been combined into a single work unit serving several authority boards, under the direction and supervision of the State Treasurer;

WHEREAS, there exist multiple public finance authorities, agencies, and commissions in multiple departments with the ability to finance and otherwise assist certain public and private facilities and activities;

WHEREAS, the Department of Treasury has the expertise to assist with authorities' investments, debt issuances, and debt management to ensure that these functions are accomplished in a coordinated, cost-efficient and effective manner;

WHEREAS, there is a continuing need to reorganize functions among state departments to ensure efficient administration and effectiveness of government;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

B. "Department of Energy, Labor, and Economic Growth" means the principal department of state government created under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order 1996-2, MCL 445.2001, Executive Order 2003-18, MCL 445.2011 and Executive Order 2008-20, MCL 445.2025.

C. "Department of Natural Resources and Environment" means the principal department of state government created under Section 250 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.350, and Section 501 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.501, as modified by Executive Order 1995-18, MCL 324.99903, and by Executive Order 2009-45.

D. "Department of Technology, Management, and Budget" means the principal department of state government created as the Department of Management and Budget under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and renamed under Executive Order 2009-55.

E. "Department of Treasury" or "Department" means the principal department of state government created under Section 75 of 1965 PA 380, MCL 16.175.

F. "Michigan Finance Authority" or "Authority" means the public body corporate and politic created within the Department of Treasury under this Order.

G. "Michigan Forest Finance Authority" means the body corporate created within the Department of Natural Resources and Environment under Section 50503 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50503.

H. "Michigan Higher Education Assistance Authority" means the authority created as an agency within the

Department of Education under Section 1 of 1960 PA 77, MCL 390.951, and transferred to the Department of Treasury by Executive Order 1995-3, MCL 12.181, and modified by Executive Order 2002-12, MCL 12.193.

I. "Michigan Higher Education Facilities Authority" means the public body corporate and politic created as an agency and instrumentality of this state within the Department of Education under Section 3 of the Higher Education Facilities Authority Act, 1969 PA 295, MCL 390.923, and transferred to the Department of Treasury by Executive Order 1992-2, MCL 390, and modified by Executive Order 1995-2, MCL 12.181, and Executive Order 2002-12, MCL 12.193.

J. "Michigan Higher Education Student Loan Authority" means the public body corporate and politic created within the Department of Education under Section 3 of the Higher Education Loan Authority Act, 1975 PA 222, MCL 390.1153, and transferred to the Department of Treasury by Executive Order 1995-3, MCL 12.181, and modified by Executive Order 2002-12, MCL 12.193.

K. "Michigan Municipal Bond Authority" means the body corporate, separate and distinct from this state, created within the Department of Treasury under Sections 4 and 6 of the Shared Credit Rating Act, 1985 PA 227, MCL 141.1054 and 141.1056, and modified by Executive Order 2002-12, MCL 12.193.

L. "Michigan Public Educational Facilities Authority" means the public body corporate and politic created under Executive Order 2002-3, MCL 12.192, and modified by Executive Order 2002-12, MCL 12.193.

M. "Michigan State Housing Development Authority" means the public body corporate and politic created under Section 21 of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1421.

N. "Michigan Strategic Fund" means the public body corporate and politic created under Section 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005.

O. "Michigan Tobacco Settlement Finance Authority" means the public body corporate and politic created within the Department of Treasury under Section 4 of the Michigan Tobacco Settlement Finance Authority Act, 2005 PA 226, MCL 129.264.

P. "Michigan Underground Storage Tank Financial Assurance Authority" means the body corporate created within the Department of Management and Budget under Section 21523 of Part 215 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.21523, and transferred to the Department of Treasury under Executive Order 1995-24, MCL 12.182.

Q. "State Budget Director" means the individual appointed by the Governor under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

R. "State Higher Education Facilities Commission" means the entity created under Section 1 of 1964 PA 941, MCL 390.941, and transferred to the Department of Education by Section 307 of the Executive Organization Act of 1965 PA 380, MCL 16.407.

S. "State Hospital Finance Authority" means the public body corporate and politic of this state created within the Department of Treasury under Section 11 of the Hospital Finance Authority Act, 1969 PA 38, MCL 331.41.

T. "State Land Bank Fast Track Authority" means the authority created as a public body corporate and politic within the Department of Energy, Labor, and Economic Growth under Section 15 of the Land Bank Fast Track Act, 2003 PA 258, MCL 124.765.

U. "Type I transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

V. "Type II transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. CREATION OF THE MICHIGAN FINANCE AUTHORITY

A. The Michigan Finance Authority is created as an autonomous public body corporate and politic within the Department of Treasury.

B. The Authority shall exercise its powers, duties, and functions independently of the Department. The budgeting, procurement, and related management functions of the Authority shall be performed under the direction and supervision of the State Treasurer. The Michigan Finance Authority shall be staffed and assisted by personnel from the Department of Treasury as a single work unit under the direction and supervision of the State Treasurer, subject to available funding.

C. The powers, duties, and functions of the Authority are vested in a board of directors. The Board of Directors of the Authority shall consist of the following 7 members:

1. The State Treasurer, who may designate a representative from within the Department to serve as a voting member of the Board of Directors of the Authority in the absence of the State Treasurer.

2. Six directors appointed by the Governor, with the advice and consent of the Senate, including all of the following:

a. One resident of this state with experience in housing and community development issues or relating to public finance.

b. One resident of this state with experience in education issues, including but not limited to, issues related to public school districts, public community colleges, or public universities, or relating to public finance.

c. One resident of this state with experience in economic development issues or relating to public finance.

d. One resident of this state with experience in natural resources and environmental issues or relating to public finance.

e. One resident of this state with experience in issues relating to hospitals or other health facilities or relating to public finance.

f. One other resident of this state.

D. Not more than 3 of the members of the Board of Directors of the Michigan Finance Authority shall be members of the same political party. Members of the Board of Directors of the Authority shall discharge their duties in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties, a member of the Board of Directors of the Authority, when acting in good faith, may rely upon the opinion of counsel for the Authority, upon the report of an independent appraiser selected with reasonable care by the Authority, or upon financial statements of the Authority represented to the member of the Board of Directors to be correct by the individual having charge of books or account of the Authority, or stated in a written report by a certified public accountant or firm of certified public accountants to fairly reflect the financial condition of the Authority.

E. Except as otherwise provided in this subsection, the members of the Board of Directors of the Authority shall be appointed for a term of 4 years. Of the 6 directors initially appointed, 3 directors shall be appointed for an initial term expiring on September 30, 2010, 1 director shall be appointed for an initial term expiring on September 30, 2011, 1 director shall be appointed for an initial term expiring on September 30, 2012, and 1 director shall be appointed for an initial term expiring on September 30, 2013.

F. A vacancy on the Board of Directors of the Authority occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term. A member of the Board of Directors of the Authority may be reappointed for subsequent additional terms.

G. The State Treasurer shall serve as the Chairperson of the Michigan Finance Authority. The Board of Directors may select a member of the Board of Directors to serve as the Vice-Chairperson of the Authority.

III. OPERATIONS OF THE MICHIGAN FINANCE AUTHORITY

A. The Board of Directors of the Authority shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

B. A majority of the members of the Board of Directors of the Authority serving constitutes a quorum for the transaction of the business of the Authority. The Board of Directors of the Authority shall act by a majority vote of the serving members of the Board of Directors.

C. The Board of Directors of the Authority shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Board of Directors.

D. The Board of Directors of the Authority may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Board also may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

E. The Board of Directors of the Authority may establish advisory workgroups composed of representatives of entities participating in Authority activities or other members of the public as deemed necessary by the Board of Directors of the Authority to assist the Authority in performing its duties and responsibilities. The Board of Directors of the Authority may adopt, reject, or modify any recommendations proposed by an advisory workgroup.

F. The Board of Directors of the Authority shall conduct all business at public meetings held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

G. Members of the Board of Directors of the Authority shall serve without compensation, but may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

H. The Michigan Finance Authority may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Authority and the performance of its duties as the Board of Directors of the Authority deems advisable and necessary, in accordance with this Order, other Michigan law, and the rules and procedures of the Civil Service Commission and the Department of Technology, Management, and Budget.

I. The Authority may accept donations of labor, services, or other things of value from any public or private agency or person.

J. The Board of Directors of the Authority may delegate to 1 or more agents or employees those powers or duties with the limitations as the Board of Directors of the Authority considers proper.

K. Members of the Board of the Directors of the Authority shall refer all legislative and media contacts relating to the Authority to the Department of Treasury.

L. As of the effective date of this Order, the Authority is designated and authorized to receive and utilize all allocations and carry forward allocations of the tax credit, tax-exempt, or taxable obligations that may be issued to

finance projects subject to the authority of the Michigan Finance Authority under this Order as permitted under the federal Internal Revenue Code of 1986, as amended, or as otherwise permitted by law.

IV. TRANSFERS TO MICHIGAN FINANCE AUTHORITY

A. Michigan Forest Finance Authority

1. Except as otherwise provided in Sections IV.A.2 and V.A.1, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Forest Finance Authority, and the Board of Directors of the Michigan Forest Finance Authority relating to borrowing money and the issuance of bonds or notes are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Forest Finance Authority relating to borrowing money and the issuance of bonds or notes under Part 505 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50501 to 324.50522.

2. The position of State Forester under Section 50502 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50502, and powers, duties, functions and responsibilities otherwise performed by the State Forester shall remain with the Department of Natural Resources and Environment. The position of Executive Director of the Michigan Forest Finance Authority provided for under Section 50505 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50505, is abolished.

3. The Board of Directors of the Michigan Forest Finance Authority is abolished.

B. Michigan Higher Education Assistance Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Assistance Authority not transferred to the Department of Treasury under Section VI.A. are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Assistance Authority under the Michigan Higher Education Assistance Authority Act, 1960 PA 77, MCL 390.951 to 390.961.

2. As deemed necessary or appropriate by the Michigan Finance Authority, the Michigan Finance Authority may act in the place and stead of the Michigan Higher Education Assistance Authority and may take all actions that the Michigan Higher Education Assistance Authority could have taken under existing agreements and may execute conveyances, assignments, continuations, and transfers, or take other action as may be necessary or appropriate to implement the transfer under this Section IV.B.

3. The governing body of the Michigan Higher Education Assistance Authority is abolished.

C. Michigan Higher Education Facilities Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Facilities Authority and of the members of the Michigan Higher Education Facilities Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Facilities Authority under the Michigan Higher Education Facilities Authority Act, 1969 PA 295, MCL 390.921.

2. The governing body of the Michigan Higher Education Facilities Authority authorized under Section 3 of the Michigan Higher Education Facilities Authority Act, 1969 PA 295, MCL 390.923, is abolished.

D. Michigan Higher Education Student Loan Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Student Loan Authority and of the members of the Michigan Higher Education Student Loan Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Higher Education Student Loan Authority under the Higher Education Loan Authority Act, 1975 PA 222, MCL 390.1151 to 390.1165.

2. The governing body of the Michigan Higher Education Student Loan Authority authorized under Section 3 of the Higher Education Loan Authority Act, 1975 PA 222, MCL 390.1153, is abolished.

E. Michigan Municipal Bond Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Municipal Bond Authority and of the members of the Board of Trustees of the Michigan Municipal Bond Authority, are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Municipal Bond Authority under all of the following:

a. The Shared Credit Rating Act, 1985 PA 227, MCL 141.1051 to 141.1076.

b. Section 2b of 1855 PA 105, MCL 21.142b.

- c. Section 7 of the Revenue Bond Act of 1933, 1933 PA 94, MCL 141.107.
- d. Section 17a of the Glenn Steil Revenue Sharing Act of 1971, 1971 PA 140, MCL 141.917a.
- e. Sections 3 and 4 of the Safe Drinking Water Financial Assistance Act, 2000 PA 147, MCL 141.1453 and 141.1454.
- f. Section 415(3) of the Revised Municipal Finance Act, 2001 PA 34, MCL 141.2415(3).
- g. Section 10n of 1951 PA 51, MCL 247.660n.
- h. Part 52 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5201 to 324.5206.
- i. Part 53 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5301 to 324.5316.
- j. Part 54 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.5401 to 324.5419.
- k. Part 197 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.19701 to 324.19708.
- l. Section 1225(3) of The Revised School Code, 1976 PA 451, MCL 380.1225(3).
- m. Article I of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1619.
- n. Sections 9 and 14 of the School Bond Qualification, Approval, and Loan Act, 2005 PA 92, MCL 388.1929 and 388.1934.
- 2. The Board of Trustees of the Michigan Municipal Bond Authority is abolished.
- F. Michigan Public Educational Facilities Authority
 - 1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, of the Michigan Public Educational Facilities Authority and of the members of the Board of Trustees of the Michigan Public Educational Facilities Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Public Educational Facilities Authority under Executive Order 2002-3, MCL 12.192.
 - 2. The Board of Trustees of the Michigan Public Educational Facilities is abolished.
- G. Michigan Strategic Fund
 - 1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Strategic Fund, with respect to the construction, rehabilitation, refurbishing or equipping of facilities that are occupied or used or to be occupied by or to be used by or for the benefit of a public school or a private school, are transferred from the Michigan Strategic Fund to the Michigan Finance Authority, including but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Strategic Fund relating to the construction, rehabilitation, refurbishing or equipping of facilities that are occupied or used or to be occupied by or to be used by or for the benefit of a public school or a private school under the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2001 to 125.2094.
 - 2. Upon the completion of the transfers under Section IV.G.1, the Michigan Strategic Fund shall continue to exercise the authority, powers, duties, functions, and responsibilities of the Michigan Strategic Fund not transferred to the Department of Treasury as an autonomous entity within the Department.
 - 3. The transfers under Section IV.G.1 are subject to any agreement executed prior to the issuance of this Order with note holders, bond holders, or issuers of instruments that are guaranteed.
 - 4. Nothing in this Order shall be construed to impair the obligation of any bond or note issued by the Michigan Strategic Fund. Bonds and notes issued or to be issued by the Michigan Strategic Fund or on behalf of the Michigan Strategic Fund are obligations of the Michigan Strategic Fund and not obligations of this state.
- H. Michigan Tobacco Settlement Finance Authority
 - 1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Tobacco Settlement Finance Authority and of the Board of Directors of the Michigan Tobacco Settlement Finance Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, of the Michigan Tobacco Settlement Finance Authority under the Michigan Tobacco Settlement Finance Authority Act, 2005 PA 226, MCL 129.261 to 129.279.
 - 2. The Board of Directors of the Michigan Tobacco Settlement Finance Authority is abolished.
- I. Michigan Underground Storage Tank Financial Assurance Authority
 - 1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Underground Storage Tank Financial Assurance Authority and of the Board of Directors of the Michigan Underground Storage Tank Financial Assurance Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Underground Storage Tank Financial Assurance Authority under Part

215 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.21501 to 324.21563.

2. The Board of Directors of the Michigan Underground Storage Tank Financial Assurance Authority is abolished.

J. State Higher Education Facilities Commission

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Higher Education Facilities Commission and of the members of the State Higher Education Facilities Commission are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Higher Education Facilities Commission under 1964 PA 233, MCL 390.941 to 390.948.

2. The governing body of the State Higher Education Facilities Commission is abolished.

K. State Hospital Finance Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Hospital Finance Authority and of the members of the State Hospital Finance Authority are transferred to the Michigan Finance Authority, including, but not limited to, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Hospital Finance Authority under all of the following:

a. The Hospital Finance Authority Act, 1969 PA 38, MCL 331.41 to 331.84.

b. Section 21522 of the Public Health Code, 1978 PA 368, MCL 333.21552.

2. The governing body of the State Hospital Finance Authority is abolished.

L. State Land Bank Fast Track Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the State Land Bank Fast Track Authority with respect to issuance of bonds or notes by the State Land Bank Fast Track Authority, including, but not limited to, the Land Bank Fast Track Authority Act, 2003 PA 258, MCL 124.751 to 124.774, or subject to Section 7gg(3)(b) of The General Property Tax Act, 1893 PA 206, MCL 211.7gg(3)(b), are transferred to the Michigan Finance Authority and are to be exercised by the members of the Michigan Finance Authority.

V. TRANSFERS TO DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

A. Michigan Forest Finance Authority

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Forest Finance Authority and of the Board of Directors of the Michigan Forest Finance Authority not otherwise transferred to the Michigan Finance Authority under Section IV.A are transferred by Type II transfer from the Michigan Forest Finance Authority to the Department of Natural Resources and Environment.

VI. TRANSFERS TO DEPARTMENT OF TREASURY

A. Michigan Higher Education Assistance Authority

1. Except as otherwise provided in this Order, the authority, powers, duties, functions, programs, responsibilities, rights, properties, and obligations pertaining to rule-making, adjudication, licensing and registration and the prescription of rules, rates, regulations and standards of the Michigan Higher Education Assistance Authority under all of the following are transferred to the Department of Treasury:

a. 1964 PA 208, MCL 390.971 to 390.981 (state competitive scholarships).

b. 1966 PA 313, MCL 390.991 to 390.997a (tuition grants).

c. The Michigan Nursing Scholarship Act, 2002 PA 591, MCL 390.1181 to 390.1189.

d. 1986 PA 102, MCL 390.1281 to 390.1288 (part-time, independent student grants).

e. 1986 PA 303, MCL 390.1321 to 390.1332 (Michigan Work-Study Program).

f. The Children of Veterans Tuition Grant, 2005 PA 248, MCL 390.1341 to 390.1346.

g. 1986 PA 288, MCL 390.1371 to 390.1382 (Michigan Work-Study Program).

h. 1986 PA 273, MCL 390.1401 to 390.1409 (Michigan Educational Opportunity Grant Program).

i. 20 USC 1070d-31 to 1070d-41 (Robert C. Byrd Honors Scholarship Program).

2. As deemed necessary or appropriate by the State Treasurer, the State Treasurer may act in the place and stead of the Michigan Higher Education Assistance Authority and may take all actions that the Michigan Higher Education Assistance Authority could have taken under existing agreements and may execute conveyances, assignments, continuations, and transfers, or take other action, as necessary or appropriate to implement the transfers to the Department of Treasury under this Section VI.A.

B. State Land Bank Fast Track Authority

1. Except as provided in this Order, the State Land Bank Fast Track Authority created under Section 15 of the

Land Bank Fast Track Authority Act, 2003 PA 258, MCL 124.765, is transferred by Type I transfer from the Department of Energy, Labor, and Economic Growth to the Department of Treasury.

C. Michigan State Housing Development Authority

1. The Michigan State Housing Development Authority created under Section 21 of the State Housing Development Authority Act, 1966 PA 346, MCL 125.1421, is transferred intact from the Department of Energy, Labor, and Economic Growth to the Department of Treasury.

2. Except for the transfer of the Michigan State Housing Development Authority under Section VI.C.1, nothing in this Order shall alter the statutory authority, powers, duties, functions, and responsibilities of the Michigan State Housing Development Authority, which shall remain with the Michigan State Housing Development Authority. All records, property, personnel, monies, and funds of the Michigan State Housing Development Authority, including, but not limited to, bonds, notes, reserves, and trust funds, remain under the control of the Michigan State Housing Development Authority, subject to any agreements of the Michigan State Housing Development Authority with note and bond holders.

3. The Michigan State Housing Development Authority shall exercise its powers, duties, and functions independently of the Department. Consistent with Executive Order 2008-20, MCL 445.2025, the budgeting, procurement, and related management functions of the Michigan State Housing Development Authority shall be performed under the direction and supervision of the State Treasurer. When directing and supervising the budgeting, procurement, and related management functions of the Michigan State Housing Development Authority, the State Treasurer shall remain cognizant of the rights of the holders of Michigan State Housing Development Authority bonds or notes. Certain Michigan State Housing Development Authority bond or note contracts may require the Michigan State Housing Development Authority to either maintain sufficient personnel or contract for services to plan Michigan State Housing Development Authority programs and to supervise enforcement and, where necessary, foreclosure of Michigan State Housing Development Authority mortgage agreements.

4. The transfer of the Michigan State Housing Development Authority under Section VI.C.1 is subject to any agreement executed prior to the issuance of this Order with note holders, bond holders, or issuers of instruments that are guaranteed.

5. Nothing in this Order shall be construed to affect the status of moneys of the Michigan State Housing Development Authority. Moneys of the Michigan State Housing Development Authority are not moneys of this state and shall continue to be non-state funds. State funds appropriated to the Michigan State Housing Development Authority lose their identity as state funds upon payment to the Michigan State Housing Development Authority and become public funds of the Michigan State Housing Development Authority under the control of the Michigan State Housing Development Authority. Funds established by or within the Michigan State Housing Development Authority are public trust funds administered by the Michigan State Housing Development Authority.

6. Nothing in this Order shall be construed to impair the obligation of any bond or note issued by or on behalf of the Michigan State Housing Development Authority. Bonds and notes issued by or on behalf of the Michigan State Housing Development Authority are obligations of the Michigan State Housing Development Authority and not obligations of this state.

7. The Michigan State Housing Development Authority may contract with the Department for the purpose of maintaining the rights and interests of the Michigan State Housing Development Authority. Subject to available appropriations, if requested by the Michigan State Housing Development Authority, the Department shall provide staff and other support to the Michigan State Housing Development Authority to assist with its duties, powers, and responsibilities.

8. The Michigan State Housing Development Authority and the Department shall actively cooperate to identify and implement administrative efficiencies and economies at the Michigan State Housing Development Authority and the Department of Treasury. The Michigan State Housing Development Authority and the Department also shall coordinate activities relating to investments of the Michigan State Housing Development Authority when responsibilities relating to investments are vested in the State Treasurer or the Department of Treasury under the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

VII. IMPLEMENTATION OF TRANSFERS

A. The State Treasurer shall provide executive direction and supervision for the implementation of all transfers to the Department of Treasury and the Michigan Finance Authority under this Order. The Director of the Department of Natural Resources and Environment shall provide executive direction and supervision for the implementation of all transfers to the Department of Natural Resources and Environment under this Order.

B. The State Treasurer shall administer the functions transferred to the Department of Treasury under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order. The Michigan Finance Authority shall administer the functions transferred to the Authority under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order. The Director of the Department of Natural Resources

and Environment shall administer the functions transferred to the Department of Natural Resources and Environment under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

C. Consistent with Executive Order 2002-12, MCL 12.193, the State Treasurer shall serve as the appointing authority for the state classified civil service employees performing functions for the Michigan Finance Authority.

D. The State Treasurer shall identify the public finance positions to be consolidated into the Michigan Finance Authority. This paragraph does not affect public finance positions at the Michigan State Housing Development Authority.

E. The State Treasurer shall, in the State Treasurer's discretion, ensure that the staff resources available to the Authority are sufficient to perform the functions vested in the Authority as provided for by law, subject to available funding.

F. Subject to available appropriations, if requested by the Authority, the Department shall provide staff and other support to the Authority sufficient to carry out its duties, powers, and responsibilities.

G. To the extent that there are any agreements between the Authority and the Department or any authority affected by this Order, they shall be consistent with this Order and documented by a memorandum of understanding between the State Treasurer and the Authority.

H. All departments and agencies of state government shall provide full cooperation to the Michigan Finance Authority in the performance of its duties, powers, and responsibilities.

I. For the purpose of implementing this Order or facilitating the performance of staff functions and upon the request of the Michigan Finance Authority, the State Treasurer may enter into a written agreement, including a service level agreement, with any other department, agency, authority, or state entity regarding the performance functions for the Michigan Finance Authority.

J. The State Treasurer shall immediately initiate coordination with departments, agencies, authorities, and entities within the executive branch of state government to facilitate the transfers to the Department of Treasury under this Order. Each principal department affected by the transfers under this Order shall issue, after consultation with the State Treasurer, a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the transferring department related to the transfers under this Order.

K. Departments, agencies, and state officers within the executive branch of state government shall fully and actively cooperate with the State Treasurer in the implementation of this Order. The State Treasurer may request the assistance of other departments, agencies, and state officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other issues related to implementation of the transfers under this Order, and the departments and agencies shall provide the assistance requested.

L. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity other than the Michigan State Housing Development Authority for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Department are transferred to the Department. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Authority are transferred to the Authority. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Department of Natural Resources and Environment are transferred to the Department of Natural Resources and Environment.

M. All property subject to transfer to the Authority under this Order shall be transferred to and shall be the property of the Authority, subject to any liens, restrictions and limitations, provided in this Order. Nothing in this Order shall be construed to impair the obligation of any bond, note, or contract authorized, issued, or existing on the date of this Order.

N. The transfers to the Michigan Finance Authority under this Order are subject to any agreement executed prior to the issuance of this Order with note holders, bond holders or issuers of instruments that are guaranteed.

O. The Authority shall acquire and succeed to all the rights, properties, obligations and duties under the provisions of law, including, without limitation, all allocations and carry forward allocations of the amount of tax credit, taxable, and tax-exempt obligations that may be issued under the federal Internal Revenue Code of 1986, as amended, or as otherwise provided by law.

P. The Authority shall assume and be liable for all of the obligations, promises, covenants, commitments, and other requirements under law of the powers transferred to the Authority under this Order and shall perform all of the duties and obligations and shall be entitled to all of the rights of the entities transferred under any of their agreements, resolutions, indentures, or other instruments of law.

Q. All actions, commitments, or proceedings undertaken for all bond projects for which a declaration of official intent to reimburse, an inducement resolution, or a bond authorizing resolution has been adopted shall remain valid and effective upon assumption by the Authority under this Order. All actions, commitments, or proceedings in the

process of being undertaken by but not yet a commitment or obligation may be undertaken and completed by the Authority as provided in this Order or other applicable law and in any agreements. Actions undertaken and completed by the Authority under this paragraph shall be considered to be the actions of authorities on whose behalf the Authority has acted.

R. The State Treasurer may delegate within the Department of Treasury a duty or power conferred on the State Treasurer by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the State Treasurer. The Michigan Finance Authority may delegate within the Michigan Finance Authority or, with the consent of the State Treasurer, the Department of Treasury, a duty or power conferred on the Michigan Finance Authority by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the Michigan Finance Authority.

VIII. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, regulations, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. This Order shall not abate any criminal action commenced by this state prior to the effective date of this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of this Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective May 30, 2010 at 12:01 a.m.

History: 2010, E.R.O. No. 2010-2, Eff. May 30, 2010

Compiler's Notes: In paragraph "I." under "I. DEFINITIONS", the citation to "Executive Order No. 1992-2, MCL 390" evidently should read "Executive Order No. 1992-2, MCL 390.940". For the transfer of the powers and duties for the administration of certain scholarship and grant programs from the office of postsecondary financial planning within the department of treasury to the director of MiLEAP, see E.R.O. No. 2023-2, compiled at MCL 388.1283.