

For Fiscal Year  
Ending Sept. 30,  
2005

**Department of military and veterans affairs.**

**Sec. 111. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

**(1) APPROPRIATION SUMMARY**

GROSS APPROPRIATION.....	\$	3,433,300
Total interdepartmental grants and intradepartmental transfers ....		0
ADJUSTED GROSS APPROPRIATION.....	\$	3,433,300
Total federal revenues.....		3,433,300
Total local revenues .....		0
Total private revenues.....		0
Total other state restricted revenues.....		0
State general fund/general purpose .....	\$	0

**(2) GRAND RAPIDS VETERANS' HOME**

Grand Rapids veterans' home.....	\$	433,300
GROSS APPROPRIATION.....	\$	433,300

Appropriated from:

Federal revenues:

HHS, Medicaid.....		109,700
DVA-VHA .....		326,600

Special revenue funds:

State general fund/general purpose .....	\$	0
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**(3) HEADQUARTERS AND ARMORIES**

State active duty.....	\$	3,000,000
GROSS APPROPRIATION.....	\$	3,000,000

Appropriated from:

Federal revenues:

Emergency management assistance compact.....		3,000,000
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Special revenue funds:

State general fund/general purpose .....	\$	0
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**Department of natural resources.**

**Sec. 112. DEPARTMENT OF NATURAL RESOURCES**

**(1) APPROPRIATION SUMMARY**

GROSS APPROPRIATION.....	\$	1,100,000
Total interdepartmental grants and intradepartmental transfers ....		0
ADJUSTED GROSS APPROPRIATION.....	\$	1,100,000
Total federal revenues.....		0
Total local revenues .....		0
Total private revenues.....		0
Total other state restricted revenues.....		1,100,000
State general fund/general purpose .....	\$	0

**(2) FOREST, MINERAL, AND FIRE MANAGEMENT**

Forest and timber treatments.....	\$	350,000
Forest fire protection.....		630,000
Travel.....		120,000
GROSS APPROPRIATION.....	\$	1,100,000

Appropriated from:

Special revenue funds:

Forest development fund.....		1,100,000
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State general fund/general purpose .....	\$	0
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For Fiscal Year  
Ending Sept. 30,  
2005

**Department of state.**

**Sec. 113. DEPARTMENT OF STATE**

**(1) APPROPRIATION SUMMARY**

GROSS APPROPRIATION.....	\$	35,552,000
Total interdepartmental grants and intradepartmental transfers ....		0
ADJUSTED GROSS APPROPRIATION.....	\$	35,552,000
Total federal revenues.....		33,661,000
Total local revenues .....		0
Total private revenues.....		0
Total other state restricted revenues.....		0
State general fund/general purpose .....	\$	1,891,000

**(2) ELECTION REGULATION**

Help America vote act (HAVA) .....	\$	35,552,000
GROSS APPROPRIATION.....	\$	<u>35,552,000</u>
Appropriated from:		
Federal revenues:		
HHS-HAVA .....		33,661,000
Special revenue funds:		
State general fund/general purpose .....	\$	1,891,000

**Department of state police.**

**Sec. 114. DEPARTMENT OF STATE POLICE**

**(1) APPROPRIATION SUMMARY**

GROSS APPROPRIATION.....	\$	5,844,700
Total interdepartmental grants and intradepartmental transfers ....		0
ADJUSTED GROSS APPROPRIATION.....	\$	5,844,700
Total federal revenues.....		4,675,300
Total local revenues .....		0
Total private revenues.....		0
Total other state restricted revenues.....		870,000
State general fund/general purpose .....	\$	299,400

**(2) MOTOR CARRIER ENFORCEMENT**

Safety projects .....	\$	527,700
GROSS APPROPRIATION.....	\$	<u>527,700</u>
Appropriated from:		
Federal revenues:		
DOT.....		527,700
Special revenue funds:		
State general fund/general purpose .....	\$	0

**(3) EMERGENCY MANAGEMENT**

Disaster assistance .....	\$	3,000,000
GROSS APPROPRIATION.....	\$	<u>3,000,000</u>
Appropriated from:		
Federal revenues:		
FEMA.....		3,000,000
Special revenue funds:		
State general fund/general purpose .....	\$	0

**(4) SPECIAL OPERATIONS**

Traffic services.....	\$	1,267,600
GROSS APPROPRIATION.....	\$	<u>1,267,600</u>

	For Fiscal Year Ending Sept. 30, 2005
Appropriated from:	
Federal revenues:	
DOT.....	\$ 1,147,600
Special revenue funds:	
Drunk driving prevention and training fund.....	120,000
State general fund/general purpose .....	\$ 0
<b>(5) CRIMINAL JUSTICE INFORMATION CENTER</b>	
Criminal justice information center division .....	\$ 750,000
GROSS APPROPRIATION.....	\$ 750,000
Appropriated from:	
Special revenue funds:	
Criminal justice information center service fees .....	750,000
State general fund/general purpose .....	\$ 0
<b>(6) AT-POST TROOPERS</b>	
Body armor replacement purchase.....	\$ 299,400
GROSS APPROPRIATION.....	\$ 299,400
Appropriated from:	
Special revenue funds:	
State general fund/general purpose .....	\$ 299,400

**Department of treasury.****Sec. 115. DEPARTMENT OF TREASURY****(1) APPROPRIATION SUMMARY**

GROSS APPROPRIATION.....	\$ 453,000
Total interdepartmental grants and intradepartmental transfers ....	0
ADJUSTED GROSS APPROPRIATION.....	\$ 453,000
Total federal revenues.....	0
Total local revenues .....	0
Total private revenues.....	0
Total other state restricted revenues.....	0
State general fund/general purpose .....	\$ 453,000

**(2) REVENUE SHARING**

Special census revenue sharing payments.....	\$ 453,000
GROSS APPROPRIATION.....	\$ 453,000
Appropriated from:	
Special revenue funds:	
State general fund/general purpose .....	\$ 453,000

## PART 2

## PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS****Total state spending for fiscal year ending September 30, 2005; payments to local units of government.**

Sec. 201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending from state resources in part 1 for the fiscal year

ending September 30, 2005 is \$67,345,100.00 and state appropriations paid to local units of government are \$8,953,000.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

DEPARTMENT OF ENVIRONMENTAL QUALITY	
Nonpoint source pollution prevention and control program.....	\$ 7,000,000
JUDICIARY	
Court equity fund reimbursements.....	\$ 1,500,000
DEPARTMENT OF TREASURY	
Special census revenue sharing payments.....	\$ 453,000
TOTAL .....	\$ 8,953,000

**Expenditures subject to MCL 18.1101 to 18.1594.**

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

**Additional appropriations; limitation.**

Sec. 203. (1) In addition to the amounts appropriated in part 1, there is appropriated to the departments of agriculture, attorney general, community health, environmental quality, labor and economic growth, management and budget, military and veterans affairs, state, state police, transportation, and treasury and the Michigan strategic fund from federal and state restricted revenue sources an amount equal to fiscal year 2003-2004 salaries, wages, and fringe benefits charged to fiscal year 2004-2005 and financed from federal and state restricted revenue sources.

(2) For each appropriated fund source, the amounts appropriated under this section shall not exceed the federal and state restricted appropriations lapses at September 30, 2004 and the available federal and state restricted revenues in excess of appropriated amounts for fiscal year 2004-2005.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Environmental bond site reclamation; unexpended funds as work project.**

Sec. 301. The unexpended funds appropriated in part 1 for environmental bond site reclamation 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 out is for site assessment fund grant funding.
- (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.

**Nonpoint source pollution control grants; unexpended funds as work project.**

Sec. 302. The unexpended funds appropriated in part 1 for nonpoint source pollution control grants 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 out is to address nonpoint source pollution.
- (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.

**Appropriation to environment protection fund; limitation.**

Sec. 303. For the fiscal year ending September 30, 2005, funds in the environmental education fund of \$561,500.00 are hereby appropriated to the environmental protection fund. Not more than \$77,000.00 of the funds appropriated to the environmental protection fund shall be used to fund the laboratory recognition program in the period beginning October 1, 2004 and ending December 31, 2006.

**DEPARTMENT OF STATE****Help America vote act; unexpended funds as work project.**

Sec. 401. The unexpended funds appropriated in part 1 for the help America vote act of 2002, 42 USC 15301 to 15545, are considered work project appropriations and any unencumbered or unallotted funds are carried over 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 project is to implement a uniform voting system described in section 37 of the Michigan election law, 1954 PA 116, MCL 168.37, and other election reforms.
- (b) These projects will be accomplished by state employees, by contracts with private vendors, or by grants to local units of government.
- (c) The total estimated cost of this project is \$47,565,000.00.
- (d) The tentative completion date for this project is September 30, 2009.

**Sale of records; disposition of revenue.**

Sec. 402. From the funds appropriated in 2004 PA 327, the department of state shall sell copies of records including, but not limited to, records of motor vehicles, off-road vehicles, snowmobiles, watercraft, mobile homes, personal identification cardholders, drivers, and boat operators and shall charge \$7.00 per record sold only as authorized in section 208b of the Michigan vehicle code, 1949 PA 300, MCL 257.208b, section 7 of 1972 PA 222, MCL 28.297, and sections 80130, 80315, 81114, and 82156 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80130, 324.80315, 324.81114, and 324.82156. The revenue received from the sale of records shall be credited to the transportation administration collection fund created under section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

**DEPARTMENT OF AGRICULTURE****Refined petroleum fund; unexpended funds as work project.**

Sec. 501. The unexpended funds appropriated in section 108 of 2004 PA 353 from the refined petroleum fund 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 project is to support gasoline inspection programs under the weights and measures act, 1964 PA 283, MCL 290.601 to 290.634 and the motor fuels quality act, 1984 PA 44, MCL 290.650d.

(b) The project will be accomplished by state employees.

(c) The total estimated cost of the project is \$3,000,000.00.

(d) The tentative completion date is September 30, 2006.

**REPEALER****Repeal of section 803 of 2004 PA 327.**

Sec. 601. Section 803 of 2004 PA 327 is repealed.

This act is ordered to take immediate effect.

Approved September 14, 2005.

Filed with Secretary of State September 14, 2005.

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**[No. 110]**

**(HB 4465)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 236a.

*The People of the State of Michigan enact:*

**750.236a Computer-assisted shooting; prohibited acts; definitions.**

Sec. 236a. (1) A person in this state shall not do any of the following:

(a) Engage in computer-assisted shooting.

(b) Provide or operate, with or without remuneration, facilities for computer-assisted shooting.

(c) Provide or offer to provide, with or without remuneration, equipment specially adapted for computer-assisted shooting. This subdivision does not prohibit providing or offering to provide any of the following:

(i) General-purpose equipment, including a computer, a camera, fencing, building materials, or a firearm.

(ii) General-purpose computer software, including an operating system and communications programs.

(iii) General telecommunications hardware or networking services for computers, including adapters, modems, servers, routers, and other facilities associated with internet access.

(d) Provide or offer to provide, with or without remuneration, an animal for computer-assisted shooting.

(2) As used in this section:

(a) “Computer-assisted shooting” means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a firearm to kill an animal, whether or not the animal is located in this state.

(b) “Facilities for computer-assisted remote shooting” includes real property and improvements on the property associated with computer-assisted shooting, such as hunting blinds, offices, and rooms equipped to facilitate computer-assisted shooting.

### **Conditional effective date.**

Enacting section 1. 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. 373.

(b) Senate Bill No. 620.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**Compiler's note:** Senate Bill No. 373, referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 111, Imd. Eff. Sept. 22, 2005.

Senate Bill No. 620, also referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 112, Eff. Oct. 15, 2005.

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**[No. 111]**

**(SB 373)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution

for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 236b.

*The People of the State of Michigan enact:*

**750.236b Computer-assisted shooting; prohibited conduct; definitions.**

Sec. 236b. (1) A person in this state shall not do any of the following:

(a) Engage in computer-assisted shooting.

(b) Provide or operate, with or without remuneration, facilities for computer-assisted shooting.

(c) Provide or offer to provide, with or without remuneration, equipment specially adapted for computer-assisted shooting. This subdivision does not prohibit providing or offering to provide any of the following:

(i) General-purpose equipment, including a computer, a camera, fencing, building materials, or a bow or crossbow.

(ii) General-purpose computer software, including an operating system and communications programs.

(iii) General telecommunications hardware or networking services for computers, including adapters, modems, servers, routers, and other facilities associated with internet access.

(d) Provide or offer to provide, with or without remuneration, an animal for computer-assisted shooting.

(2) As used in this section:

(a) “Computer-assisted shooting” means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a bow or crossbow to kill an animal, whether or not the animal is located in this state.

(b) “Facilities for computer-assisted remote shooting” includes real property and improvements on the property associated with computer-assisted shooting, such as hunting blinds, offices, and rooms equipped to facilitate computer-assisted shooting.

**Conditional effective date.**

Enacting section 1. 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. 620.

(b) House Bill No. 4465.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**Compiler's note:** Senate Bill No. 620, referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 112, Eff. Oct. 15, 2005.

House Bill No. 4465, also referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 110, Imd. Eff. Sept. 22, 2005.

**[No. 112]****(SB 620)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 236c.

*The People of the State of Michigan enact:*

**750.236c Violation of MCL 750.236a or 750.236b; penalty; forfeiture.**

Sec. 236c. (1) A person who violates section 236a or 236b is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) A person who has been convicted of violating section 236a or 236b and subsequently violates either of those sections is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. In addition, the instrumentalities of the crime are subject to forfeiture in the same manner as provided in part 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

**Conditional effective date.**

Enacting section 1. 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. 373.
- (b) House Bill No. 4465.

**Effective date.**

Enacting section 2. This amendatory act takes effect October 15, 2005.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**Compiler's note:** Senate Bill No. 373, referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 111, Imd. Eff. Sept. 22, 2005.

House Bill No. 4465, also referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 110, Imd. Eff. Sept. 22, 2005.

**[No. 113]****(SB 540)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the

promulgation of rules; and to provide remedies and penalties,” by amending section 2 (MCL 445.1652), as amended by 2002 PA 4.

*The People of the State of Michigan enact:*

**445.1652 Mortgage broker, mortgage lender, or mortgage servicer; license or registration required; exemption; residential mortgage originator; compensation; words contained in name or assumed name.**

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under this act, unless 1 or more of the following apply:

(a) The person is solely performing services as an employee of only 1 mortgage broker, mortgage lender, or mortgage servicer.

(b) The person is exempted from the act under section 25.

(c) The person is licensed as a class I licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(d) The individual is an employee of a professional employer organization, as that term is defined in section 4 of the single business tax act, 1975 PA 228, MCL 208.4, solely acting as a residential mortgage originator of only 1 mortgage broker or mortgage lender. The mortgage broker or mortgage lender shall do all of the following:

(i) Direct and control the activities of the individual under this act.

(ii) Be responsible for all activities of the individual and assume responsibility for the individual's actions that are covered by the proof of financial responsibility deposit required under section 4.

(2) A person that is licensed to make regulatory loans under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is licensed to make secondary mortgage loans under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is registered with the commissioner shall file with the commissioner an application for a license under section 3(1) or shall discontinue all activities that are subject to this act.

(3) Unless a residential mortgage originator is otherwise licensed or registered under this act, a residential mortgage originator shall not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator.

(4) Unless a residential mortgage originator is otherwise licensed or registered under this act, a mortgage broker, mortgage lender, or mortgage servicer shall not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage lender, or mortgage servicer. As used in this subsection and subsection (3), “residential mortgage originator” means a person who assists another person in obtaining a mortgage loan.

(5) A mortgage broker, mortgage lender, or mortgage servicer that was exempt from regulation under this act and is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company that does not maintain a main office or branch office in this state, shall register under section 6 or shall discontinue all activities subject to this act.

(6) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, the person subject to this act shall not include in its name or assumed name, the words “bank”, “banker”, “banking”, “banc”, “bankcorp”, “bancorp”, or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee or registrant to use the term “mortgage banker” or “mortgage banking” in its name or assumed name. A person subject to this act whose name or assumed name on January 1, 1995 contained a word prohibited by this section may continue to use the name or assumed name.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**[No. 114]**

**(SB 348)**

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 51 (MCL 211.51), as amended by 2005 PA 24.

*The People of the State of Michigan enact:*

**211.51 Failure of township treasurer to file bond with county treasurer; failure to appoint treasurer to give bond and deliver receipt; delivery of tax roll and warrant; collection and return of taxes; adding property tax administration fee, late penalty charge, and interest; return of excess amount; powers of county treasurer; persons eligible for deferment of summer property taxes; deferred taxes not subject to penalties or interest; filing and form of intent to defer; duties of treasurer; statement of taxes deferred; levy and collection of summer property taxes by local taxing unit; definitions.**

Sec. 51. (1) If a township treasurer does not file his or her bond with the county treasurer as prescribed by law and the township board fails to appoint a treasurer to give the bond and deliver a receipt for the bond to the supervisor by December 10, the supervisor shall deliver the tax roll with the necessary warrant directed to the county treasurer, who shall make the collection and return of taxes. The county treasurer, pursuant to the adoption

of a resolution by the county board of commissioners, has the same powers and duties to add a property tax administration fee, a late penalty charge, and interest to all taxes collected as conferred upon a township treasurer under section 44. The excess of the amount of property tax administration fees over the expense to the county in collecting the taxes shall be returned to the township, and the remainder of the property tax administration fees and any late penalty charges imposed shall be credited to the county general fund. For the purpose of collecting the taxes, the county treasurer is vested with all the powers conferred upon the township treasurer and an action may be brought on the county treasurer's bond under the same circumstances as on those of a township treasurer.

(2) A local tax collecting unit that collects a summer property tax shall defer the collection of summer property taxes against the following property for which a deferment is claimed until the following February 15:

(a) The principal residence of a taxpayer who meets both of the following conditions:

(i) Meets 1 or more of the following conditions:

(A) Is a totally and permanently disabled person, blind person, paraplegic, quadriplegic, eligible serviceperson, eligible veteran, or eligible widow or widower, as these persons are defined in chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532.

(B) Is 62 years of age or older, including the unremarried surviving spouse of a person who was 62 years of age or older at the time of death.

(ii) For the prior taxable year had a total household income of the following:

(A) For taxes levied before January 1, 2005, \$25,000.00, or less.

(B) For taxes levied after December 31, 2004 and before January 1, 2006, \$35,000.00, or less.

(C) For taxes levied after December 31, 2005 and before January 1, 2007, \$37,500.00, or less.

(D) For taxes levied after December 31, 2006, \$40,000.00, or less.

(b) Property classified or used as agricultural real property if the gross receipts of the agricultural or horticultural operations in the previous year or the average gross receipts of the operations in the previous 3 years are not less than the household income of the owner in the previous year.

(3) A taxpayer may claim a deferment provided by subsection (2) by filing with the treasurer of the local property tax collecting unit an intent to defer the summer property taxes that are due and payable in that year without penalty or interest. Taxes deferred under subsection (2) that are not paid by the following February 15 are not subject to penalties or interest for the period of deferment.

(4) The intent statement required by subsection (3) shall be on a form prescribed and provided by the department of treasury to the treasurer of the local property tax collecting unit.

(5) The treasurer of the local property tax collecting unit that collects a summer property tax shall do the following:

(a) Cause a notice of the availability of the deferment to be published in a newspaper of general circulation within the local property tax collecting unit or to be included as an insertion with the tax bill.

(b) Assist persons in completing the deferment form.

(6) If a local property tax collecting unit that collects a summer property tax also collects a winter property tax in the same year, a statement of the amount of taxes

deferred pursuant to subsection (2) shall be in the December tax statement mailed by the local property tax collecting unit for each summer property tax payment that was deferred from collection. If a local property tax collecting unit that collects a summer property tax does not collect a winter property tax in the same year, it shall mail a statement of the amount of taxes deferred under subsection (2) at the same time December tax statements are required to be mailed under section 44.

(7) Persons eligible for deferment of summer property taxes under subsection (2) may file their intent to defer until September 15 or the time the tax would otherwise become subject to interest or a late penalty charge for late payment, whichever is later.

(8) To the extent permitted by the revised school code of 1976, 1976 PA 451, MCL 380.1 to 380.1852, or the charter of a local property tax collecting unit, a local property tax collecting unit may provide for the levy and collection of summer property taxes. The terms and conditions of collection established by or under an agreement executed pursuant to the revised school code of 1976, 1976 PA 451, MCL 380.1 to 380.1852, or the charter of a local tax collecting unit govern a summer property tax levy.

(9) As used in this section:

(a) “Principal residence” means property exempt under section 7cc.

(b) “Summer property tax” means a levy of ad valorem property taxes that first becomes a lien before December 1 of any calendar year.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**[No. 115]**

**(HB 4679)**

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, 4, and 7 (MCL 125.1651, 125.1653, 125.1654, and 125.1657), sections 1 and 3 as amended by 2005 PA 13, section 4 as amended by 1987 PA 66, and section 7 as amended by 2004 PA 196.

*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 enters into an agreement with a qualified township under section 3(7) or 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 (bb)(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 (bb)(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) “Qualified township” means a township that meets all of the following requirements:

(i) Was not eligible to create an authority prior to January 3, 2005.

(ii) Adjoins a municipality that previously created an authority.

(iii) Along with the adjoining municipality that previously created an authority, is a member of the same joint planning commission under the joint municipal planning act, 2003 PA 226, MCL 125.131 to 125.143.

(z) “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.

(aa) “State fiscal year” means the annual period commencing October 1 of each year.

(bb) “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 subparagraphs (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; agreement with qualified township.**

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, 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.

(7) A municipality that has created an authority may enter into an agreement with a qualified township to operate its authority in a downtown district in the qualified township under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement between the municipality and the qualified township shall provide for, but is not limited to, all of the following:

- (a) Size and makeup of the board.
- (b) Determination and modification of downtown district, business district, and development area.
- (c) Modification of development area and development plan.
- (d) Issuance and repayment of obligations.
- (e) Capture of taxes.
- (f) Notice, hearing, and exemption of taxes from capture provisions described in this section.

**125.1654 Board; appointment, terms, and qualifications of members; vacancy; compensation and expenses; election of chairperson; oath; conducting business at public meeting; public notice; special meetings; removal of members; review; expense items and financial records; availability of writings to public; single board governing all authorities; member as resident or having interest in property; planning commission serving as board in certain municipalities; modification by interlocal agreement.**

Sec. 4. (1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the

members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

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

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) By resolution of its governing body, a municipality having more than 1 authority may establish a single board to govern all authorities in the municipality. The governing body may designate the board of an existing authority as the board for all authorities or may establish by resolution a new board in the same manner as provided in subsection (1). A member of a board governing more than 1 authority may be a resident of or have an interest in property in any of the downtown districts controlled by the board in order to meet the requirements of this section.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to 1931 PA 285, MCL 125.31 to 125.45, serve as the board provided for in subsection (1).

(9) If a municipality enters into an agreement with a qualified township under section 3(7), the membership of the board may be modified by the interlocal agreement described in section 3(7).

## **125.1657 Powers of board.**

Sec. 7. The board may:

- (a) Prepare an analysis of economic changes taking place in the downtown district.
- (b) Study and analyze the impact of metropolitan growth upon the downtown district.
- (c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of

a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(d) Plan, propose, and implement an improvement to a public facility within the development area 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.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property under its control, or any part of a building or property.

(l) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.

(o) Contract for broadband service and wireless technology service in the downtown district.

(p) Operate and perform all duties and exercise all responsibilities described in this section in a qualified township if the qualified township has entered into an agreement with the municipality under section 3(7).

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

**[No. 116]****(HB 4071)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 324.101 to 324.90106) by amending the title, as amended by 1996 PA 434, and by adding section 43540a.

*The People of the State of Michigan enact:*

## TITLE

An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**324.43540a Sportsmen against hunger program; implementation; duties of department; financial donations; contract with nonprofit organization to administrate program; contract requirements; “program” defined.**

Sec. 43540a. (1) Subject to subsection (4), by January 1, 2007, the department shall implement a program to distribute wild game to people in need. The program shall be known as the sportsmen against hunger program.

(2) Under the program, the department shall do all of the following:

(a) Collect donations of legally taken game that complies with all state and federal game laws, including any requirement that the parts of the game be intact.

(b) Contract for processing the donated game.

(c) Distribute the processed game to food banks, soup kitchens, and other charitable organizations that provide meals or food to people free of charge.

(d) Promote the program through the license distribution system and other means that will further the mission of the program.

(3) Under the program, the department may request financial donations to offset the cost of processing donated game. The financial donations are tax deductible.

(4) The department may contract for the administration of the program by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501, if the department determines that it is more efficient to do so. Subject to section 43540c(9), payments under the contract shall be adequate to cover the nonprofit organization’s costs in administering the program. Before entering such a contract, the

department shall issue a request for proposals. If the request for proposals does not yield a bid that meets the requirements of this section, both of the following apply:

(a) The department is not required to implement the sportsmen against hunger program.

(b) The department shall, within 30 days, submit a report to the standing committees of the senate and house of representatives with primary responsibility for hunting issues. The report, as applicable, shall explain that no bids were received or shall specify why each bid received was unacceptable. The report shall also indicate whether the department intends to implement the sportsmen against hunger program.

(5) To qualify to enter a contract under subsection (4), a nonprofit organization must have demonstrated a commitment to the goals of the program and have at least 5 years of experience in providing wild game or other food to people free of charge. The contract shall require that the contracting nonprofit organization do all of the following:

(a) Maintain a license under the charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

(b) Maintain adequate staff to perform the tasks outlined in the contract.

(c) Annually undergo an independent financial audit and provide the audit information and report to all of the following:

(i) The department.

(ii) The subcommittee of the senate appropriations committee and the subcommittee of the house of representatives appropriations committee with responsibility for the budget of the department.

(iii) The committees of the senate and house of representatives with primary responsibility for natural resources issues.

(6) As used in this section, “program” means the sportsmen against hunger program created under subsection (1).

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4145 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

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**Compiler's note:** House Bill No. 4145, referred to in enacting section 1, was filed with the Secretary of State September 22, 2005, and became 2005 PA 117, Imd. Eff. Sept. 22, 2005.

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**[No. 117]**

**(HB 4145)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide

certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 324.101 to 324.90106) by adding section 43540c.

*The People of the State of Michigan enact:*

**324.43540c Sportsmen against hunger program; donation; creation; disposition of money or other assets; money remaining in fund; expenditure; costs; limitation; “fund” defined.**

Sec. 43540c. (1) Subject to subsection (2), when a person applies for a license under this part, the department or the department’s agent shall ask whether the person would like to donate \$1.00 to the sportsmen against hunger program created by the department under section 43540a and, if so, shall collect the donation with the license fee. A person designated by the department to issue licenses shall not receive a commission under section 43541 for the donation.

(2) Subsection (1) applies to license applications made beginning January 1, 2006.

(3) A donation under subsection (1) is in addition to the license fee.

(4) The department shall transfer donations under subsection (1) to the state treasurer for deposit in the fund.

(5) The sportsmen against hunger fund is created within the state treasury.

(6) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(7) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(8) Money from the fund shall be expended, upon appropriation, only by the department for 1 or more of the following purposes:

(a) The costs of administering the fund, including the costs of collecting donations to the fund.

(b) The administration of the sportsmen against hunger program created under section 43540a, including, if applicable, the costs of any contract with a nonprofit organization to administer the sportsmen against hunger program, as authorized under section 43540a(4).

(9) The department shall not incur costs described in subsection (8) in excess of the amount of revenue in the fund available to cover such costs.

(10) As used in this section, “fund” means the sportsmen against hunger fund created in subsection (5).

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4071 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 21, 2005.

Filed with Secretary of State September 22, 2005.

**[No. 118]****(HB 4915)**

AN ACT to amend 1974 PA 198, entitled “An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties,” by amending section 2 (MCL 207.552), as amended by 2003 PA 5.

*The People of the State of Michigan enact:*

**207.552 Definitions.**

Sec. 2. (1) “Commission” means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) “Facility” means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) “Replacement facility” means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(4) “New facility” means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(5) “Local governmental unit” means a city, village, or township.

(6) “Industrial property” means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, operation of a logistical optimization center, the manufacture of goods or materials, creation or synthesis of biodiesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from

their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. Industrial property also includes convention and trade centers over 250,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 USC 341, located in a city with a population of 750,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007.

(c) Inventory.

(7) “Obsolete industrial property” means industrial property the condition of which is substantially less than an economically efficient functional condition.

(8) “Economically efficient functional condition” means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors which make the property less desirable and valuable for continued use.

(9) “Research and development laboratories” means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 41 of the internal revenue code, 26 USC 41, except that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(10) “Manufacture of goods or materials” or “processing of goods or materials” means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(11) “High-technology activity” means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(12) “Logistical optimization center” means a sorting and distribution center that supports a private passenger motor vehicle assembly center and its manufacturing process for the purpose of optimizing transportation, just-in-time inventory management, and material handling, and to which all of the following apply:

(a) The sorting and distribution center is within 2 miles of a private passenger motor vehicle assembly center that, together with supporting facilities, contains at least 800,000 square feet.

(b) The sorting and distribution center contains at least 950,000 square feet.

(c) The sorting and distribution center has applied for an industrial facilities exemption certificate after June 30, 2005 and before January 1, 2006.

(d) The private passenger motor vehicle assembly center is located on land conditionally transferred by a township with a population of more than 25,000 under 1984 PA 425, MCL 124.21 to 124.30, to a city with a population of more than 100,000 that levies an income tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

This act is ordered to take immediate effect.

Approved September 22, 2005.

Filed with Secretary of State September 22, 2005.

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**[No. 119]**

**(HB 4825)**

AN ACT to amend 1982 PA 249, entitled “An act to establish the state children’s trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund,” by amending section 1 (MCL 21.171), as amended by 2002 PA 1.

*The People of the State of Michigan enact:*

**21.171 Children’s trust fund; creation as charitable and educational endowment fund; expenditure; credits; investment; availability for disbursement; accounting of revenues and expenditures; “trust fund” defined.**

Sec. 1. (1) The children’s trust fund is created as a charitable and educational endowment fund in the department of treasury. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under section 475 of the income tax act of 1967, 1967 PA 281, MCL 206.475, any amounts received under section 811j of the Michigan vehicle code, 1949 PA 300, MCL 257.811j, and section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and any amounts received from civil fines imposed under the playground equipment safety act, 1997 PA 16, MCL 408.681 to 408.687.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(4) Not more than 1/2 of the money contributed to the trust fund each year, plus the interest and earnings, excluding unrealized gains and losses, credited to the trust fund during the previous fiscal year, shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609.

(5) Money granted or received as gifts or donations to the trust fund shall be available for disbursement upon appropriation under section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and funds authorized for expenditure shall not be considered assets of the trust fund for the purposes of subsection (4).

(6) The state treasurer shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall specifically identify the interest

and earnings of the trust fund, shall describe how the amount of interest and earnings has been affected by the expanded investment options provided for in subsection (3), and shall identify how the increased interest and earnings, if any, have been expended. This accounting shall be provided to the senate and house of representatives appropriations committees.

(7) As used in this section, “trust fund” means the children’s trust fund created in subsection (1).

This act is ordered to take immediate effect.

Approved September 22, 2005.

Filed with Secretary of State September 22, 2005.

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**[No. 120]**

**(SB 335)**

AN ACT to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” (MCL 722.111 to 722.128) by adding section 17a.

*The People of the State of Michigan enact:*

**722.127a Use of inhaler or epinephrine auto-injector by child at children’s camp.**

Sec. 17a. (1) If the conditions prescribed in subsection (2) are met, notwithstanding any children’s camp policy to the contrary, a minor child may possess and use 1 or more of the following at the children’s camp, on camp-sponsored transportation, or at any activity, event, or program sponsored by the children’s camp or in which the minor child is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a minor child if all of the following conditions are met:

(a) The minor child has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the minor child’s physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and from the minor child’s parent or legal guardian.

(b) The director or other chief administrator of the minor child’s camp has received a copy of each written approval required under subdivision (a) for the minor child.

(c) There is on file at the children’s camp a written emergency care plan that contains specific instructions for the minor child’s needs, that is prepared by a licensed physician

in collaboration with the minor child and the minor child's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) A children's camp or an owner, director, or employee of a children's camp is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from either of the following:

(a) An employee of the children's camp having prohibited a minor child from using an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had not been satisfied.

(b) An employee of the children's camp having permitted a minor child to use or possess an inhaler or epinephrine auto-injector because the conditions prescribed in subsection (2) had been satisfied.

(4) This section does not eliminate, limit, or reduce any other immunity or defense that a camp or an owner, director, or employee of a camp may have under other state law.

(5) A children's camp may request a minor child's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated camp personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to camp personnel.

(6) A director or other chief administrator of a children's camp who is aware that a minor child possesses an inhaler or epinephrine auto-injector as authorized under this section shall notify each camp employee who supervises the minor child of that fact and of the provisions of this section.

This act is ordered to take immediate effect.

Approved September 22, 2005.

Filed with Secretary of State September 22, 2005.

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**[No. 121]**

**(SB 617)**

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions," (MCL 28.721 to 28.732) by amending the title, as amended by 2004 PA 237, and by adding headings for articles I and II and by adding article III.

*The People of the State of Michigan enact:*

TITLE

An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

## I GENERAL

## II SEX OFFENDER REGISTRATION

## III STUDENT SAFETY ZONES

**28.733 Definitions.**

Sec. 33. As used in this article:

(a) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Loiter” means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) “Minor” means an individual less than 18 years of age.

(d) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) “School property” means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) “Student safety zone” means the area that lies 1,000 feet or less from school property.

**28.735 Registered individual residing in student safety zone; prohibited conduct; violation; penalties; exceptions.**

Sec. 35. (1) Except as otherwise provided in this section and section 36, an individual required to be registered under article II shall not reside within a student safety zone.

(2) An individual who violates subsection (1) is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) For the second or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) This section does not apply to any of the following:

(a) An individual who is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. However, an individual described in this subdivision shall not initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) An individual who was residing within that student safety zone at the time the amendatory act that added this section was enacted into law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(d) An individual who is a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(e) An individual who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(4) An individual who resides within a student safety zone and who is subsequently required to register under article II shall change his or her residence to a location outside the student safety zone not more than 90 days after he or she is sentenced for the conviction that gives rise to the obligation to register under article II. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone during the 90-day period described in this subsection.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

### **28.736 Exemptions.**

Sec. 36. (1) Subject to subsection (2), sections 34 and 35 do not apply to any of the following:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(d) An individual convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, who at the time of the violation was 17 years of age or older but less than 21 years of age and who is not more than 5 years older than the victim.

(2) An individual who is convicted of more than 1 offense described in subsection (1) is ineligible for exemption under this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 23, 2005.

Filed with Secretary of State September 28, 2005.

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**[No. 122]**

**(SB 606)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 11b of chapter XVII (MCL 777.11b), as amended by 2004 PA 150.

*The People of the State of Michigan enact:*

CHAPTER XVII

**777.11b Chapter 28 of Michigan Compiled Laws; felonies to which chapter applicable.**

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4

28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.422	Pub saf	F	Pistols — license application forgery	4
28.422a(4)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(5)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7

28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)(c)	Pub ord	F	Failure to update sex offender registration information — third or subsequent offense	4

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

**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. 607.
- (b) House Bill No. 4934.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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**Compiler's note:** Senate Bill No. 607, referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 123, Eff. Jan. 1, 2006.

House Bill No. 4934, also referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 132, Eff. Jan. 1, 2006.

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**[No. 123]**
**(SB 607)**

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions," by amending section 5 (MCL 28.725), as amended by 2004 PA 240.

*The People of the State of Michigan enact:*

**28.725 Notice to law enforcement agency.**

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes or vacates his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction

over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in subsections (7) and (8), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) Except as provided in subsection (8), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(8) An individual who is ordered to register as provided in section 8d shall register subject to that section.

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4934 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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**Compiler's note:** House Bill No. 4934, referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 132, Eff. Jan. 1, 2006.

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**[No. 124]****(SB 609)**

AN ACT to amend 1937 (Ex Sess) PA 4, entitled "An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act," by amending section 4 of article I and section 3 of article IV (MCL 38.74 and 38.103), as amended by 1993 PA 60, and by adding section 1a to article IV.

*The People of the State of Michigan enact:*

## ARTICLE I

**38.74 "Demote" defined.**

Sec. 4. The word "demote" means to reduce compensation for a particular school year by more than an amount equivalent to 3 days' compensation or to transfer to a position carrying a lower salary. However, demote does not include discontinuance of salary pursuant to section 3 of article IV.

## ARTICLE IV

**38.101a Teacher rights subject to MCL 380.1230d and 380.1535a.**

Sec. 1a. The rights of a teacher on continuing tenure under this article are subject to sections 1230d(4) and 1535a(4) and (5) of the revised school code, 1976 PA 451, MCL 380.1230d and 380.1535a. For the purposes of this article, a conviction of a violation of section 1230d of the revised school code, 1976 PA 451, MCL 380.1230d, or a violation of 1 of the crimes listed in section 1535a(1) of the revised school code, 1976 PA 451, MCL 380.1535a, is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds to support the discharge or demotion of a teacher on continuing tenure.

**38.103 Suspension of teacher pending certain conditions; compensation.**

Sec. 3. (1) On the filing of charges in accordance with this article, the controlling board may suspend the accused teacher from active performance of duty until 1 of the following occurs:

(a) The teacher fails to contest the decision to proceed upon the charges within the time period specified in section 4(1) of this article.

(b) A preliminary decision and order discharging or demoting the teacher is issued by the administrative law judge under section 4(5)(i) of this article.

(c) If the preliminary decision and order is to reinstate the teacher, a final decision and order is rendered by the tenure commission under section 4(5)(m) of this article.

(2) If a teacher is suspended as described in subsection (1), the teacher's salary shall continue during the suspension. However, if the teacher is convicted of a felony that is not a listed offense or of a misdemeanor that is a listed offense, the controlling board may discontinue the teacher's salary effective upon the date of the conviction. If the teacher is convicted of a felony that is a listed offense, the controlling board shall discontinue the teacher's salary effective upon the date of conviction. As used in this subsection, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(3) If a preliminary decision and order discharging a teacher is issued by the administrative law judge and the tenure commission subsequently reverses the preliminary decision and order of the administrative law judge, the tenure commission may order back pay.

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

**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. 601.
- (b) Senate Bill No. 611.
- (c) House Bill No. 4402.
- (d) House Bill No. 4928.
- (e) House Bill No. 4930.
- (f) House Bill No. 4991.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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**Compiler's note:** The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.

Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.

House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.

House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.

House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.

**[No. 125]****(SB 611)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 13p of chapter XVII (MCL 777.13p), as amended by 2005 PA 96.

*The People of the State of Michigan enact:*

## CHAPTER XVII

**777.13p Applicability of chapter to certain felonies; MCL 338.823 to 388.1937.**

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
338.823	Pub trst	F	Private detective license act violation	4
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subsequent offense	4
338.3471(1)(b)	Pub trst	G	Michigan immigration clerical assistant act violation — subsequent offense	2
380.1230d(3)(a)	Pub saf	G	Failure by school employee to report charge or conviction	2
380.1816	Pub trst	F	Improper use of bond proceeds	4

388.936	Pub trst	F	Knowingly making false statement — school district loans	4
388.1937	Pub trst	F	Making false statement or concealing material information to obtain qualification of school bond issue or improperly using proceeds of school bonds	4

### Conditional effective date.

Enacting section 1. 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. 601.
- (b) House Bill No. 4402.
- (c) House Bill No. 4928.
- (d) House Bill No. 4930.
- (e) House Bill No. 4991.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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

Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.  
 House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.  
 House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.  
 House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.  
 House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.

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## [No. 126]

### (SB 129)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure

in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 2a of chapter XI (MCL 771.2a), as amended by 1998 PA 520.

*The People of the State of Michigan enact:*

## CHAPTER XI

### **771.2a Probation for not more than 5 years; probation for term of years; order fixing period and conditions of probation; applicability of section to certain juveniles; probation for not less than 5 years; conditions; residing or working within school safety zone; exemption; definitions.**

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of the Michigan penal code, 1931 PA 328, MCL 750.400h, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of the Michigan penal code, 1931 PA 328, MCL 750.411i, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(4) Subsections (1), (2), and (3) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(5) Except as otherwise provided by law, the court may place an individual convicted of a listed offense on probation subject to the requirements of this subsection and subsections (6) through (11) for any term of years but not less than 5 years.

(6) Except as otherwise provided in subsections (7) to (11), if an individual is placed on probation under subsection (5), the court shall order the individual not to do any of the following:

- (a) Reside within a student safety zone.
- (b) Work within a student safety zone.
- (c) Loiter within a student safety zone.

(7) The court shall not impose a condition of probation described in subsection (6)(a) if any of the following apply:

(a) The individual is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or

maintain contact with a minor with whom he or she attends secondary school or post-secondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age, attends a special education program, and resides with his or her parent or guardian or in a group home or assisted living facility. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) The individual was residing within that student safety zone at the time the amendatory act that added this subdivision was enacted into law. However, if the individual was residing within the student safety zone at the time the amendatory act that added this subdivision was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors within that student safety zone. This subdivision does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(8) An order issued under subsection (6)(a) shall not prohibit an individual from being a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(9) The court shall not impose a condition of probation described in subsection (6)(b) if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law. However, if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that student safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(10) The court shall not impose a condition of probation described in subsection (6)(b) if the individual only intermittently or sporadically enters a student safety zone for purposes of work. If the individual intermittently or sporadically works within a student safety zone, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(11) The court may exempt an individual from probation under subsection (5) if any of the following apply:

(a) The individual has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(b) The individual was convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, and at the time of the violation was 17 years of age or older but less than 21 years of age and is not more than 5 years older than the victim.

(12) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Loiter” means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) “Minor” means an individual less than 18 years of age.

(d) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) “School property” means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) “Student safety zone” means the area that lies 1,000 feet or less from school property.

### **Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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## **[No. 127]**

### **(HB 4932)**

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” (MCL 28.721 to 28.732) by amending the title, as amended by 2004 PA 237, and by adding headings for articles I and II and by adding article III.

*The People of the State of Michigan enact:*

## TITLE

An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

## I GENERAL

## II SEX OFFENDER REGISTRATION

## III STUDENT SAFETY ZONES

**28.733 Definitions.**

Sec. 33. As used in this article:

(a) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Loiter” means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) “Minor” means an individual less than 18 years of age.

(d) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) “School property” means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) “Student safety zone” means the area that lies 1,000 feet or less from school property.

**28.734 Prohibited conduct; violation; penalty; exceptions; other violations.**

Sec. 34. (1) Except as provided in this section and section 36, an individual required to be registered under article II shall not do 1 or more of the following:

(a) Work within a student safety zone.

(b) Loiter within a student safety zone.

(2) An individual who violates this section is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) For the second or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

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

(a) An individual who was working within a student safety zone at the time the amendatory act that added this section was enacted into law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(b) An individual whose place of employment is within a student safety zone solely because a school is relocated or is initially established 1,000 feet or less from the individual's place of employment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(c) An individual who only intermittently or sporadically enters a student safety zone for the purpose of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within a student safety zone.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

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**[No. 128]**

**(SB 615)**

AN ACT to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” (MCL 722.111 to 722.128) by adding sections 5f and 5g.

*The People of the State of Michigan enact:*

**722.115f Operation of family or group day care home; conduct of criminal history check and criminal records check by department of state police; fee; arraignment of registrant or licensee for certain crimes; report required; violation; penalty; deletion of arraignment information from records; notice; criminal history check and criminal records check on current licensees and registrants.**

Sec. 5f. (1) When a person applies for or to renew a certificate of registration to operate a family day care home or a license to operate a group day care home under section 5, the department shall request the department of state police to perform both of the following on that person:

(a) Conduct a criminal history check on the person.

(b) Conduct a criminal records check through the federal bureau of investigation on the person.

(2) Each person applying for a certificate of registration to operate a family day care home or a license to operate a group day care home shall give written consent at the time of application for the department of state police to conduct a criminal history check and a criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

(3) The department shall request a criminal history check and criminal records check required under this section on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall

conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on a person under this section, the department of state police shall initiate the criminal records check. After receiving the results of the criminal records check from the federal bureau of investigation, the department of state police shall provide a report of the results to the department.

(6) The department of state police may charge the department a fee for a criminal history check or a criminal records check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the registrant, licensee, or applicant the actual cost or fee charged by the department of state police for performing a criminal history check or a criminal records check required under this section.

(7) A person to whom a certificate of registration or license has been issued under this act shall report to the department within 3 business days after he or she has been arraigned for 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that an employee or a person over 18 years of age residing in the home has been arraigned for 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

(i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.

(ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.

(iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(v) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.

(vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.

(vii) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

(8) A person who violates subsection (7) is guilty of a crime as follows:

(a) If the person violates subsection (7) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(b) If the person violates subsection (7) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(9) The department shall delete from the registrant's or licensee's records all information relating to an arraignment required to be reported under this section if the department receives documentation that the person arraigned for the crime is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(10) Not later than 30 days after the effective date of the amendatory act that added this section, the department shall inform all persons currently issued a certificate of registration or license and all applicants for a certificate of registration or license of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

(11) At the time the department issues a certificate of registration to operate a family day care home or a license to operate a group day care home under this act, the department shall notify the registrant or licensee of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

(12) Not later than 1 year after the effective date of the amendatory act that added this section, the department shall conduct a criminal history check and criminal records check on all persons currently issued a certificate of registration under this act to operate a family day care home or a license under this act to operate a group day care home.

### **722.115g Performance of ICHAT check.**

Sec. 5g. (1) When a person applies for a certificate of registration to operate a family day care home or a license to operate a group day care home under section 5, the department shall perform a criminal history check using the department of state police's internet criminal history access tool (ICHAT) on all persons over 18 years of age residing in the home in which the family day care home or group day care home is operated. This section does not apply to a person residing in the home for a period of not more than 14 days.

(2) Not later than 1 year after the effective date of the amendatory act that added this section, the department shall perform an ICHAT check on all persons over 18 years of age residing in the home in which a family day care home or group day care home is currently operated.

(3) If a search of ICHAT reveals that a person over 18 years of age residing in the home has been convicted of a listed offense, the department shall not issue a certificate of registration or license to the applicant, shall not renew a certificate of registration to the registrant or license to the licensee applying for renewal, or shall revoke a current registrant's certificate of registration or current licensee's license.

#### **Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

#### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4936 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

**[No. 129]****(HB 4402)**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending section 1230 (MCL 380.1230), as amended by 1993 PA 284, and by adding section 1230c.

*The People of the State of Michigan enact:*

**380.1230 Offer of full-time, part-time, or contract employment; criminal history check; employment as conditional employee; conditions; voiding contract and terminating employment; report received by another district; consent; request; conducting criminal history check; report; disclosure of conviction of listed offense or felony; use; disclosure; violation as misdemeanor; penalty; definitions.**

Sec. 1230. (1) Except as otherwise provided in this section, upon an offer of initial employment being made by the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school to an individual for any full-time or part-time employment or when school officials learn that an individual is being assigned to regularly and continuously work under contract in any of its schools, the district, public school academy, or nonpublic school shall request from the criminal records division of the department of state police a criminal history check on the individual and, before employing the individual as a regular employee or allowing the individual to regularly and continuously work under contract in any of its schools, shall have received from the department of state police the report described in subsection (8).

(2) If the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to hire an individual for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the report described in subsection (8) if all of the following apply:

(a) The board or governing body requests the criminal history check required under subsection (1) before conditionally employing the individual.

(b) The individual signs a statement identifying all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (8) is not the same as the individual's statement, his or her employment contract is voidable at the option of the board or governing body. The department shall develop and distribute to

districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the report described in subsection (8) is not the same as the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher, instead of requesting a criminal history check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use a report received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the applicant.

(5) If an applicant is being considered for employment by more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the report described in subsection (8) with another district, public school academy, or nonpublic school, a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (8) from another district, public school academy, or nonpublic school.

(6) An applicant for employment shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history check required under this section.

(7) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the criminal records division of the department of state police for a criminal history check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(8) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check on an individual under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the individual maintained by the criminal records division of the department of state police.

(9) If the report received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (8) discloses that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the report received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (8) discloses that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or

nonpublic school shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approve the employment or work assignment in writing. As used in this subsection, “listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(10) Criminal history record information received from the criminal records division of the department of state police under subsection (8) shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual’s qualifications for employment or assignment in the position for which he or she has applied or been assigned and for the purposes of subsections (3), (4), and (5). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose the report or its contents, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the applicant’s qualifications for employment or assignment. However, for the purposes of subsections (4) and (5), a person described in this subsection may confirm to an employee of another district, public school academy, or nonpublic school that a report under subsection (8) has revealed that an individual does not have any criminal history or may disclose that no report under subsection (8) has been received concerning the individual, and for the purposes of subsection (5), a person described in this subsection may provide a copy of the report under subsection (8) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(11) As used in this section, “criminal history record information” means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

### **380.1230c Notice of conviction of listed offense; employment prohibited; “listed offense” defined.**

Sec. 1230c. (1) If a school official of a school district, intermediate school district, public school academy, or nonpublic school has notice from an authoritative source that an individual has been convicted of a listed offense, the board of the school district or intermediate school district, board of directors of the public school academy, or governing board of the nonpublic school shall not employ that individual in any capacity or allow that person to regularly and continuously work under contract in any of its schools.

(2) As used in this section, “listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

#### **Effective date.**

Enacting section 1. This amendatory act takes effect January 1, 2006.

#### **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) House Bill No. 4928.
- (b) House Bill No. 4930.
- (c) House Bill No. 4991.