(2) A person seeking a license under this act as a judge, referee, or contestant shall pass a physical examination that is performed by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner acceptable to the department and the commission.

(3) Until the expiration of 1 year after the effective date of this act, the department shall issue an equivalent license without an examination to a person who is licensed in any capacity under former article 8 of the occupational code, 1980 PA 299, on the effective date of this act upon application on a form provided by the department.

338.3653 Licensure as professional referee, judge, or timekeeper.

Sec. 53. (1) In addition to the requirements of section 52, a person seeking a license as a professional referee, judge, or timekeeper shall referee, judge, or keep time for a minimum of 300 rounds of amateur competitive boxing.

(2) After a person has successfully completed the requirements of section 51(2) and subsection (1), the department may issue the person a license.

338.3654 Unofficial scoring; completion of standardized evaluation sheet by licensee.

Sec. 54. (1) In addition to the requirements of section 53, a person seeking a license as a professional judge shall score, unofficially, not fewer than 200 rounds of amateur boxing. In order to fulfill the requirements of this subsection, an applicant shall only unofficially judge contests that are approved by the commission for that purpose. An applicant shall not receive compensation for judging boxing contests or exhibitions under this subsection. Scorecards shall be transmitted to the department and the commission for review and evaluation.

(2) An employee authorized by the department or the commission shall complete a standardized evaluation sheet for each boxing contest or exhibition judged by a licensee. The commission shall annually review the evaluation sheets. A commission member attending a boxing contest or exhibition may also submit to the department a standardized evaluation sheet.

338.3655 Medical or hospital insurance.

Sec. 55. (1) A professional participating in a boxing contest or exhibition shall be insured by the promoter for not less than $50,000.00 for medical and hospital expenses to be paid to the contestant to cover injuries sustained in the contest and for not less than $50,000.00 to be paid in accordance with the statutes of descent and distribution of personal property if the contestant should die as a result of injuries received in a boxing contest or exhibition.

(2) A promoter shall pay the policy premium and deductible regarding any medical or hospital expenses for a contestant's injuries.

338.3656 Number of rounds; weight of contest gloves; certification of physical condition.

Sec. 56. (1) A professional boxing contest or exhibition shall be of not more than 10 rounds in length, except a boxing contest or exhibition which involves a national or international championship may last not more than 12 rounds in the determination of the department. The contestants shall wear during a contest gloves weighing at least 8 ounces each. Rounds shall be not longer than 3 minutes, with not less than 1-minute rest between rounds.

(2) A professional or participant in a boxing contest or exhibition shall be certified to be in proper physical condition by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner before participating in a boxing contest or exhibition. The

department shall designate any medical test that may be required to determine if the individual is in proper physical condition.

338.3657 Duties of physician.

Sec. 57. (1) A licensed physician shall be in attendance at each boxing contest or exhibition. The physician shall observe the physical condition of the contestants and advise the referee or judges with regard to the health of those contestants. The physician shall examine each contestant before entering the ring.

(2) The licensed physician shall file with the commission the report of the physical examination of a contestant not later than 24 hours after termination of the boxing contest or exhibition.

(3) If, in the opinion of the physician, the health or safety of a contestant requires that the boxing contest or exhibition in which he or she is participating be terminated, the physician shall notify the referee. The referee shall terminate the boxing contest or exhibition.

338.3658 Loss of consciousness; physical examination required; cost.

Sec. 58. (1) If a contestant or participant loses consciousness during or as a result of a boxing contest or exhibition in which he or she participates, he or she shall not again be eligible to participate in a boxing contest or exhibition in this state unless examined by a physician appointed by the commission and unless the physician certifies the contestant's or participant's fitness to participate.

(2) The contestant or participant shall pay the cost of the examination conducted under subsection (1).

CHAPTER 6

338.3660 Repeal of Article 8 of 1980 PA 299, MCL 339.801 to 339.814 and MCL 338.2249.

Sec. 60. (1) Article 8 of the occupational code, 1980 PA 299, MCL 339.801 to 339.814, is repealed 90 days after the date this act is enacted.

(2) Section 49 of the state license fee act, 1979 PA 152, MCL 338.2249, is repealed on the effective date of the rules promulgated under sections 22(2)(d) and 35.

338.3661 Retention of rules.

Sec. 61. Except as rescinded, rules promulgated under former article 8 of the occupational code, 1980 PA 299, MCL 339.801 to 339.814, retain authorization under this act.

338.3662 Effective date.

Sec. 62. This act takes effect 90 days after the date it is enacted.

338.3663 Conditional effective date.

Sec. 63. This act does not take effect unless House Bill No. 4336 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 19, 2004.
Filed with Secretary of State November 22, 2004.

Compiler's note: House Bill No. 4336, referred to in MCL 338.3663, was filed with the Secretary of State November 22, 2004, and became P.A. 2004, No. 404, Eff. Feb. 20, 2005.

[No. 404]

(HB 4336)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 447 (MCL 750.447).

The People of the State of Michigan enact:

750.447 Inapplicability of chapter.

Sec. 447. This chapter does not apply to any contests or exhibitions conducted, held, or given pursuant to the provisions of the Michigan boxing regulatory act.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4335 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 19, 2004.
Filed with Secretary of State November 22, 2004.

Compiler's note: House Bill No. 4335, referred to in enacting section 2, was filed with the Secretary of State November 22, 2004, and became P.A. 2004, No. 403, Eff. Feb. 20, 2005.

[No. 405]

(HB 6047)

AN ACT to amend 2003 PA 226, entitled "An act to provide for joint land use planning and the joint exercise of certain zoning powers and duties by local units of government; and to provide for the establishment, powers, and duties of joint planning commissions," (MCL 125.131 to 125.141) by adding section 13.

The People of the State of Michigan enact:

125.143 Allocation of land; conditions.

Sec. 13. (1) If a joint plan allocates land, within the territory of a participating municipality and the jurisdictional area of the joint planning commission, for a particular land use, both of the following apply:

(a) The joint plan need not allocate land that is within the territory of any other participating municipality and that is within the jurisdictional area of the joint planning commission for that land use.

(b) A plan of a participating municipality under 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285, MCL 125.31 to 125.45, need not allocate land that is within the territory of that participating municipality but that is outside the jurisdictional area of the joint planning commission, if any, for that land use.

(2) If a plan of a participating municipality under 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285, MCL 125.31 to 125.45, allocates land that is within the territory of the participating municipality but that is outside of the jurisdictional area of the joint planning commission for a particular land use, the joint plan need not allocate land for that land use.

This act is ordered to take immediate effect.
Approved November 19, 2004.
Filed with Secretary of State November 22, 2004.

[No. 406]

(SB 928)

AN ACT to amend 1947 PA 359, entitled "An act to authorize the incorporation of charter townships; to provide a municipal charter therefor; to prescribe the powers and functions thereof; and to prescribe penalties and provide remedies," by amending section 8 (MCL 42.8).

The People of the State of Michigan enact:

42.8 Charter township board; monthly publication of proceedings; notices and ordinances; posting.

Sec. 8. (1) The proceedings of the township board shall be published at least once each month. A publication of a synopsis of the proceedings, prepared by the township clerk and approved by the supervisor, showing the substance of each separate proceeding of the board is in compliance with this section.

(2) The board shall determine the method of publication of all notices, ordinances, and proceedings for which the method of publication is not prescribed by law.

(3) In making a determination under subsection (2), the board shall require 1 or both of the following:

(a) That publication be made in a newspaper published and circulated in the township or, if no such newspaper exists, then in one published in the county in which the township is located.

(b) That publication be made by posting in the office of the clerk and in 5 other public places in the township or by posting in the office of the clerk and on the township's website.

(4) If publication is made by posting under subsection (3)(b), a notice of the posting describing the purpose or nature of the notice, ordinance, or proceeding posted and the location of the places where posted shall be published at least once in a newspaper as required under subsection (3)(a) within 7 days of the posting.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 407]

(HB 4458)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 229 (MCL 436.1229).

The People of the State of Michigan enact:

436.1229 Licensing hotel or merchant to sell spirits for consumption off premises; sale of alcoholic liquor; price; rules; definitions.

Sec. 229. (1) The commission may license a hotel or merchant, in places that the commission may designate, to sell spirits for consumption off the premises, notwithstanding section 233(1). If alcoholic liquor is sold by a specially designated distributor pursuant to a license issued under this section it shall not be sold at less than the minimum retail selling price fixed by the commission and pursuant to rules promulgated by the commission.

(2) As used in this section and in sections 1201, 1203, 1205, and 1207, "retail selling price" means the price the commission pays for spirits plus the gross profit established in section 233.

(3) As used in this section, "minimum retail selling price" means retail selling price plus the specific taxes imposed in sections 1201, 1203, 1205, and 1207.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 408]

(HB 4703)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations,

facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 12501, 12505, 12506, 12507, 12508, 12509, 12512, 12513, 12514, 12516, 12521, 12527, 12527a, 12528, 12529, and 12532 (MCL 333.12501, 333.12505, 333.12506, 333.12507, 333.12508, 333.12509, 333.12512, 333.12513, 333.12514, 333.12516, 333.12521, 333.12527, 333.12527a, 333.12528, 333.12529, and 333.12532), section 12501 as amended by 1982 PA 525, section 12527 as amended by 1980 PA 522, and sections 12527a and 12532 as amended by 1985 PA 19, and by adding sections 12506a, 12506b, 12510, and 12527b.

The People of the State of Michigan enact:

333.12501 Definitions; principles of construction.

Sec. 12501. (1) As used in sections 12501 to 12516:

(a) "Campground" means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units. Campground does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(b) "Department" means the department of environmental quality.

(c) "Local health department" means that term as defined under section 1105.

(d) "Mobile home" means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(e) "Person" means a person as defined in section 1106 or a governmental entity.

(f) "Recreational unit" means a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit includes the following:

(*i*) A travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.

(*ii*) A camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(*iii*) A motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

(*iv*) A truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of 2 basic types:

(A) A slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.

(B) A chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.

(*v*) A single sectional mobile home used only to provide temporary living quarters for recreational, camping, or travel use. Recreational unit does not include a mobile home used as a permanent dwelling, residence, or living quarters.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

333.12505 Construction permit for campground; application; contents.

Sec. 12505. A person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit from the department. Applications for a construction permit shall be submitted to the department along with the fee as prescribed in section 12506a. The application shall contain the following:

(a) A description of the proposed project.

(b) The name and address of the applicant.

(c) The location of the proposed project.

333.12506 Campground license required; application; contents; exemption; expiration.

Sec. 12506. (1) A person shall not operate a campground without a campground license issued by the department, its agent or representative, or a representative of a designated local health department. An application for a campground license shall be submitted to the department, its agent or representative, or a representative of a designated local health department along with the license fee as prescribed in section 12506a.

(2) The application shall contain the following:

(a) The name and address of the applicant.

(b) The location of the campground.

(c) Information regarding physical facilities.

(3) The campground license shall expire on December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

333.12506a Campground fees.

Sec. 12506a. (1) The fees related to campground regulation under this part are as follows:

(a) Construction permit fee for a new campground..... $600.00.

(b) Construction permit fee for an addition, alteration, or modification of an existing campground..... $225.00.

(c) Initial or annual renewal license fee for a new or temporary campground as follows:

(*i*) One to 25 sites	$75.00.
(*ii*) Twenty-six to 50 sites	$100.00.
(*iii*) Fifty-one to 75 sites	$125.00.
(*iv*) Seventy-six to 100 sites	$150.00.
(*v*) One hundred one to 500 sites	$225.00.
(*vi*) More than 500 sites	$500.00.
(d) Late annual renewal license fee, after December 31	$100.00.
(e) License transfer fee	$75.00.

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

333.12506b Campground fund; creation; remaining balance; expenditures; use; annual report.

Sec. 12506b. (1) The campground fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the campground fund all fees collected by the department under section 12506a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the campground fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12501 to 12516. The department shall not use the money in the campground fund for inspections of any mobile home parks licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the campground fund. This report shall include details of the departmental costs and activities of the previous year in administering this campground program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

333.12507 Campground facilities to meet requirements prescribed under MCL 333.12511.

Sec. 12507. Before an application for a campground license is approved, the department, its agent or representative, or a representative of a designated local health department shall determine that the campground contains facilities which meet the requirements prescribed in rules promulgated under section 12511.

333.12508 Campground license; issuance; display; notice of denial; statement of reasons; reconsideration; hearing; appeal.

Sec. 12508. (1) Upon approval of the application for a campground license, the department, its agent or representative, or a representative of a designated local health department shall issue a campground license which shall be displayed in a conspicuous place on the campground.

(2) If the application is not approved, the department, its agent or representative, or a representative of a designated local health department shall give written notice of its denial to the applicant stating reasons for the denial. The applicant may request reconsideration of the application after correction of the reasons for the denial or may request a hearing before the department, or an authorized representative of the department, on the denial within 10 days after receipt of the denial. The hearing shall be held not later than 20 days after receipt of the request.

(3) A person aggrieved by the decision of the department or its authorized representative may appeal to the courts as provided by the administrative procedures act of 1969.

333.12509 Campground license; transfer.

Sec. 12509. A campground license shall not be transferred to another person except where the transferee complies with all the requirements to be licensed under sections 12501 to 12516 and upon submission of an application and the license transfer fee as prescribed in sections 12506 and 12506a.

333.12510 Annual inspection by local health department; payments; additional fees.

Sec. 12510. (1) If a representative of the designated local health department performs annual inspections of campgrounds that are applying for a new license, renewal license, or temporary license and have submitted the applicable license fee to the department, the department shall approve payments of $25.00 per campground to that local health department.

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a campground for services provided under sections 12501 to 12516.

333.12512 Notice of noncompliance; specifying particular violations; time for compliance; revocation of license; hearing; decision; appeal.

Sec. 12512. (1) The department, its agent or representative, or a representative of a designated local health department shall give written notice to a licensee who fails to comply with sections 12501 to 12516 or a rule promulgated under those sections. The notice shall specify the particular violations and a date by which the licensee shall comply. The time given for compliance shall depend upon the nature of the violation.

(2) If the licensee does not comply within the time specified, the department, its agent or representative, or a representative of a designated local health department may, in accordance with the administrative procedures act of 1969, revoke the license. If the licensee files a request for a hearing within 60 calendar days after the licensee receives notice of revocation, the department shall hold a hearing.

(3) A license revoked under subsection (2) shall not be reissued by the department, its agent or representative, or a representative of a designated local health department until it has been determined that the violations have been corrected.

(4) A licensee aggrieved by a decision of the department, its agent or representative, or a representative of a designated local health department to revoke the license may

appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969.

333.12513 Advisory board; purpose; appointment, qualifications, and terms of members.

Sec. 12513. (1) The director shall appoint an advisory board with broad geographical distribution of members to advise on the administration of sections 12501 to 12516 and the preparation and administration of rules promulgated under those sections.

(2) The board shall consist of 15 members as follows: 1 representing the Michigan association of recreation vehicles and campgrounds; 1 representing the association of RV parks and campgrounds of Michigan; 2 representing consumers, including 1 who represents a recognized campground users association; 3 campground owners or operators, including 1 who represents a primitive type of campground; 2 representing counties; 1 representing townships; 1 representing cities and villages; 2 representing local health departments; the director of the department of natural resources or his or her authorized representative; and the director or his or her authorized representative.

(3) Except for the directors of the departments, or their authorized representatives, the members shall serve for a term of 3 years. However, of the members first appointed, 3 members shall serve for a 1-year term, 3 members shall serve for a 2-year term, and 3 members shall serve for a 3-year term.

333.12514 Access to campground; purpose.

Sec. 12514. An agent or representative of the department or a representative of a designated local health department shall have access during all reasonable hours to a campground for the purpose of inspection or otherwise carrying out sections 12501 to 12516.

333.12516 Violation as misdemeanor; action for injunction.

Sec. 12516. (1) A person who violates sections 12501 to 12515 is guilty of a misdemeanor.

(2) Notwithstanding the existence of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for an injunction against a person to restrain or prevent the construction, enlargement, or alteration of a campground without a permit, or the operation or conduct of a campground without a license.

333.12521 Definitions used in MCL 333.12521 to 333.12534.

Sec. 12521. As used in sections 12521 to 12534:

(a) "Department" means the department of environmental quality.

(b) "Local health department" means that term as defined under section 1105.

(c) "Person" means a person as defined in section 1106 or a governmental entity.

(d) "Public swimming pool" means an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, waterparks, and the like. A pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural

bathing area such as a stream, lake, river, or man-made lake or pond that uses water from natural sources and has an inflow and outflow of natural water, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 hotel, motel, apartment, condominium, or similar units is not a public swimming pool.

333.12527 Public swimming pool; license required; fee; display; expiration; renewal; replacement.

Sec. 12527. (1) A public swimming pool shall not be operated without a license.

(2) A person engaged in the operation of a public swimming pool shall obtain a license to operate the swimming pool from the department, its agent or representative, or a representative of a designated local health department and shall pay an initial or renewal fee as specified in section 12527a.

(3) A license shall be displayed by the owner in a conspicuous place on the premises.

(4) A license shall expire December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

(5) A license shall be renewed upon receipt of a proper application, an annual renewal fee as specified in section 12527a, and evidence that the public swimming pool is being operated and maintained in accordance with sections 12521 to 12534 and the applicable rules and regulations.

(6) A license shall not be transferred to another person but it may be replaced by another license upon receipt of a proper application and the fee specified in section 12527a.

333.12527a Fees.

Sec. 12527a. (1) The fees related to swimming pool regulation under this part are as follows:

(a) Construction permit fee for a swimming pool with a surface area as follows:	
(*i*) 500 square feet or less	$550.00
(*ii*) 501 to 1,500 square feet	$700.00
(*iii*) 1,501 to 2,400 square feet	$800.00
(*iv*) 2,401 to 4,000 square feet	$1,300.00
(*v*) More than 4,000 square feet	$1,800.00
(b) Construction permit fee for modification of an existing swimming pool	$275.00
(c) Initial license fee for a swimming pool with a surface area as follows:	
(*i*) 500 square feet or less	$550.00
(*ii*) 501 to 1,000 square feet	$600.00
(*iii*) 1,001 to 1,500 square feet	$625.00
(*iv*) 1,501 to 2,000 square feet	$650.00
(*v*) 2,001 to 2,500 square feet	$700.00
(*vi*) 2,501 to 3,500 square feet	$800.00
(*vii*) 3,501 to 4,500 square feet	$900.00
(*viii*) More than 4,500 square feet	$1,000.00
(d) Initial license fee for a modified swimming pool	$275.00
(e) Annual renewal license fee, to December 31	$55.00

(f) Late annual renewal license fee, after December 31 through April 30... $100.00

(g) Lapsed annual renewal license fee, after April 30..... $150.00

(h) Replacement license fee for transfer to another person..... $50.00

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

(3) A person that has a valid, current permit to operate a public swimming pool on the effective date of the amendatory act that added this subsection is not required to pay an initial license fee as specified in this section.

333.12527b Public swimming pool fund; creation; remaining balance; expenditures; use; annual report.

Sec. 12527b. (1) The public swimming pool fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the public swimming pool fund all fees collected by the department under section 12527a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the public swimming pool fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12521 to 12534. The department shall not use the money in the public swimming pool fund for inspections of any mobile home parks licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the public swimming pool fund. This report shall include details of the departmental costs and activities of the previous year in administering this public swimming pool program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

333.12528 Denial of license; grounds; notice; failure to correct deficiencies or noncomplying items.

Sec. 12528. If upon investigation, the department, its agent or representative, or a representative of a designated local health department finds that a public swimming pool was not constructed or modified in accordance with the approved plans and specifications, the department, its agent or representative, or a representative of a designated local health department shall give written notice to the applicant that the license will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the license and a date by which the licensee shall comply. An applicant who fails to correct the deficiencies or noncomplying items within the time specified shall be denied a license.

333.12529 Revocation of license; grounds; reissuance.

Sec. 12529. The department may, in accordance with the administrative procedures act of 1969, revoke the license upon a finding that the pool is not being operated or maintained in accordance with sections 12521 to 12534 or the rules. A person aggrieved by a decision of the department or its authorized representative to revoke the license may appeal to a

court of competent jurisdiction as provided by the administrative procedures act of 1969. A license that has been revoked shall be reissued only when the department determines the deficiencies are corrected.

333.12532 Payments to local health departments; additional fees.

Sec. 12532. (1) The department may approve payments for each public swimming pool granted an initial license and each renewal license to a designated local health department when the fees are collected by the state from the designated local health department's respective area, as follows:

(a) Initial license fee for a swimming pool..... $100.00

(b) Annual renewal license fee..... $30.00

(c) Late annual renewal license fee $45.00

(d) Lapsed annual renewal license fee $70.00

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a swimming pool for services provided under sections 12521 to 12534.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2004.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 409]

(HB 5414)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 106 (MCL 400.106), as amended by 2003 PA 33.

The People of the State of Michigan enact:

400.106 "Medically indigent individual," "Medicaid contracted health plan," "medical institution," and "title XVI" defined.

Sec. 106. (1) A medically indigent individual is defined as:

(a) An individual receiving family independence program benefits or an individual receiving supplemental security income under title XVI or state supplementation under title XVI subject to limitations imposed by the director according to title XIX.

(b) Except as provided in section 106a, an individual who meets all of the following conditions:

(*i*) The individual has applied in the manner the family independence agency prescribes.

(*ii*) The individual's need for the type of medical assistance available under this act for which the individual applied has been professionally established and payment for it is not available through the legal obligation of a public or private contractor to pay or provide for the care without regard to the income or resources of the patient. The state department is subrogated to any right of recovery that a patient may have for the cost of hospitalization, pharmaceutical services, physician services, nursing services, and other medical services not to exceed the amount of funds expended by the state department for the care and treatment of the patient. The patient or other person acting in the patient's behalf shall execute and deliver an assignment of claim or other authorizations as necessary to secure the right of recovery to the department. A payment may be withheld under this act for medical assistance for an injury or disability for which the individual is entitled to medical care or reimbursement for the cost of medical care under sections 3101 to 3179 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, or under another policy of insurance providing medical or hospital benefits, or both, for the individual unless the individual's entitlement to that medical care or reimbursement is at issue. If a payment is made, the state department, to enforce its subrogation right, may do either of the following: (a) intervene or join in an action or proceeding brought by the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate, dependents, or survivors, against the third person who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled individual; (b) institute and prosecute a legal proceeding against a third person who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled individual, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate, dependents, or survivors. The state department may institute the proceedings in its own name or in the name of the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate, dependents, or survivors. As provided in section 6023 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6023, the state department, in enforcing its subrogation right, shall not satisfy a judgment against the third person's property that is exempt from levy and sale. The injured, diseased, or disabled individual may proceed in his or her own name, collecting the costs without the necessity of joining the state department or the state as a named party. The injured, diseased, or disabled individual shall notify the state department of the action or proceeding entered into upon commencement of the action or proceeding. An action taken by the state or the state department in connection with the right of recovery afforded by this section does not deny the injured, diseased, or disabled individual any part of the recovery beyond the costs expended on the individual's behalf by

the state department. The costs of legal action initiated by the state shall be paid by the state. A payment shall not be made under this act for medical assistance for an injury, disease, or disability for which the individual is entitled to medical care or the cost of medical care under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941; except that payment may be made if an appropriate application for medical care or the cost of the medical care has been made under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, entitlement has not been finally determined, and an arrangement satisfactory to the state department has been made for reimbursement if the claim under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, is finally sustained.

(*iii*) The individual has an annual income that is below, or because of medical expenses falls below, the protected basic maintenance level. The protected basic maintenance level for 1-person and 2-person families shall be at least 100% of the higher of the payment standards generally used to determine eligibility in the family independence program and the supplemental security income program under title XVI, including state supplementation. For families of 3 or more persons, the protected basic maintenance level shall be at least 100% of the payment standard generally used to determine eligibility in the family independence program. These levels shall recognize regional variations and shall not exceed 133-1/3% of the payment standard generally used to determine eligibility in the family independence program.

(*iv*) The individual, if a family independence program related individual and living alone, has liquid or marketable assets of not more than $2,000.00 in value, or, if a 2-person family, the family has liquid or marketable assets of not more than $3,000.00 in value. The family independence agency shall establish comparable liquid or marketable asset amounts for larger family groups. Excluded in making the determination of the value of liquid or marketable assets are the values of: the homestead; clothing; household effects; $1,000.00 of cash surrender value of life insurance, except that if the health of the insured makes continuance of the insurance desirable, the entire cash surrender value of life insurance is excluded from consideration, up to the maximum provided or allowed by federal regulations and in accordance with the rules of the family independence agency; the fair market value of tangible personal property used in earning income; an amount paid as judgment or settlement for damages suffered as a result of exposure to agent orange, as defined in section 5701 of the public health code, 1978 PA 368, MCL 333.5701; and a space or plot purchased for the purposes of burial for the person. For individuals related to the title XVI program, the appropriate resource levels and property exemptions specified in title XVI shall be used.

(*v*) The individual is not an inmate of a public institution except as a patient in a medical institution.

(*vi*) The individual meets the eligibility standards for supplemental security income under title XVI or for state supplementation under the act, subject to limitations imposed by the director according to title XIX; or meets the eligibility standards for family independence program benefits, except for income or income and resources; or is a child from 18 to 21 years of age and his or her adult caretaker would be eligible for family independence program benefits except for age, income, or income and resources; or is a child under 21 years of age and is from a family whose income is below the basic maintenance level.

(2) As used in this act:

(a) "Medicaid contracted health plan" means a managed care organization with whom the state department contracts to provide or arrange for the delivery of comprehensive health care services as authorized under this act.

(b) "Medical institution" means a state licensed or approved hospital, nursing home, medical care facility, psychiatric hospital, or other facility or identifiable unit of a listed

institution certified as meeting established standards for a nursing home or hospital in accordance with the laws of this state.

(c) "Title XVI" means title XVI of the social security act, 42 USC 1381 to 1382j and 1383 to 1383f.

(3) An individual receiving medical assistance under this act or his or her legal counsel shall notify the state department when filing an action in which the state department may have a right to recover expenses paid under this act. If the individual is enrolled in a medicaid contracted health plan, the individual or his or her legal counsel shall provide notice to the contracted health plan in addition to providing notice to the state department.

(4) If a legal action in which the state department, a medicaid contracted health plan, or both has a right to recover expenses paid under this act is filed and settled after the date of the amendatory act that added this subsection without notice to the state department or the medicaid contracted health plan, the state department or the medicaid contracted health plan may file a legal action against the individual or his or her legal counsel, or both, to recover expenses paid under this act. The attorney general shall recover any cost or attorney fees associated with a recovery under this subsection.

(5) The state department has first priority against the proceeds of the net recovery from the settlement or judgment in an action settled in which notice has been provided under subsection (3). A medicaid contracted health plan has priority immediately after the state department in an action settled in which notice has been provided under subsection (3). The state department and a medicaid contracted health plan shall recover the full cost of expenses paid under this act unless the state department or the medicaid contracted health plan agrees to accept an amount less than the full amount. If the individual would recover less against the proceeds of the net recovery than the expenses paid under this act, the state department or medicaid contracted health plan, and the individual shall share equally in the proceeds of the net recovery. As used in this subsection, "net recovery" means the total settlement or judgment less the costs and fees incurred by or on behalf of the individual who obtains the settlement or judgment.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 410]

(HB 5947)

AN ACT to amend 1984 PA 323, entitled "An act to prohibit fraud in the obtaining of benefits or payments in connection with health care coverage and insurance; to prohibit kickbacks or bribes in connection with such coverage and insurance; to prohibit conspiracies in obtaining benefits or payments; to provide for certain powers and duties of certain state and local officers and agencies; to provide for and preclude certain civil actions; and to prescribe penalties," (MCL 752.1001 to 752.1011) by adding section 4b.

The People of the State of Michigan enact:

752.1004b Rebate or discount from medical supply or device manufacturer; use; effect.

Sec. 4b. (1) A rebate or discount from a medical supply or device manufacturer or from a company that licenses or distributes medical supplies or devices for a medical supply or

device manufacturer to a consumer for that consumer's use of a medical supply or device manufactured or licensed or distributed by that manufacturer or company does not violate section 4.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5970 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

Compiler's note: House Bill No. 5970, referred to in enacting section 1, was filed with the Secretary of State November 29, 2004, and became P.A. 2004, No. 411, Imd. Eff. Nov. 29, 2004.

[No. 411]

(HB 5970)

AN ACT to amend 1984 PA 323, entitled "An act to prohibit fraud in the obtaining of benefits or payments in connection with health care coverage and insurance; to prohibit kickbacks or bribes in connection with such coverage and insurance; to prohibit conspiracies in obtaining benefits or payments; to provide for certain powers and duties of certain state and local officers and agencies; to provide for and preclude certain civil actions; and to prescribe penalties," (MCL 752.1001 to 752.1011) by adding section 4a.

The People of the State of Michigan enact:

752.1004a Rebate or discount from drug manufacturer; use; effect.

Sec. 4a. (1) A rebate or discount from a drug manufacturer or from a company that licenses or distributes the drugs of a drug manufacturer to a consumer for that consumer's use of a drug manufactured or licensed or distributed by that drug manufacturer or company does not violate section 4.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5947 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

Compiler's note: House Bill No. 5947, referred to in enacting section 1, was filed with the Secretary of State November 29, 2004, and became P.A. 2004, No. 410, Imd. Eff. Nov. 29, 2004.

[No. 412]

(HB 5457)

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," (MCL 380.1 to 380.1852) by adding section 622a.

The People of the State of Michigan enact:

380.622a Additional audits.

Sec. 622a. (1) In addition to the annual financial audit required under section 622, an intermediate school district is subject to an audit of the matters described in this section conducted by an independent auditor under the direction of the department of treasury under this section. An audit conducted under this section shall be based in part on an examination of an intermediate school district's accounts, financial records, and accounting procedures and shall address at least 3 of the following aspects of the intermediate school district's operations, as directed by the department of treasury:

(a) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to ethics policies adopted by the intermediate school board or required by state law.

(b) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to conflict of interest policies adopted by the intermediate school board or required by state law. This includes, but is not limited to, policies and practices with regard to contracts in which an intermediate school board member, an intermediate school district administrator, or an intermediate school district employee who is involved in the contracting process, or a family member of an intermediate school board member, an intermediate school district administrator, or an intermediate school district employee who is involved in the contracting process, has a substantial conflict of interest; and policies and practices with regard to an intermediate school district administrator negotiating, handling, presenting, or recommending a contract in which the administrator or a family member of the administrator has a substantial conflict of interest. As used in this subdivision, "substantial conflict of interest" means that term as defined in section 634(5).

(c) Whether a modification to an existing contract was made during the audit period that resulted in an additional financial obligation to the intermediate school district and the modification was not competitively bid. As used in this subdivision, "competitively bid" means that a contract was entered into through a request for information, a request for proposal, or a formal competitive bid process that was advertised and open to the

public, and includes a contract entered into on behalf of the intermediate school district by a federal, state, or local governmental entity that performed a request for information, request for proposal, or formal competitive bid process or by a nonprofit corporation or nonprofit association that performed a request for information, request for proposal, or formal competitive bid process.

(d) Whether the intermediate school district's policies and practices for responding to requests received under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and the intermediate school district's actual responses to requests made during the audit period under that act, were in compliance with that act. This part of the audit shall include, but is not limited to, an examination of whether the costs charged for responding to requests exceeded the costs permitted under that act.

(e) Whether intermediate school board members, intermediate school district administrators, and intermediate school district employees are adhering to travel guidelines and practices adopted by the intermediate school board or required by state law.

(f) Whether the intermediate school district has accurately accounted for and reported all information relating to stipends, salaries, benefits, or other compensation paid to intermediate school district administrators.

(g) Whether the intermediate school district has used public funds in violation of law to pay for food, gifts, or other items that are not used for instructional purposes, as defined by the intermediate school board.

(h) Whether proceeds from a tax levied under section 681 for area vocational-technical education operating purposes or from a tax levied under section 1724a for special education operating purposes have been expended for a purpose other than the purpose for which the tax was levied.

(2) The department of treasury shall direct the random audits of intermediate school districts under this section as follows:

(a) The department of treasury shall select the intermediate school districts to be audited under this section on a random basis.

(b) The department of treasury shall announce between July 1 and July 15 of each calendar year the intermediate school districts that will be subject that year to an audit under this section for the immediately preceding school fiscal year.

(c) The department of treasury shall select 5 intermediate school districts for audit under this section every 2 years.

(d) Upon request by the department of treasury, the intermediate school district shall notify the department of treasury of the name, address, and contact person of the independent auditor selected by the intermediate school board to perform the annual financial audit for the intermediate school district. The department of treasury shall enter into an agreed-upon procedures agreement with the selected independent auditor, identifying the matters to be audited and establishing the rate of payment, which shall be no more than the rate the department would charge for the same type of audit. The department of treasury shall oversee the conduct of the audit by the independent auditor to the extent the department of treasury considers necessary to meet the purposes of this section.

(e) An intermediate school board and intermediate school district officials shall provide all information requested by the independent auditors or the department of treasury and shall cooperate with them to the fullest extent possible.

(f) The independent auditor shall submit an audit report of the audit to the center for educational performance and information in the form and manner prescribed by the center for educational performance and information. The center for educational performance and

information shall submit a copy of the audit report of each audit conducted under this section to the department of treasury, to the applicable intermediate school board, to the senate and house standing committees having jurisdiction over education legislation, to the department, and, subject to subdivision (g), to the attorney general if the department of treasury considers it appropriate.

(g) If the department of treasury determines that an audit conducted under this section has disclosed that the intermediate school board or any intermediate school district official or employee has violated any state law governing the financial operations of an intermediate school district, the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(3) In addition to the intermediate school districts selected for a random audit under subsection (2), the department of treasury may also direct an audit under this section of 1 or more additional intermediate school districts selected by the department of treasury if the department of treasury considers that additional audit or audits to be appropriate. Subsection (2)(d), (e), (f), and (g) applies to an audit under this subsection.

(4) The department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts the auditing criteria to be used for the purposes of this section.

(5) An audit under this section shall be performed in accordance with standards issued by the American institute of certified public accountants and with government audit standards issued by the United States general accounting office.

(6) The department of treasury shall pay the costs of the audit conducted under this section. The department of treasury's obligation under this section is limited to the amount of a separate line item appropriation identified for the purpose of funding the department of treasury's duties under this section and included in the annual appropriations act making appropriations for the department of treasury.

(7) The department shall post on its website the audit reports it receives under subsection (2)(f).

Effective date.

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

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 413]

(HB 5475)

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," (MCL 380.1 to 380.1852) by adding section 620.

The People of the State of Michigan enact:

380.620 Report to be posted on intermediate school district website.

Sec. 620. (1) Not later than December 31 of each year, each intermediate school district shall post on its website a report containing all of the following information for the immediately preceding school fiscal year in the form and manner prescribed by the department:

(a) All of the following general information:

(*i*) The amount of the intermediate school district's total budget.

(*ii*) The number of full-time equated pupils served by the intermediate school district.

(*iii*) The number of employees employed by the intermediate school district.

(*iv*) The number of constituent districts, public school academies, and nonpublic schools served by the intermediate school district.

(b) Except as otherwise provided in subsection (2) and subject to subsection (9), for each intermediate school board member or school administrator of the intermediate school district who had travel expenses during the school fiscal year that totaled more than $3,000.00 and that were paid for with intermediate school district funds, all of the following information concerning that travel:

(*i*) The total cost of air travel.

(*ii*) The total cost of overnight lodging.

(*iii*) The total cost of car rental.

(*iv*) The total cost of meals.

(*v*) The dates, purpose, and locations of travel.

(*vi*) The name and position of the board member or administrator.

(c) Except as otherwise provided in subsection (3) and subject to subsection (5), for each contract, other than an employment contract or a contract that is reported under subdivision (f), that was entered into by the intermediate school district during the school fiscal year and that either obligated the intermediate school district for an amount in excess

of $100,000.00; was not competitively bid and obligated the intermediate school district for an amount in excess of $25,000.00; or was entered into with an entity in which an intermediate school board member or school administrator of the intermediate school district, or a family member of an intermediate school board member or school administrator of the intermediate school district, was known by the intermediate school board to have a monetary interest, a description of the contract that includes at least all of the following:

(*i*) The subject matter and cost of the contract.

(*ii*) Whether the contract was competitively bid or was a single source contract.

(*iii*) The name and position of each individual who signed the contract on behalf of the intermediate school district.

(d) Except as otherwise provided in subsection (3), if there was a modification made during the school fiscal year to an existing contract that resulted in an additional financial obligation owed by the intermediate school district in excess of $100,000.00 or that resulted in the total financial obligation owed by the intermediate school district from the existing contract exceeding $100,000.00, or was a modification to an existing contract that was not competitively bid and the modification resulted in an additional financial obligation owed by the intermediate school district in excess of $25,000.00 or resulted in the total financial obligation owed by the intermediate school district from the existing contract exceeding $25,000.00, a description of the modification and the total amount of the additional and total financial obligation.

(e) Subject to subsection (4), for each intermediate school district employee with a compensation package with a total annual monetary value in the top 3% among the intermediate school district's employees, all of the following:

(*i*) The dollar value of his or her salary.

(*ii*) The dollar value of all expense accounts provided for the employee and the dollar value of all reimbursed expenses.

(*iii*) The dollar value of any bonus, stipend, or any other form of supplemental compensation. As used in this subparagraph, "supplemental compensation" means any payment or benefit made available to that employee that is not generally made available to all teaching, administrative, and executive-level employees of the intermediate school district.

(f) Total costs incurred during the school fiscal year, and the source or sources of the money expended during the school fiscal year, for fiber optic or cable equipment and operating system software for fiber optic or cable equipment networks. The description of the source or sources of the money expended for purposes described in this subdivision shall specify the amount used from each of the separate funds maintained by the intermediate school district and used from each other source.

(g) Payments made during the school fiscal year to persons who were not employees of the intermediate school district for public relations, polling, lobbying, or legal services and a description of the services received by the intermediate school district in return.

(h) For each person not included under subdivision (e) or (g) to whom the intermediate school district was required to issue a federal income tax form 1099 that showed payments in excess of $25,000.00 during the school fiscal year, the total amount paid to the individual, a description of the project or projects for which the person was contracted, and the services provided by the person.

(i) The amount and percentage of the intermediate school district's total budget that was spent on each of the following:

(*i*) Administrative costs, as defined under the Michigan public school accounting manual.

(*ii*) Public relations, surveys, polling, lobbying, and legal services.

(j) A list of all motor vehicles weighing 7,500 pounds or less that were owned or leased by the intermediate school district during the school fiscal year and are not reported under subdivision (c) and a description of the purposes for which each of these motor vehicles was used.

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

(a) Round-trip air travel on a scheduled airline from a location in the Upper Peninsula to a location in the Lower Peninsula or chartered round-trip air travel from a location in the Upper Peninsula to a location in the Lower Peninsula if the cost of the chartered air travel is less than the published cost of the same air travel on a scheduled airline.

(b) Travel expenses for air or boat travel for work-related purposes within this state between an island and the mainland.

(c) Travel expenses for travel within the boundaries of the intermediate school district for work-related purposes.

(d) Mileage reimbursement.

(3) Subsection (1)(c) and (d) does not apply to a contract for utilities or to a contract for an annuity or retirement benefit in which all employees are eligible to participate unless the contract is for payment of a commission to a third-party broker for securing 1 of those contracts.

(4) If an intermediate school district has fewer than 3 employees in the top 3% of employees as described in subsection (1)(e), the intermediate school district shall include the information required under subsection (1)(e) for each intermediate school district employee with a compensation package with a total monetary value in the top 3 among the intermediate school district's employees. If an intermediate school district has more than 20 employees in the top 3% of employees as described in subsection (1)(e), the intermediate school district shall include the information under subsection (1)(e) for each intermediate school district employee with a compensation package with a total monetary value in the top 20 among the intermediate school district's employees.

(5) For the purposes of subsection (1)(c), an intermediate school board member or school administrator of an intermediate school district, or a family member of an intermediate school board member or school administrator of an intermediate school district, is not considered to have a monetary interest in any of the following contracts:

(a) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member, intermediate school district administrator, or family member is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*ii*) A corporation in which a trust, if an intermediate school board member, intermediate school district administrator, or family member is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*iii*) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.5101 to 450.6200, if an intermediate school board member, intermediate school district administrator, or family member is an employee but not a member of the company.

(b) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member, intermediate school district administrator, or family member is not a director, officer, or employee.

(*ii*) A firm, partnership, or other unincorporated association, in which an intermediate school board member, intermediate school district administrator, or family member is not a partner, member, or employee.

(*iii*) A corporation or firm that has an indebtedness owed to an intermediate school board member, intermediate school district administrator, or family member.

(c) A contract between the intermediate school district and a constituent district.

(6) The department shall include on its website a link to the page on each intermediate school district's website that includes the intermediate school district's report under subsection (1).

(7) The department shall work with intermediate school districts to determine the form and manner for the posting of the report under subsection (1).

(8) An intermediate school district shall maintain the report under subsection (1) on its website only for the most recent reporting period, but shall maintain paper copies of previous reports for at least 10 years.

(9) Beginning January 1, 2006, the monetary amount specified in subsection (1)(b) shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

(10) As used in this section:

(a) "Competitively bid" means that a contract was entered into through a request for information, a request for proposal, or a formal competitive bid process that was advertised and open to the public, and includes a contract entered into on behalf of the intermediate school district by a federal, state, or local governmental entity that performed a request for information, request for proposal, or formal competitive bid process or by a nonprofit corporation or nonprofit association that performed a request for information, request for proposal, or formal competitive bid process.

(b) "Family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

(c) "Total budget" means budget for all funds held by the intermediate school district.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5627 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

Compiler's note: House Bill No. 5627, referred to in enacting section 2, was filed with the Secretary of State November 29, 2004, and became P.A. 2004, No. 414, Eff. Jan. 1, 2005.

[No. 414]

(HB 5627)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending section 18 (MCL 388.1618), as amended by 2003 PA 158.

The People of the State of Michigan enact:

388.1618 Application of money received under act; determining reasonableness of expenditures; withholding apportionment for violation; audit; manuals; reports; retention of property by public school academy; failure to comply with subsection (2), (3), (4), or (5).

Sec. 18. (1) Except as provided in another section of this act, each district or other entity shall apply the money received by the district or entity under this act to salaries and other compensation of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks which are designated by the board to be used in the schools under the board's charge, other supplies, and any other school operating expenditures defined in section 7. However, not more than 20% of the total amount received by a district under article 2 or intermediate district under article 8 may be transferred by the board to either the capital projects fund or to the debt retirement fund for debt service. The money shall not be applied or taken for a purpose other than as provided in this section. The department shall determine the reasonableness of expenditures and may withhold from a recipient of funds under this act the apportionment otherwise due for the fiscal year following the discovery by the department of a violation by the recipient.

(2) For the purpose of determining the reasonableness of expenditures and whether a violation of this act has occurred, the department shall require that each district and intermediate district have an audit of the district's or intermediate district's financial and pupil accounting records conducted at least annually at the expense of the district or intermediate district, as applicable, by a certified public accountant or by the intermediate district superintendent, as may be required by the department, or in the case of a district of the first class by a certified public accountant, the intermediate superintendent, or the auditor general of the city. An intermediate district's annual financial audit shall be accompanied by the intermediate district's pupil accounting procedures report. A district's or intermediate district's annual financial audit shall include an analysis of the financial and pupil accounting data used as the basis for distribution of state school aid. The pupil accounting records and reports, audits, and management letters are subject to requirements established in the auditing and accounting manuals approved and published by the department. Except as otherwise provided in this subsection, a district shall file the annual financial audit reports with the intermediate district not later than 120 days after the end of each school fiscal year and the intermediate district shall forward the annual financial audit reports for its constituent districts and for the intermediate district, and the pupil accounting procedures report for the pupil membership count day and supplemental count day, to the department not later than November 15 of each year. The

annual financial audit reports and pupil accounting procedures reports shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Not later than December 1 of each year, the department shall notify the state budget director and the legislative appropriations subcommittees responsible for review of the school aid budget of districts and intermediate districts that have not filed an annual financial audit and pupil accounting procedures report required under this section for the school year ending in the immediately preceding fiscal year.

(3) By November 15 of each year, each district and intermediate district shall submit to the center, in a manner prescribed by the center, annual comprehensive financial data consistent with accounting manuals and charts of accounts approved and published by the department. For an intermediate district, the report shall also contain the website address where the department can access the report required under section 620 of the revised school code, MCL 380.620.

(4) By September 30 of each year, each district and intermediate district shall file with the department the special education actual cost report, known as "SE-4096", on a form and in the manner prescribed by the department.

(5) By October 7 of each year, each district and intermediate district shall file with the department the transportation expenditure report, known as "SE-4094", on a form and in the manner prescribed by the department.

(6) Not later than July 1, 1999, the department shall approve and publish pupil accounting and pupil auditing manuals. The department shall review those manuals at least annually and shall periodically update those manuals to reflect changes in this act. The pupil accounting manuals in effect for the 1996-97 school year, including subsequent revisions issued by the superintendent, shall be the interim manuals in effect until new manuals are approved and published. However, the clarification of class-by-class accounting provided in the department's April 15, 1998 memorandum on pupil accounting procedures shall be excluded from the interim manuals.

(7) If a district that is a public school academy purchases property using money received under this act, the public school academy shall retain ownership of the property unless the public school academy sells the property at fair market value.

(8) If a district or intermediate district does not comply with subsection (2), (3), (4), or (5), the department shall withhold all state school aid due to the district or intermediate district under this act, beginning with the next payment due to the district or intermediate district, until the district or intermediate district complies with subsections (2), (3), (4), and (5). If the district or intermediate district does not comply with subsections (2), (3), (4), and (5) by the end of the fiscal year, the district or intermediate district forfeits the amount withheld.

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5475 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

Compiler's note: House Bill No. 5475, referred to in enacting section 2, was filed with the Secretary of State November 29, 2004, and became P.A. 2004, No. 413, Eff. July 1, 2006.

[No. 415]

(HB 5839)

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 sections 681, 687, 1723, 1724a, and 1731 (MCL 380.681, 380.687, 380.1723, 380.1724a, and 380.1731), sections 681 and 687 as amended by 2003 PA 299, section 1724a as added by 1994 PA 258, and section 1731 as amended by 2002 PA 70, and by adding section 625b.

The People of the State of Michigan enact:

380.625b Authorization for tax cut; duration.

Sec. 625b. For a tax that is authorized after the effective date of this section for intermediate school district operating purposes, the duration of the authorization for the tax shall not exceed 20 years. The authorization for a tax described in this section may be renewed with the approval of the intermediate school electors for a duration not to exceed 20 years. The duration of the authorization for a tax described in this section shall be stated in the ballot question concerning the levy or renewal of the tax.

380.681 Area vocational-technical education program; approval of establishment and operation; election; submission of question; form of ballot; limitation on number of mills to be levied; use of tax proceeds; repayment of misspent funds; number of elections.

Sec. 681. (1) An intermediate school district may establish an area vocational-technical education program and operate the program under sections 681 to 690 if approved by a majority of the intermediate school electors of the intermediate school district voting on the question. The election shall be called and conducted in accordance with this act and the Michigan election law. The establishment of the area vocational-technical education program may be rescinded by the same process.

(2) The question of establishing an area vocational-technical education program may be submitted to the intermediate school electors of an intermediate school district at a regular school election or at a special election held in each of the constituent districts. Subject to section 641 of the Michigan election law, MCL 168.641, the intermediate school board shall determine the date of the election and shall give notice to the school district filing official at least 60 days in advance of the date the ballot question is to be submitted to the intermediate school electors.

(3) The ballot for referring the question of adopting sections 681 to 690 and establishing an area vocational-technical education program to the intermediate school electors of an intermediate school district shall be substantially in the following form:

"Shall _____ (legal name of intermediate school district), state of Michigan, come under sections 681 to 690 of the revised school code and establish an area vocational-technical education program which is designed to encourage the operation of area vocational-technical education programs if the annual property tax levied for this purpose is limited to _____ mills?

Yes ( )

No ( )".

(4) Beginning in 1995, and subject to section 625b, the number of mills of ad valorem property taxes an intermediate school board may levy for area vocational-technical education program operating purposes under sections 681 to 690 is limited to the following:

(a) If the intermediate school district did not levy any millage in 1993 for area vocational-technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy not more than 1 mill for those purposes.

(b) If the intermediate school district levied millage in 1993 for area vocational-technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy mills for those purposes at a rate not to exceed 1.5 times the number of mills authorized for those purposes in the intermediate school district in 1993. Approval of the intermediate school electors is not required for the levy under this subdivision of previously authorized mills until that authorization expires.

(5) An intermediate school district that levies a tax for area vocational-technical education program operating purposes shall not use proceeds from the tax for any purpose other than area vocational-technical education program operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than area vocational-technical education program operating purposes, as defined under subsection (7), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(6) If the attorney general determines from a report filed under subsection (5) that an intermediate school district has misspent tax proceeds as described in subsection (5) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its area vocational-technical education program operating fund an amount equal to the amount the department of treasury determined under subsection (5) has been used for a purpose other than area vocational-technical education program operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(7) For the purposes of subsections (5) and (6), the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of area vocational-technical education program operating purposes.

(8) An intermediate school district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for area vocational-technical education program operating purposes under sections 681 to 690.

380.687 Borrowing money and issuing bonds; purposes; limitation; submission to school electors; form of ballot; use of proceeds from bonds issued or refunded.

Sec. 687. (1) An intermediate school board in which an area vocational-technical education program is established, by a majority vote of the intermediate school electors voting on the question at a regular school election or at a special election called for that purpose, may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping area vocational-technical buildings and other facilities, or parts of buildings and other facilities or additions to buildings and other facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for area vocational-technical buildings and other facilities; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the foregoing purposes. An intermediate school district shall not issue bonds under this part for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(2) A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the foregoing 1.5% limitation.

(3) An intermediate school board may submit a proposal to issue bonds of the intermediate school district, authorized under this section, to the intermediate school electors at the same election at which the intermediate school electors vote on the establishment of an area vocational-technical education program. If these questions are presented to the school electors at the same election, the board shall include the bond proposal in the 60-day notice given the boards of constituent districts. The establishment of an area vocational-technical education program shall become effective if approved by a majority of the intermediate school electors voting on the question. The authority to issue bonds is effective only if a majority of the intermediate school electors approve both the establishment of the area vocational-technical education program and the issuance of bonds.

(4) The ballot used in submitting the question of borrowing money and issuing bonds under this section shall be in substantially the following form:

"Shall _____ (here state the legal name of the intermediate school district designating the name of a district of not less than 18,000 pupils or first class school district

that has elected not to come under this act as far as an area vocational-technical education program is concerned) state of Michigan, borrow the sum of not to exceed $ _____ and issue its bonds therefor, for the purpose of _____?

Yes ( )

No ( )".

(5) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for area vocational-technical education purposes. If a facility is to be used during regular school hours for purposes other than providing area vocational-technical education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing area vocational-technical education programs and services.

380.1723 Adoption of MCL 380.1722 to 380.1729; form of ballot.

Sec. 1723. The ballot submitting the question of the adoption of sections 1722 to 1729 to the school electors of an intermediate school district shall be substantially in the following form:

"Shall the _____ (legal name of the intermediate school district), state of Michigan, come under sections 1722 to 1729 of the revised school code, which are designed to encourage the education of handicapped persons, if the annual property tax levied for administration is limited to _____ mills?

Yes ( )

No ( )".

380.1724a Property taxes levied by intermediate school district for special education.

Sec. 1724a. (1) Beginning in 1995, and subject to section 625b, the board of an intermediate school district may levy ad valorem property taxes for special education purposes under sections 1722 to 1729 at a rate not to exceed 1.75 times the number of mills of those taxes authorized in the intermediate school district in 1993. All or part of the millage levied under this section may be renewed as provided in this article. Approval of the intermediate school electors is not required for the levy under this section of previously authorized mills until that authorization expires.

(2) An intermediate school district that levies a tax for special education operating purposes shall not use proceeds from the tax for any purpose other than special education operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than special education operating purposes, as defined under subsection (4), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury

shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(3) If the attorney general determines from a report filed under subsection (2) that an intermediate school district has misspent tax proceeds as described in subsection (2) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its special education operating fund an amount equal to the amount the department of treasury determined under subsection (2) has been used for a purpose other than special education operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(4) For the purposes of subsections (2) and (3), the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of special education operating purposes.

(5) An intermediate district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for special education purposes under sections 1722 to 1729.

380.1731 Borrowing money and issuing bonds; purposes; limitation; use of proceeds from bonds issued or refunded.

Sec. 1731. (1) An intermediate school district may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the costs of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for buildings and other special education facilities; refunding all or part of existing bonded indebtedness; or the accomplishment of a combination of these purposes.

(2) An intermediate school district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(3) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for special education purposes. If a facility is to be used during regular school hours for purposes other than providing special education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing special education programs and services.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 416]

(HB 5843)

AN ACT to amend 1951 PA 33, entitled "An act to provide police and fire protection for townships and for certain areas in townships, certain incorporated villages, and cities under 15,000 population; to authorize contracting for fire and police protection; to authorize the purchase of fire and police equipment, and the maintenance and operation of the equipment; to provide for defraying the cost of the equipment; to authorize the creation of special assessment districts and the levying and collecting of special assessments; to authorize the issuance of special assessment bonds in anticipation of the collection of special assessments and the advancement of the amount necessary to pay such bonds, and to provide for reimbursement for such advances by reassessment if necessary; to authorize the collection of fees for certain emergency services in townships and other municipalities; to authorize the creation of administrative boards and to prescribe their powers and duties; to provide for the appointment of traffic officers and to prescribe their powers and duties; and to repeal certain acts and parts of acts," by amending section 6 (MCL 41.806), as amended by 1989 PA 81.

The People of the State of Michigan enact:

41.806 Police and fire departments; contracts for service or for maintenance and operation of equipment; delegation of powers; agreements to furnish protection to city, village, or other township.

Sec. 6. (1) The township board of a township, or the township boards of adjoining townships acting jointly, if appropriations have been made as provided in this act, may do any of the following:

(a) Establish and maintain police and fire departments.

(b) Organize and maintain police and fire vehicles.

(c) Employ and appoint a police chief and fire chief and other police and fire officers, including detectives, required for the proper and efficient operation and maintenance of the police and fire departments and proper law enforcement.

(d) Make and establish rules and regulations for the government of the police and fire departments, employees, officers, and detectives.

(e) Care and manage the motor vehicles, apparatus, equipment, property, and buildings pertaining to the police and fire departments.

(f) Prescribe the powers and duties of the employees, officers, and detectives.

(2) The township board of a township, or the township boards of adjoining townships, acting jointly, may contract with the township board or legislative body of a township, city, or village that maintains a police or fire department for the service of the department or for the care, maintenance, and operation of police or fire motor vehicles, apparatus, and equipment by the police or fire department of the township, city, or village, and may contract with the legislative body of a village that does not maintain a police department or does not maintain a fire department to furnish police or fire protection to the village.

(3) If a township board, or the township boards of adjoining townships acting jointly, have organized and are maintaining a police or fire department, the board, or boards acting jointly, may also contract with townships, villages, or cities that also maintain a police or fire department or with any other person, organization, or group to provide police or fire apparatus, equipment, or personnel or police or fire protection.

(4) Any of the powers provided in this section, at the discretion of the township board, may be delegated to a police or fire or police and fire administrative board established under section 11 or 12.

(5) A township board may enter into 1 or more agreements or contracts to furnish police or fire protection to a city, village, or other township.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 417]

(HB 5850)

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 1804 (MCL 380.1804) and by adding sections 1814, 1815, and 1816.

The People of the State of Michigan enact:

380.1804 Neglecting or refusing to perform act; violations; penalty.

Sec. 1804. Except as otherwise provided in this act, a school official or member of a school board or intermediate school board or other person who neglects or refuses to do or perform an act required by this act, or who violates or knowingly permits or consents to a violation of this act, is guilty of a misdemeanor punishable by a fine not more than $500.00, or imprisonment for not more than 3 months, or both.

380.1814 Alcoholic beverages, jewelry, gifts, fees for golf, or illegal item; purchase prohibited; exception; violation as misdemeanor; penalty; fine; restitution; "public funds" defined.

Sec. 1814. (1) Except as otherwise provided in subsection (2), a person shall not use intermediate school district funds or other public funds under the control of the intermediate school district for purchasing alcoholic beverages, jewelry, gifts, fees for golf, or any item the purchase or possession of which is illegal.

(2) Subsection (1) does not prohibit the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase does not exceed $100.00 per recipient. Beginning January 1, 2005, the monetary

amount for this exception shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

(3) In addition to any other penalty provided by law, a person who knowingly or intentionally violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine, or both. The amount of the fine shall be as follows:

(a) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is less than $5,000.00, up to $1,000.00.

(b) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $5,000.00 and less than $10,000.00, at least $1,000.00 and not to exceed $2,000.00.

(c) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $10,000.00 and less than $15,000.00, at least $2,000.00 and not to exceed $3,000.00.

(d) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is at least $15,000.00 and less than $25,000.00, at least $3,000.00 and not to exceed $4,000.00.

(e) If the cumulative amount of the funds that were used by the person in violation of subsection (1) is $25,000.00 or more, at least $4,000.00.

(4) A court shall order a person convicted of a violation of subsection (1) to make restitution to the affected intermediate school district.

(5) As used in this section, "public funds" means funds generated from taxes levied under this act, state appropriations of state or federal funds, or payments to the intermediate school district for services, but does not include voluntary contributions made for a specific purpose by an intermediate school district board member, an intermediate school district employee, another individual, or a private entity.

380.1815 Competitive bidding; violation of requirements as misdemeanor; penalty.

Sec. 1815. A person who knowingly or intentionally violates the competitive bidding requirements of section 1267, or who knowingly or intentionally permits or consents to a violation of the competitive bidding requirements of section 1267, is guilty of a misdemeanor punishable by a fine in an amount equal to not more than 10% of the cost of the project involved in the violation or imprisonment for not more than 1 year, or both, but is not subject to the penalties of section 1804.

380.1816 Misuse of proceeds; violation as felony; penalty.

Sec. 1816. A person who knowingly or intentionally uses the proceeds of bonds issued under this act for a purpose other than a purpose for which the bonds were issued, as

stated in the ballot proposal authorizing the issuance of the bonds, or who knowingly or intentionally permits or consents to such a misuse of the proceeds of bonds issued under this act, is guilty of a felony punishable by a fine in an amount equal to not more than 10% of the cost of the project involved in the violation or imprisonment for not more than 4 years, or both, but is not subject to the penalties of section 1804.

Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 418]

(HB 5851)

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 2004 PA 162.

The People of the State of Michigan enact:

CHAPTER XVII

777.13p Applicability of chapter to certain felonies; MCL 338.823 to 388.962.

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

M.C.L.	Category	Class	Description	Stat Max
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
380.1816	Pub trst	F	Improper use of bond proceeds	4
388.936	Pub trst	F	Knowingly making false statement — school district loans	4
388.962	Pub trst	F	Knowingly making false statement — school district loans	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5850 of the 92nd Legislature is enacted into law.

Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

Compiler's note: House Bill No. 5850, referred to in enacting section 1, was filed with the Secretary of State November 29, 2004, and became P.A. 2004, No. 417, Eff. Mar. 30, 2005.

[No. 419]

(HB 5921)

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 sections 611, 612, 613, 614, and 621a (MCL 380.611, 380.612, 380.613, 380.614, and 380.621a), section 611 as amended by 1981 PA 87, section 613 as amended and section 621a as added by 2004 PA 234, and section 614 as amended by 2004 PA 233, and by adding section 634.

The People of the State of Michigan enact:

380.611 Supervision and control of intermediate school district.

Sec. 611. (1) Except as otherwise provided in this section, an intermediate school district shall be under the supervision and control of an intermediate school board composed of 5 members elected under this part.

(2) In an intermediate school district that adopts sections 615 to 617 for popular election of its members, or in an intermediate school district reorganized under section 701, the number of intermediate school board members shall be 7.

(3) In an intermediate school district whose boundaries are enlarged by a dissolution under section 703, the number of intermediate school board members, at the option of the intermediate school board, may be 7.

(4) Beginning on the effective date of this subsection, an intermediate school board may by resolution change the number of intermediate school board members to 7. Before adopting the resolution to change the number of intermediate school board members to 7, an intermediate school board shall hold at least 2 public hearings on the resolution. If an intermediate school board determines that the terms of intermediate school board members should be staggered differently than provided under this act or any bylaws of the intermediate school board due to a change in the number of board members under this subsection, the intermediate school board may adopt bylaws or amend its bylaws to change the way that intermediate school board members' terms are staggered. The bylaws may alter the current terms of members serving at the time the bylaws are adopted to implement the change in the way that terms are staggered. If an intermediate school board adopts or amends bylaws under this subsection that alter a member's existing term, the member's term is subject to that action.

380.612 Board; eligibility for membership; participation in proceedings to detach or attach territory.

Sec. 612. (1) Subject to subsection (2), a school elector of a constituent district is eligible to election or appointment to membership on the intermediate school board.

(2) Until the 2005 intermediate school board election, a member of a board of a constituent district is eligible to election or appointment to membership on the intermediate school board. Beginning with the 2005 intermediate school board election, not more than 3 members of the intermediate school board may also be serving at the same time as a member of the board of a constituent district or board of directors of a public school academy. However, if an intermediate school board has more than 3 members serving as of September 1, 2004 who are also serving at the same time as members of the board of a constituent district, this limitation does not apply to that intermediate school board until the expiration of the current terms of those intermediate school board members.

(3) A member of an intermediate school board who is a member of a constituent district board shall not participate in proceedings conducted pursuant to part 11 to detach territory from or attach territory to the constituent district of which he or she is a board member.

380.613 Board; annual meeting; election and duties of officers; treasurer's bonds.

Sec. 613. (1) The intermediate school board shall hold its organizational meeting annually on or before the fourth Monday of January or, if the intermediate school district's regular election is in June, on or before the fourth Monday of July.

(2) The intermediate school board shall organize by electing a president, a vice-president, a secretary, and a treasurer. Until July 1, 2005, the president and vice-president shall be members of the intermediate school board, but the secretary and treasurer need not be. Beginning July 1, 2005, all officers shall be members of the intermediate school board.

(3) The officers shall perform duties provided by law and prescribed by the policies and regulations of the intermediate school board not inconsistent with this part or other laws of the state.

(4) The treasurer shall post with the secretary a bond in an amount approved by the intermediate school board, conditioned upon the faithful performance of the treasurer's duties.

380.614 Board; election of members; resolution; notice of meeting; acting chairperson and secretary; open meeting; term; vacancy; nominating petition; signatures; filing petition and affidavit; ballots; filing fee.

Sec. 614. (1) Except as provided in section 615 and subject to section 642 of the Michigan election law, MCL 168.642, the members of the intermediate school board shall be elected biennially on the first Monday in June by an electoral body composed of 1 person designated by the board of each constituent school district.

(2) The board of a constituent district shall designate its representative to this electoral body by resolution adopted not earlier than 21 days before the date of this biennial election. The board shall consider the resolution at not less than 1 public meeting before adopting the resolution. The resolution shall be adopted by majority vote of the members serving on the board. In its resolution designating its representative, the board of a constituent district shall identify the candidate the board supports for each position to be filled on the intermediate school board and shall direct its representative to vote for that individual or individuals at least on the first ballot taken by the electoral body. The secretary of the intermediate school board shall send a notice by certified mail of the hour and place of the meeting of the electoral body described in subsection (1) to the secretary of the board of each constituent school district at least 10 days before the meeting. The president and secretary of the intermediate school board shall act as chairperson and secretary at the meeting. The meeting of the electoral body shall be an open meeting conducted in the manner prescribed under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Except as provided in section 703, the term of office of each member elected to the intermediate school board is 6 years and begins on July 1 following election. Not more than 2 members of the intermediate school board shall be from the same school district unless there are fewer districts than there are positions to be filled.

(4) A vacancy shall be filled by the remaining members of the intermediate school board until the next biennial election at which time the vacancy shall be filled for the balance of the unexpired term. Notice of the vacancy shall be filed with the state board within 5 days after the vacancy occurs. If the vacancy is not filled within 30 days after it occurs, the vacancy shall be filled by the state board.

(5) Subject to subsection (7), a candidate for election to the intermediate school board shall be nominated by petitions that are signed by a number of school electors of the combined constituent school districts of the intermediate school district, as follows:

(a) If the population of the intermediate school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the intermediate school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(6) A school elector may sign as many petitions as there are vacancies to fill. Nominating petitions and an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558, shall be filed with the school district filing official not later than 30 days before the date of the biennial election under subsection (1). The school district filing official shall determine the sufficiency of the petitions and the eligibility of the candidates nominated. The school district filing official shall provide ballots for the biennial election, listing on the ballots the names of all candidates properly nominated. The chairperson of the biennial election meeting may accept nominations for a vacancy from the floor only if no nominating petitions have been filed for the vacancy.

(7) Instead of filing nominating petitions, a candidate for election to the intermediate school board may pay a nonrefundable filing fee of $100.00 to the school district filing official. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

380.621a Travel by board member; policy; approval.

Sec. 621a. An intermediate school board shall establish a policy requiring approval by the intermediate school board or its designee of all travel by an intermediate school board member or an intermediate school district employee that includes at least 1 overnight stay and is paid for or reimbursed by the intermediate school district. The policy shall require a board member or employee to submit both a pretravel authorization form detailing estimated expenses and a posttravel form detailing and verifying actual expenses and shall require approval of both forms.

380.634 Conflict of interest policy.

Sec. 634. (1) Not later than July 1, 2005, each intermediate school board shall adopt and implement a conflict of interest policy designed to avoid conflicts of interest by intermediate school district officials and employees.

(2) Not later than July 1, 2005, each intermediate school board shall adopt and implement a policy to prohibit use of intermediate school district funds or other public funds under the control of the intermediate school district for purchasing alcoholic beverages, jewelry, gifts, fees for golf, or any item the purchase or possession of which is illegal. Subject to subsection (8), the policy may allow the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase does not exceed $100.00 per recipient. As used in this subsection, "public funds" means funds generated from taxes levied under this act, state appropriations of state or federal funds, or payments made to the intermediate school district for services by a constituent district or any other person, but does not include voluntary contributions made for a specific purpose by an intermediate school board member, an intermediate school district employee, another individual, or a private entity.

(3) The department shall develop and distribute to intermediate school districts a model conflict of interest policy for the purposes of subsection (1) and a model policy meeting the requirements of subsection (2).

(4) Subject to subsection (8), in any 1-month period, an intermediate school board member or intermediate school district administrator shall not accept from a person who does business or seeks to do business of any kind with the intermediate school district any money, goods, or services with a value in excess of $44.00 if the board member or administrator does not provide goods or services of equal value in exchange. This subsection does not apply to a gift or reward already prohibited under section 1805.

(5) If an intermediate school board member or intermediate school district administrator has a substantial conflict of interest in a proposed contract, the intermediate school board shall not enter into that contract. As used in this subsection, "substantial conflict of interest" means a conflict of interest on the part of an intermediate school board member or intermediate school district administrator in respect to a contract with the intermediate school district that is of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit. In the following cases, there is no substantial conflict of interest:

(a) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member or intermediate school district administrator is a stockholder owning 1% or less of the total stock outstanding in

any class if the stock is not listed on a stock exchange or owning stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*ii*) A corporation in which a trust, if an intermediate school board member or intermediate school district administrator is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owns stock that has a present market value of $25,000.00 or less if the stock is listed on a stock exchange.

(*iii*) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.5101 to 450.6200, if an intermediate school board member or intermediate school district administrator is an employee but not a member of the company.

(b) A contract between the intermediate school district and any of the following:

(*i*) A corporation in which an intermediate school board member or intermediate school district administrator is not a director, officer, or employee.

(*ii*) A firm, partnership, or other unincorporated association, in which an intermediate school board member or intermediate school district administrator is not a partner, member, or employee.

(*iii*) A corporation or firm that has an indebtedness owed to an intermediate school board member or intermediate school district administrator.

(c) A contract between the intermediate school district and a constituent district.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract that were not authorized by the contract at the time of award.

(6) If an intermediate school board member, intermediate school district administrator, or an employee of an intermediate school district who recommends, negotiates, or is authorized to sign a contract on behalf of the intermediate school district either is employed by or under contract with a business enterprise with which the intermediate school district is considering entering into a contract or knows that he or she has a family member who has an ownership interest in or is employed by a business enterprise with which the intermediate school district is considering entering into a contract, the board member, administrator, or employee shall disclose this fact to the intermediate school board at a public meeting of the intermediate school board before the intermediate school board enters into the contract. If the intermediate school board receives a disclosure described in this subsection, the intermediate school board shall vote at a public meeting of the intermediate school board on whether or not it considers the relationship described in the disclosure to be a conflict of interest, and shall not enter into the contract without first voting at a public meeting of the intermediate school board to enter into the contract. As used in this subsection, "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

(7) An intermediate school board shall ensure that each employment contract with a school administrator employed by the intermediate school district includes both a provision prohibiting the school administrator from engaging in conduct involving moral turpitude and a provision allowing the intermediate school board to void the contract if

the school administrator violates the provision prohibiting conduct involving moral turpitude.

(8) Beginning January 1, 2005, the monetary amounts specified in subsections (2) and (4) shall be adjusted each January 1 by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar. The adjustment shall apply only to expenditures or violations occurring after the date of the adjusting of the amount. The adjusted amount shall be determined and announced by the department on or before December 15 of each year and shall be provided to all persons requesting the adjusted amount. If the index is unavailable, the department shall make a reasonable approximation.

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 420]

(HB 4358)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 719 and 724 (MCL 257.719 and 257.724), section 719 as amended by 2003 PA 142 and section 724 as amended by 1988 PA 346, and by adding section 724a.

The People of the State of Michigan enact:

257.719 Height of vehicle; liability for damage to bridge or viaduct; normal length maximum; prohibitions; connecting assemblies and lighting devices; gross weight; violation as civil infraction; applicability of subsections (2)(a) and (3)(b); definitions.

Sec. 719. (1) A vehicle unloaded or with load shall not exceed a height of 13 feet 6 inches. The owner of a vehicle that collides with a lawfully established bridge or viaduct is liable

for all damage and injury resulting from a collision caused by the height of the vehicle, whether the clearance of the bridge or viaduct is posted or not.

(2) Lengths described in this subsection shall be known as the normal length maximum. Except as provided in subsection (3), the following vehicles and combinations of vehicles shall not be operated on a highway in this state in excess of these lengths:

(a) Subject to subsection (8), any single vehicle: 40 feet; a crib vehicle on which logs are loaded lengthwise of the vehicle: 42.5 feet; any single bus or motor home: 45 feet.

(b) Articulated buses: 65 feet.

(c) Notwithstanding any other provision of this section, a combination of a truck and semitrailer or trailer, or a truck tractor, semitrailer, and trailer, or truck tractor and semitrailer or trailer, designed and used exclusively to transport assembled motor vehicles or bodies, recreational vehicles, or boats, that does not exceed a length of 65 feet. Stinger-steered combinations shall not exceed a length of 75 feet. The load on the combinations of vehicles described in this subdivision may extend an additional 3 feet beyond the front and 4 feet beyond the rear of the combinations of vehicles. Retractable extensions used to support and secure the load that do not extend beyond the allowable overhang for the front and rear shall not be included in determining length of a loaded vehicle or vehicle combination.

(d) Truck tractor and semitrailer combinations: no overall length, the semitrailer not to exceed 50 feet.

(e) Truck and semitrailer or trailer: 59 feet.

(f) Except as provided in subdivision (g), truck tractor, semitrailer, and trailer, or truck tractor and 2 semitrailers: 59 feet.

(g) A truck tractor, semitrailer, and trailer, or a truck tractor and 2 semitrailers, in which no semitrailer or trailer is more than 28-1/2 feet long: 65 feet. This subdivision only applies while the vehicle is being used for a business purpose reasonably related to picking up or delivering a load and only if each semitrailer or trailer is equipped with a device or system capable of mechanically dumping construction materials or dumping construction materials by force of gravity.

(h) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 55 feet.

(3) Notwithstanding subsection (2), the following vehicles and combinations of vehicles shall not be operated on a designated highway of this state in excess of these lengths:

(a) Truck tractor and semitrailer combinations: no overall length limit, the semitrailer not to exceed 53 feet. All semitrailers longer than 50 feet shall have a wheelbase of 37.5 to 40.5 feet plus or minus 0.5 feet, measured from the kingpin coupling to the center of the rear axle or the center of the rear axle assembly. A semitrailer with a length longer than 50 feet shall not operate with more than 3 axles on the semitrailer. City, village, or county authorities may prohibit stops of vehicles with a semitrailer longer than 50 feet within their jurisdiction unless the stop occurs along appropriately designated routes, or is necessary for emergency purposes or to reach shippers, receivers, warehouses, and terminals along designated routes.

(b) Truck and semitrailer or trailer combinations: 65 feet, except that a person may operate a truck and semitrailer or trailer designed and used to transport saw logs, pulpwood, and tree length poles that does not exceed an overall length of 70 feet or a crib vehicle and semitrailer or trailer designed and used to transport saw logs that does not exceed an overall length of 75 feet. A crib vehicle and semitrailer or trailer designed to and used to transport saw logs shall not exceed a gross vehicle weight of 164,000 pounds.

A person may operate a truck tractor and semitrailer designed and used to transport saw logs, pulpwood, and tree length wooden poles with a load overhang to the rear of the semitrailer which does not exceed 6 feet if the semitrailer does not exceed 50 feet in length.

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

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

(4) The following combinations and movements are prohibited:

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

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

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

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

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

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

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

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

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

(8) The provisions in subsections (2)(a) and (3)(b) prescribing the length of a crib vehicle on which logs are loaded lengthwise do not apply unless section 127(d) of title 23 of the United States Code, 23 USC 127, is amended to allow crib vehicles carrying logs to be loaded as described in this section.

(9) As used in this section:

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

(b) "Length" means the total length of a vehicle, or combination of vehicles, including any load the vehicle is carrying. Length does not include devices described in 23 CFR 658.16 and 23 CFR part 658, appendix d. 23 CFR 658.16 and 23 CFR part 658, appendix d, as on file with the secretary of state are adopted by reference. A safety or energy conservation device shall be excluded from a determination of length only if it is not designed or used for the carrying of cargo, freight, or equipment. Semitrailers and trailers shall be measured from the front vertical plane of the foremost transverse load supporting structure to the rearmost transverse load supporting structure. Vehicle components not excluded by law shall be included in the measurement of the length, height, and width of the vehicle.

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

257.724 Stopping vehicle for weighing; shifting or removing load; civil fine and costs; moving vehicle to place of safekeeping; impoundment; lien; foreclosure sale; powers of authorized agent; unlawful weight as civil infraction; fine; driving duly marked vehicle; failure to stop as misdemeanor.

Sec. 724. (1) A police officer or a duly authorized agent of the state transportation department or a county road commission having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle by either portable or stationary scales approved and sealed by the department of agriculture as a legal weighing device, and may require that the vehicle be driven to the nearest weighing station of the state transportation department for the purpose of allowing an officer or agent of the state transportation department or county road commission to determine whether the conveyance is loaded in conformity with this chapter.

(2) When the officer or agent, upon weighing a vehicle and load, determines that the weight is unlawful, the officer or agent may require the driver to stop the vehicle in a suitable place and remain standing until that portion of the load is shifted or removed as necessary to reduce the gross axle load weight of the vehicle to the limit permitted under this chapter. All material unloaded as provided under this subsection shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator. A judge or magistrate imposing a civil fine and costs under this section which are not paid in full immediately or for which a bond is not immediately posted in double the amount of the civil fine and costs shall order the driver or owner to move the vehicle at the driver's own risk to a place of safekeeping within the jurisdiction of the judge or magistrate, inform the judge or magistrate in writing of the place of safekeeping, and keep the vehicle until the fine and costs are paid or sufficient bond is furnished or until the judge or magistrate is satisfied that the fine and costs will be paid. The officer or agent who has determined, after weighing a vehicle and load, that the weight is unlawful, may require the driver to proceed to a judge or magistrate within the county. If the judge or magistrate is satisfied that the probable civil fine and costs will be paid by the owner or lessee, the judge or magistrate may allow the driver to proceed, after the load is made legal. If the judge or magistrate is not satisfied that the owner or lessee, after a notice and a right to be heard on the merits is given, will pay the amount of the probable civil fine and costs, the judge or magistrate may order the vehicle to be impounded until trial on the merits is completed under conditions set forth in this section for the impounding of vehicles after the civil fine and costs have been imposed. Removal of the vehicle, and forwarding, care, or

preservation of the load shall be under the control of and at the risk of the owner or driver. Vehicles impounded shall be subject to a lien, subject to a prior valid bona fide lien of prior record, in the amount of the civil fine and costs and if the civil fine and costs are not paid within 90 days after the seizure, the judge or magistrate shall certify the unpaid judgment to the prosecuting attorney of the county in which the violation occurred, who shall proceed to enforce the lien by foreclosure sale in accordance with procedure authorized in the case of chattel mortgage foreclosures. When the duly authorized agent of the state transportation department or county road commission is performing duties under this chapter, the agent shall have all the powers conferred upon peace officers by the general laws of this state.

(3) Subject to subsection (4), an owner of a vehicle or a lessee of the vehicle of an owner-operator, or other person, who causes or allows a vehicle to be loaded and driven or moved on a highway, when the weight of that vehicle violates section 722 is responsible for a civil infraction and shall pay a civil fine in an amount equal to 3 cents per pound for each pound of excess load over 1,000 pounds when the excess is 2,000 pounds or less; 6 cents per pound of excess load when the excess is over 2,000 pounds but not over 3,000 pounds; 9 cents per pound for each pound of excess load when the excess is over 3,000 pounds but not over 4,000 pounds; 12 cents per pound for each pound of excess load when the excess is over 4,000 pounds but not over 5,000 pounds; 15 cents per pound for each pound of excess load when the excess is over 5,000 pounds but not over 10,000 pounds; and 20 cents per pound for each pound of excess load when the excess is over 10,000 pounds.

(4) If the court determines that the motor vehicle or the combination of vehicles was operated in violation of this section, the court shall impose a fine as follows:

(a) If the court determines that the motor vehicle or the combination of vehicles was operated in such a manner that the gross weight of the vehicle or the combination of vehicles would not be lawful by a proper distribution of the load upon all the axles of the vehicle or the combination of vehicles, the court shall impose a fine for the violation according to the schedule provided for in subsection (3).

(b) If the court determines that the motor vehicle or the combination of vehicles would be lawful by a proper distribution of the load upon all of the axles of the vehicle or the combination of vehicles, but that 1 or more axles of the vehicle exceeded the maximum allowable axle weight by 4,000 pounds or less, the court shall impose a misload fine of $200.00 per axle. Not more than 3 axles shall be used in calculating the fine to be imposed under this subdivision. This subdivision does not apply to a vehicle subject to the maximum loading provisions of section 722(11) or to a vehicle found to be in violation of a special permit issued under section 725.

(c) If the court determines that the motor vehicle or the combination of vehicles would be lawful by a proper distribution of the load upon all of the axles of the vehicle or the combination of vehicles, but that 1 or more axles of the vehicle exceeded the maximum allowable axle weight by more than 4,000 pounds, the court shall impose a fine for the violation according to the schedule provided for in subsection (3).

(5) A driver or owner of a vehicle, truck or truck tractor, truck or truck tractor with other vehicles in combination, or special mobile equipment who knowingly fails to stop at or who knowingly bypasses any scales or weighing station is guilty of a misdemeanor.

(6) An agent or authorized representative of the state transportation department or a county road commission shall not stop a truck or vehicle in movement upon a road or highway within the state for any purpose, unless the agent or authorized representative is driving a duly marked vehicle, clearly showing and denoting the branch of government represented.

(7) A driver or owner of a vehicle who knowingly fails to stop when requested or ordered to do so by a police officer, or a duly authorized agent of the state transportation department, or a representative or agent of a county road commission, authorized to require the driver to stop and submit to a weighing of the vehicle and load by means of a portable scale, is guilty of a misdemeanor.

257.724a Axle weight requirements; exception; weight after lift axles lowered; "lift axle" defined.

Sec. 724a. (1) The axle weight requirements of this chapter do not apply to a vehicle equipped with lift axles during the period in which axles are raised to negotiate an intersection, driveway, or other turn and until the lift axles are fully engaged after the period of time or the distance necessary to negotiate that intersection, driveway, or other turn.

(2) If a vehicle is to be weighed to determine whether the vehicle is being operated in violation of this act or a rule promulgated under this act or of a local ordinance substantially corresponding to this act or a rule promulgated under this act and the vehicle is equipped with lift axles that have been raised to allow the vehicle to negotiate an intersection, driveway, or other turn, the vehicle shall be weighed only after the lift axles have been fully lowered and are under operational pressure as provided in subsection (1).

(3) As used in this section, "lift axle" means an axle on a vehicle that can be raised or lowered by mechanical means.

Effective date.

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

This act is ordered to take immediate effect.
Approved November 29, 2004.
Filed with Secretary of State November 29, 2004.

[No. 421]

(HB 5529)

AN ACT to authorize the state administrative board to convey certain parcels of state owned property in Ingham county and Kent county; to prescribe conditions for the conveyances; to provide for certain powers and duties of certain state departments and agencies with regard to the conveyances; and to provide for disposition of the revenue from the conveyances.

The People of the State of Michigan enact:

Conveyance of property to city of Lansing; consideration; location; description; provisions; quitclaim deed; deposit of revenue.

Sec. 1. (1) The state administrative board, on behalf of the state, may convey to the city of Lansing, for consideration of $1.00, certain state owned property located in the city of Lansing, Ingham county, Michigan, and further described as follows:

The East 1320 feet of the South 1294 feet of the Northeast 1/4 of Section 10, T4N, R2W, City of Lansing, Ingham County, Michigan.

(2) The conveyance authorized by subsection (1) shall provide for all of the following:

(a) The property shall be used exclusively for the purpose of a public golf course owned by the city of Lansing, or other public purpose, and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the public purpose use described in subdivision (a) or in the event of use for any nonpublic purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights to the state.

(4) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

Conveyance of property to city of Grand Rapids; fair market value; location; description; determination by independent appraiser; adjustment; duties, powers, and responsibilities; quitclaim deed; reservation of rights in aboriginal antiquities; net revenue.

Sec. 2. (1) The state administrative board, on behalf of the state, may convey to the city of Grand Rapids or to an entity formed by the city of Grand Rapids, for not less than fair market value, certain state owned property located in the city of Grand Rapids, Kent county, Michigan, and further described as follows: All that part of the east 1/4 of Lot 200 of the Plat of the Village of Kent, City of Grand Rapids, Kent County, Michigan, according to the recorded plat thereof, as recorded in Liber 1 of Plats at pages 4 and 5, Kent County Records, and the south 1/2 of Lot 6 and all of Lots 7, 8, 9, and 10, Block 21, of the Plat of Dexter Fraction, City of Grand Rapids, Kent County, Michigan, according to the plat thereof as recorded in Liber 39 of Plats at page 12, Kent County Records, which lies southeasterly of a line described as: Beginning at a point on the south line of said Lot 200 which is 25.25 feet west of the southeast corner of said Lot 200; thence northerly to a point on the north line of said Lot 200 which is 36.25 feet west of the northeast corner of said Lot 200; thence easterly to a point on the east line of said Lot 6 which is 50 feet north of the southeast corner of said Lot 6 and a point of ending. Also, all that part of vacated Fairview Avenue which lies south of the south right of way line of State Highway I-196 and which lies west of the following described line: Commencing on the extended south line of Lot 18, Block 12, Dexter Fraction at a point 3.9 feet west of the southwest corner of said Lot 18 as platted; thence north 59.8 feet along a line which is 3.9 west of and parallel with the west line of said Lot 18; thence west at right angles 9.1 feet; thence north parallel with said west line 16.8 feet; thence east at right angles 9.1 feet; thence north 126.28 feet, more or less, along a line which is 3.9 feet west of and parallel with the west line of said Lot 18 to the south right of way line of State Highway I-196 and the point of ending of said line.

The above parcel is more particularly described as beginning at a point on the north line of Michigan Street at the southeast corner of Lot 200 of the Plat of the Village of Kent, City of Grand Rapids, Kent County, Michigan; thence S89°59'19"W 25.25 feet on said north line; thence N03°08'53"W 200.30 feet to a point on the north line of said Lot 200; thence S90°00'00"E 286.25 feet to a point on the east line of Lot 6 of the Plat of Dexter Fraction, City of Grand Rapids, Kent County, Michigan; thence N87°22'37"E 62.05 feet; thence

S00°22'35"E 126.18 feet; thence S89°37'25"W 9.05 feet; thence S00°18'52"E 16.80 feet; thence N89°37'25"E 9.07 feet; thence S00°22'35"E 59.79 feet to a point on the north line of Michigan Street; thence S89°59'19"W 313.32 feet on said north line to the point of beginning, containing 1.575 acres. The property includes all of tax parcel number 41-14-19-356-008.

(2) The fair market value of the property described in subsection (1) shall be determined by an independent appraiser.

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

(4) All state departments and agencies shall provide full cooperation to the state administrative board to facilitate the performance of its duties, powers, and responsibilities regarding the conveyance under this section. The state administrative board may require a state department or agency to prepare or record any documents necessary to evidence the conveyance of property under this section.

(5) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights in the property. However, the conveyance authorized under this section shall provide that, if the purchaser or any grantee develops any minerals found on, within, or under the conveyed property, the purchaser or any grantee shall pay 1/2 of the gross revenue generated from the development of the minerals to the state.

(6) The state reserves all rights in aboriginal antiquities, including mounds, earthworks, forts, burial and village sites, mines, or other relics, on or within the property conveyed under this section.

(7) The net revenue received under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of property, including, but not limited to, costs of reports and studies and other materials necessary to the preparation of sale, environmental remediation, and legal fees, and the cost of providing replacement parking for state employees in the downtown area of Grand Rapids.

This act is ordered to take immediate effect.
Approved December 9, 2004.
Filed with Secretary of State December 9, 2004.

[No. 422]

(HB 5832)

AN ACT to amend 1881 PA 187, entitled "An act in relation to the form of deeds and mortgages of real estate and to the form of the acknowledgments of the same," by amending section 4 (MCL 565.154).

The People of the State of Michigan enact:

565.154 Mortgage; wording; validity and enforceability.

Sec. 4. A mortgage of lands that is worded in substance as follows: "A.B. mortgages and warrants to C.D., (here describe the premises) to secure the re-payment of" (here describe

the indebtedness or obligations the mortgage secures) and is signed by the grantor, is a valid and enforceable mortgage to the grantee and the grantee's heirs, assigns, successors, and personal representatives with warranty from the grantor and the grantor's legal representatives, of marketable title in the grantor, free from prior incumbrances. If the indebtedness or obligations secured are described generally, such as "all indebtedness that A.B. now and in the future owes to C.D.", and if the words "and warrant" are omitted from the form, the mortgage is valid and enforceable, but without warranty.

This act is ordered to take immediate effect.
Approved December 15, 2004.
Filed with Secretary of State December 15, 2004.

[No. 423]

(HB 5347)

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 465a.

The People of the State of Michigan enact:

750.465a Operation of audiovisual device in theatrical facility; prohibited conduct; violation; exception; definitions.

Sec. 465a. (1) A person who knowingly operates an audiovisual recording function of a device in a theatrical facility where a motion picture is being exhibited without the consent of the owner or lessee of that theatrical facility and of the licensor of the motion picture being exhibited is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $10,000.00, or both.

(b) If the person has 1 prior conviction for violating this subsection, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $20,000.00, or both.

(c) If the person has 2 or more prior convictions for violating this subsection, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $40,000.00, or both.

(2) This section does not prevent any lawfully authorized investigative, law enforcement, protective, or intelligence-gathering employee or agent, of this state or the United States, from operating the audiovisual recording function of a device in a theatrical facility where a motion picture is being exhibited as part of an investigative, protective, law enforcement, or intelligence-gathering activity.

(3) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that proscribes conduct described in this section and that provides a greater penalty.

(4) As used in this section:

(a) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by technological means.

(b) "Theatrical facility" means a facility being used to exhibit a motion picture to the public, but does not include an individual's residence or a retail establishment.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

This act is ordered to take immediate effect.
Approved December 15, 2004.
Filed with Secretary of State December 15, 2004.

[No. 424]

(HB 5336)

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 16w of chapter XVII (MCL 777.16w), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16w MCL 750.451 to 750.465a; felonies to which chapter applicable.

Sec. 16w. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.451	Pub ord	G	Prostitution — various offenses — third or subsequent offense	2