(f) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement may include incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement.

(2) An investment made under this section is found and declared to be a valid public purpose.

(3) The attorney general shall approve documentation for an investment pursuant to this section as to legal form.

(4) The state treasurer shall deposit before May 1, 2002 up to $30,000,000.00 of surplus funds with the financial institutions participating in making qualified agricultural loans under this section for the purpose of making those qualified agricultural loans. Not more than $10,000,000.00 of this deposit shall be allocated to qualified agricultural loans made to businesses under subsection (9)(a)(*iii*).

(5) Earnings from an investment made pursuant to this section which are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or former section 2, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or former section 2, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) A new investment to which a qualified agricultural loan as defined by subsection (9)(a)(*ii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term which extends beyond October 1, 2007. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*iii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term extending beyond October 1, 2007. The terms of the qualified agricultural loan as defined by subsection (9)(a) shall provide that zero-interest loans under this section be for a term not more than 5 years and that the first payment made by the recipient occur not later than 24 months after the date of the loan. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*i*) is attributed shall not be made with a term extending beyond October 1, 2007.

(7) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the financial institution is in compliance with the terms of the investment agreement and this act.

(8) Before October 1, 2003, the state treasurer shall prepare separate reports to the legislature and the house and senate agriculture appropriations subcommittees regarding the disposition of money invested for purposes of qualified agricultural loans as defined by subsection (9)(a)(*i*) and for qualified agricultural loans as defined by subsection (9)(a)(*ii*) and (*iii*). The reports for each type of loan shall include all of the following information:

(a) The total number of farmers and the total number of agricultural businesses who have received such a loan.

(b) By county, the total number and amounts of the loans.

(c) The name of each financial institution participating in the loan program and the amount invested in each financial institution for purposes of such loan program.

(d) Any action undertaken by the state treasurer under subsection (15).

(9) As used in this section:

(a) "Qualified agricultural loan" means 1 or more of the following types of loans, as applicable:

(*i*) Until October 1, 2002, a loan to a natural or corporate person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, who is experiencing financial stress and difficulty in meeting existing or projected debt obligations owed to financial institutions due to an agricultural disaster as requested by the governor at rates commensurate with rates charged by financial institutions for loans of comparable type and terms at the time the loan is to be made, and who certifies to the financial institution that the owner-operator will not have more than $150,000.00 in outstanding loans otherwise considered qualified agricultural loans under this subparagraph, including the loan for which the owner-operator is applying. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less. A qualified agricultural loan under this subparagraph may be made for either or both of the following purposes:

(A) Operating capital including, but not limited to, capital necessary for the rental, lease, and repair of equipment or machinery, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

(B) Refinancing all or a portion of a loan entered into before October 1, 2002 for a purpose identified in sub-subparagraph (A).

(*ii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged and intends to remain engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, who has suffered a 25% or more loss in major enterprises or a 50% or more production loss in any 1 crop due to an agricultural disaster on a farm located in this state, as requested by the governor and as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss.

(*iii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged in an agricultural business of buying, exchanging, or selling farm produce, or is engaged in the business of making retail sales directly to farmers and has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a. Businesses engaged in the buying, exchanging, or selling of farm produce must have suffered a 50% or greater loss in volume of 1 commodity as compared with the average volume of that commodity which the business handled over the last 3 years to qualify for loans under this subparagraph. Businesses engaged in making retail sales directly to farmers must have suffered a 50% or greater reduction in gross retail sales volume subject to the Michigan agricultural sales tax exemption as compared with that business's average retail sales volume subject to that exemption over the last 3 years to qualify for loans under this subparagraph. All losses claimed by businesses attempting to qualify for loans under this subparagraph must be directly attributable to a natural disaster occurring after January 1, 2001, as requested by the governor and as certified by the agricultural business by means of an affidavit demonstrating an accurate and valid loss.

(b) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

(c) "Financial institution" includes, but is not limited to, entities of the farm credit system or a state or federally chartered savings bank. For purposes of this section, entities of

the farm credit system or a state or federally chartered savings bank may be qualified as a financial institution eligible to receive an investment under this section notwithstanding that its principal office is not located in this state if the proceeds of the investment will be committed to qualified agricultural loans in this state.

(d) "Corporate person" or "corporation" means, except in relation to a qualified agricultural loan under subdivision (a)(*iii*), a corporation in which a majority of the corporate stock is owned by persons operating the farm applying for a loan.

(e) "Facility" means a plant designed for receiving or storing farm produce or a retail sales establishment of a business engaged in making retail sales directly to farmers, which establishment has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(10) A qualified agricultural loan as defined by subsection (9)(a)(*ii*) shall be equal to not more than the value of the crop loss as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss. The qualified agricultural loan shall not exceed the lesser of $200,000.00 or the value of the crop loss minus the amount of any grant under federal disaster assistance or insurance proceeds received by the owner-operator as a result of the same crop loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less.

(11) A qualified agricultural loan as defined by subsection (9)(a)(*iii*) shall not exceed the lesser of the following:

(a) $300,000.00 per facility.

(b) An amount not to exceed the value of the direct loss of the individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan, as determined by the department of treasury under subsection (9)(a)(*iii*).

(c) $400,000.00 per individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan.

(12) The financial institutions participating in the loan program pursuant to subsection (9)(a) shall have the option of making state subsidized loans to farmers or to businesses described in subsection (9)(a)(*iii*) before October 1, 2002, with terms approved by the state treasurer by using their existing deposits for the loans and receiving from the state treasurer an interest rate subsidy equal to 120% of the state treasurer's common cash earnings rate. The state's reimbursement to financial institutions participating in the loan program pursuant to subsection (9)(a) shall not be made before October 1, 2002.

(13) There is hereby appropriated an amount sufficient to make the distributions required under subsections (4) and (12) in the 2001-02 fiscal year for not to exceed $210,000,000.00 in qualified agricultural loans. For each qualified agricultural loan for which a distribution is made pursuant to subsection (12), the maximum amount of investments authorized by subsection (4) shall be reduced by an amount equal to 100% or more of the qualified agricultural loan, as determined by the department of treasury, for which a distribution is made pursuant to subsection (12).

(14) Any money for purposes of qualified agricultural loans as defined by subsection (9)(a)(*ii*) that has not been invested by the state treasurer by October 1, 2002, shall increase the maximum amount available under this section for qualified agricultural loans as defined by subsection (9)(a)(*i*).

(15) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a qualified agricultural loan.

(16) Upon request by the department of treasury, a financial institution shall forward a copy of any affidavits executed and filed under this section to the department of treasury. The financial institution and the department of treasury shall destroy the affidavit or its copy after the qualified agricultural loan is paid off.

(17) If the recipient of a qualified agricultural loan as defined by subsection (9)(a) receives a federal grant after the receipt of a qualified agricultural loan under this section, then any federal grant money remaining after all federal obligations are met shall be allocated by the recipient to payment of the balance of any outstanding loan made under this section.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 177]

(SB 937)

AN ACT to amend 1980 PA 56, entitled "An act to create a neighborhood assistance program; to prescribe the powers and duties of the department of labor; to create a fund; to permit certain rebates to business firms participating in neighborhood projects; and to require certain reports," by amending section 3 (MCL 125.803), as amended by 1983 PA 104.

The People of the State of Michigan enact:

125.803 Definitions; B, C.

Sec. 3. (1) "Bureau" means the bureau of community services in the department of labor.

(2) "Business firm" means a sole proprietorship, partnership, or corporation authorized to do business in this state and subject to tax under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(3) "Community development commission" means an advisory commission established pursuant to law within the department of labor.

(4) "Community services" means services, including counseling and advice, recreational programs, emergency assistance, medical care, or instructional services furnished to a person or a group in an eligible neighborhood.

(5) "Crime prevention" means activities which aid in the reduction of crime in an eligible neighborhood.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 178]

(SB 938)

AN ACT to amend 1980 PA 243, entitled "An act to provide emergency financial assistance for certain municipalities; to create a local emergency financial assistance loan board

and to prescribe the powers and duties of this board; to prescribe conditions for granting and receiving loans, to prescribe terms and conditions for the repayment of loans, and to allow the limiting of repayment by a county from specified revenue sources; to impose certain requirements and duties on certain state departments, municipalities of this state, and officials of the state and municipalities of this state; and to prescribe remedies and penalties," by amending section 1 (MCL 141.931), as amended by 1987 PA 282.

The People of the State of Michigan enact:

141.931 Definitions.

Sec. 1. As used in this act:

(a) "Board" means the local emergency financial assistance loan board created under this act.

(b) "Fiscal year" means, unless otherwise provided in this act, the fiscal year of the municipality applying for a loan under this act.

(c) "Income tax collections" means the total collection of a municipality under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, in any calendar year.

(d) "Income tax revenue growth rate" means the quotient of the following:

(*i*) The numerator is the income tax collections of the municipality for the calendar year immediately preceding the municipality's application for a loan under this act.

(*ii*) The denominator is the income tax collections for the municipality for the calendar year preceding the calendar year used in determining the numerator.

(e) "Municipality" means a county, city, village, or township of this state.

(f) "Local tax base growth rate" for a municipality means the state equalized valuation of the real and personal property of the municipality for the most recent year for which data is available divided by the state equalized valuation of real and personal property of the municipality for the fifth year preceding the most recent year for which data is available.

(g) "Statewide tax base growth rate" means the total state equalized valuation for real and personal property for the most recent year for which data is available divided by the total state equalized valuation for the fifth year preceding the most recent year for which data is available.

(h) "State equalized valuation of real and personal property of the municipality" means the valuation determined under 1911 PA 44, MCL 209.1 to 209.8, of real and personal property within the municipality plus an amount equal to the state equalized valuation equivalent of certain revenues of the municipality as determined under this subdivision. The state equalized valuation equivalent shall be calculated by dividing the sum of the following amounts by the municipality's millage rate for the fiscal year:

(*i*) The amount levied by the municipality for its own use during the municipality's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(*ii*) The amount levied by the municipality for its own use during the municipality's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

This act is ordered to take immediate effect.

Approved December 20, 2007.

Filed with Secretary of State December 21, 2007.

[No. 179]

(SB 939)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 2 (MCL 445.1652), as amended by 2005 PA 113.

The People of the State of Michigan enact:

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

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

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

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

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

(d) The individual is an employee of a professional employer organization, as that term is defined in section 113 of the Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting as a residential mortgage originator of only 1 mortgage broker or mortgage lender. The mortgage broker or mortgage lender shall do all of the following:

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

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

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

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

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

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

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

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 180]

(SB 940)

AN ACT to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 10o (MCL 460.10o), as added by 2000 PA 142.

The People of the State of Michigan enact:

460.10o Securitization bond; direct interest in acquisition, ownership, and disposition not used in determining tax; obligations of electric utility successor; assignee or financing party as public utility.

Sec. 10o. (1) The acquisition, ownership, and disposition of any direct interest in any securitization bond shall not be taken into account in determining whether a person is subject to any income tax, franchise tax, business activities tax, intangible property tax, excise tax, stamp tax, or any other tax imposed by this state or any agency or political subdivision of this state.

(2) Any successor to an electric utility, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding or pursuant to any merger or acquisition, sale or transfer, by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of the electric utility under the amendatory act that added this section in the same manner and to the same extent as the electric utility, including, but not limited to, collecting and paying to the person entitled to revenues with respect to the securitization property.

(3) An assignee or financing party shall not be considered to be a public utility or person providing electric service solely by virtue of the transactions described in this act.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 181]

(SB 941)

AN ACT to amend 1945 PA 47, entitled "An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies," by amending section 4 (MCL 331.4).

The People of the State of Michigan enact:

331.4 Community hospitals; annual tax; reimbursement payments under Glenn Steil state revenue sharing act of 1971; additional annual tax for capital improvements; election.

Sec. 4. The legislative bodies of the cities, villages, and townships belonging to the hospital authority may annually raise by a tax, to be levied on the taxable property within their respective jurisdictions, a sum of money to be used to assist in planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating community hospitals authorized by this act. The annual tax authorized in this section shall not exceed 4/10 of 1 mill of the state equalized valuation on each dollar of assessed valuation in each city, village, or township in the authority. The treasurer of any city, village, or township who collects the tax authorized by this section shall also pay to the authority its proportionate share of reimbursement payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. In addition, an annual tax at a rate not to exceed 2 mills may

be levied for not more than 10 years for capital improvements when authorized at a general or special election and approved by a majority vote of the total qualified electors voting on the question in all member cities, villages, and townships. The hospital authority board may initiate a proceeding for the additional tax by resolution of the hospital authority board which shall set forth the amount of the tax, not to exceed 2 mills, and shall set a date of election which shall be not less than 60 days after the adoption of the resolution. The secretary of the authority shall within 5 days after the adoption of the resolution transmit a certified copy of the resolution to the clerk of each city, village, or township which is a member of the authority. The clerk of each member city, village, or township shall take the steps necessary to provide for an election pursuant to the resolution passed at which election the question of the additional tax shall be submitted. The election shall be conducted in the same manner as elections are required to be conducted in the member cities, villages, or townships under the provisions of the general election law. When a part or all of a village belonging to the authority is located in a township belonging to the authority, the township election shall include that part of the village located in it and the village shall not be required to hold an election except in that portion of the village not located in the township belonging to the authority. The election in each member city, village, and township shall be canvassed in the manner required by the general election law and the results of the election shall be certified to the hospital authority board within 5 days after the date of the election. The hospital authority board shall compile and tabulate the vote as received from the member cities, villages, and townships and certify the election by resolution upon the records of the authority, and a majority of the total valid votes cast in the election voting "yes" on the question submitted shall constitute an approval. A special election called pursuant to this section shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. A previous election held under this act is not invalid if the election was approved by majority of the total valid votes cast in a proper election. The hospital authority calling an election for a date other than a primary, general, or special election held within the cities, villages, or townships forming the hospital authority shall pay the costs of the election. If the election is held at the same time as a primary, general, or special election held within the cities, villages, or townships forming the hospital authority, the hospital authority shall pay its proportionate share of the costs incurred in holding the election.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 182]

(SB 942)

AN ACT to amend 1972 PA 284, entitled "An act to provide for the organization and regulation of corporations; to prescribe their duties, rights, powers, immunities and liabilities; to provide for the authorization of foreign corporations within this state; to prescribe the functions of the administrator of this act; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending sections 911 and 1062 (MCL 450.1911 and 450.2062), section 911 as amended by 1996 PA 197 and section 1062 as amended by 2005 PA 212.

The People of the State of Michigan enact:

450.1911 Annual report; filing date; contents; exception; no change in information.

Sec. 911. (1) A domestic corporation and each foreign corporation subject to chapter 10 shall file a report with the administrator no later than May 15 of each year. The report shall be on a form approved by the administrator, signed by an authorized officer or agent of the corporation, and contain all of the following information:

(a) The name of the corporation.

(b) The name of its resident agent and address of its registered office in this state.

(c) The names and addresses of its president, secretary, treasurer, and directors.

(d) General nature and kind of business in which the corporation is engaged.

(e) For each foreign corporation authorized to transact business in this state, the total number of authorized shares and the most recent percentage used in computation of the tax required by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(2) The report is not required to be filed in the year of incorporation or authorization by a corporation formed or authorized to do business on or after January 1 and before May 16 of that year.

(3) If there are no changes in the information provided in the last filed report required under subsection (1), the corporation may file a report that certifies to the administrator that no changes in the required information have occurred since the last filed report. The report filed under this subsection shall be on a form approved by the administrator and filed no later than the date required under section 911.

450.2062 Organization and admission fee; initial admission fee of foreign corporation for profit and foreign regulated investment company; fees for increase in authorized shares; additional admission fee; determining amount of authorized shares attributable to this state; information relating to determination of fees; "corporation" defined; determination of fee if capital of corporation not divided into shares; domestic corporation resulting from merger or consolidation; admission fees.

Sec. 1062. (1) A domestic corporation or cooperative association, organized for profit, or a domestic regulated investment company, at the time of filing its articles of incorporation, shall pay 1 of the following to the administrator as an initial organization and admission fee:

(a) For 60,000 or fewer authorized shares, $50.00.

(b) For more than 60,000 and fewer than 1,000,001 authorized shares, $100.00.

(c) For more than 1,000,000 and fewer than 5,000,001 authorized shares, $300.00.

(d) For more than 5,000,000 and fewer than 10,000,001 authorized shares, $500.00.

(e) For more than 10,000,000 authorized shares, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(2) The initial admission fee of a foreign corporation for profit and foreign regulated investment company applying for admission to do business in this state is $50.00 and 60,000 shares are considered initially attributable to this state at the time of admission.

(3) Every corporation incorporated under the laws of this state that increases its authorized shares, at the time of filing its amendment to the articles of incorporation, shall pay 1 of the following additional organizational fees:

(a) For an increase of 60,000 or fewer authorized shares, $50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares, $100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares, $300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares, $500.00.

(e) For an increase of more than 10,000,000 authorized shares, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(4) A foreign corporation authorized to transact business in this state that increases the number of authorized shares attributable to this state shall file an amended application in accordance with section 1021 and shall pay 1 of the following additional admission fees:

(a) For an increase of 60,000 or fewer authorized shares attributable to this state, $50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares attributable to this state, $100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares attributable to this state, $300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares attributable to this state, $500.00.

(e) For an increase of more than 10,000,000 authorized shares attributable to this state, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares attributable to this state or portion of 10,000,000 authorized shares attributable to this state in excess of the initial 10,000,000 authorized shares attributable to this state.

(5) The number of authorized shares attributable to this state is determined by multiplying the total number of authorized shares by the most recent apportionment percentage used in the computation of the tax required by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. If the business activities are confined solely to this state, the total number of authorized shares are considered attributable to this state.

(6) The administrator is authorized to require a corporation to furnish detailed and exact information relating to the determination of fees before making a final determination of the organization or admission franchise fee to be paid by the corporation.

(7) As used in this section, "corporation" includes a partnership association limited, a cooperative association, a joint association having any of the powers of a corporation, and a common law trust created by a statute of this state, another state, or a country exercising common law powers in the nature of a corporation, whether domestic or foreign, in addition to other corporations as are referred to in this act.

(8) If the capital of a corporation is not divided into shares, a fee for purposes of this section is determined as if the corporation had 60,000 shares.

(9) If a foreign corporation authorized to transact business in this state merges into a domestic corporation or consolidates with 1 or more corporations into a domestic corporation by complying with this act, the resulting domestic corporation shall pay an organization

and admission fee for any increase in authorized shares or for any authorized shares as provided in this section, less the amount that the merging or consolidating foreign corporation previously paid to this state under this section as an initial or additional admission fee.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 183]

(HB 5484)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 268, 350d, and 367b (MCL 18.1268, 18.1350d, and 18.1367b), section 268 as added by 1988 PA 237, section 350d as added by 1988 PA 504, and section 367b as amended by 1999 PA 8.

The People of the State of Michigan enact:

18.1268 Bidder for state contract as Michigan business; certification; significant business presence required; verification; disclosure; reciprocal preference; list of states giving preference to in-state bidders; waiver of entitlement to claim preference; fraud; felony; penalty; review; recommendations; applicability.

Sec. 268. (1) A bidder for a state contract is a Michigan business for the purposes of this section if it certifies that it has done any of the following during the 12 months immediately preceding the bid deadline or for the period the business has been in existence, if the business is newly established within the 12 months immediately preceding the bid deadline:

(a) Filed a Michigan single business tax return or Michigan business tax return showing a portion or all of the income tax base allocated or apportioned to the state of Michigan pursuant to the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(b) Filed a Michigan income tax return showing income generated in or attributed to the state of Michigan.

(c) Withheld Michigan income tax from compensation paid to the bidder's owners and remitted the tax to the department of treasury.

(2) The filing or withholding shall be more than a nominal filing for the purpose of gaining the status of a Michigan business, but shall indicate a significant business presence in the state, considering the size of the business and the nature of its activities.

(3) A bidder certifying that it meets the criteria for a Michigan business listed in subsections (1) and (2) shall authorize the department of treasury to verify that the bidder has or has not met 1 of the 3 criteria in subsection (1). This authorization shall permit the department of treasury to disclose the verifying information to the procuring agency in accordance with the procedures established by section 28 of 1941 PA 122, MCL 205.28.

(4) Only a bidder that has certified that it is a Michigan business is entitled to have the department apply a reciprocal preference in its favor against a business that submits a bid from a state which applies a preference law against out-of-state bidders. A bidder that does not certify that it is a Michigan business shall indicate in its bid the state in which it maintains its principal place of business for the purpose of applying that state's preference law against the bidder.

(5) If the low bid for a state procurement exceeds $100,000.00 and is from a business located in a state which applies a preference law against out-of-state businesses, the department shall prefer a bid from a Michigan business in the same manner in which the out-of-state bidder would be preferred in its home state.

(6) The department shall compile a list of states that give preference to in-state bidders and the extent of the preference and shall update the list at least annually. An agency may rely on this compilation in implementing the provisions of this act without incurring liability to any bidder.

(7) A bidder waives any entitlement to claim a preference under this act if the bidder has not certified in its bid that the bidder is a Michigan business and has not authorized the department of treasury to release information necessary to verify the entitlement.

(8) A bidder shall not fraudulently certify that it is a Michigan business under this act or falsely indicate the state in which it has its principal place of business for the purpose of avoiding application of the reciprocal preference.

(9) A business that purposefully or willfully submits a false certification that it is a Michigan business or falsely indicates the state in which it has its principal place of business is guilty of a felony, punishable by a fine of not less than $25,000.00.

(10) Two years after October 1, 1988, the department shall review the costs and consequences of implementing this section. The department shall solicit input from the business community and from state agencies receiving procurements affected by the provisions of this section, and shall make recommendations to the legislature regarding continuation or modification of this section.

(11) This section shall not apply to any procurement if the provisions of this section would conflict with federal statute.

18.1350d Revenues required to be refunded; procedures.

Sec. 350d. (1) The procedures enumerated in this section shall be followed when revenues are required to be refunded pursuant to section 26 of article IX of the state constitution of 1963.

(2) For any fiscal year in which total state revenues exceed the revenue limit as provided in section 26 of article IX of the state constitution of 1963 by 1% or more, the revenues in excess of the revenue limit shall be refunded in accordance with 1941 PA 122, MCL 205.1 to 205.31, for the taxpayer's tax year beginning in the fiscal year for which it is determined that the revenue limit has been exceeded.

(3) A refund shall not be required if total state revenues exceed the revenue limit by less than 1%.

(4) If total state revenues exceed the revenue limit by less than 1%, the governor shall recommend to the legislature that the excess be appropriated to the countercyclical budget and economic stabilization fund, or its successor.

(5) A refund required pursuant to this section shall be refunded during the fiscal year beginning on the October 1 following the filing of the report required by section 350e which determines that the limit was exceeded in the prior fiscal year for which the report was filed.

18.1367b Revenue estimating conference; principals; forecasts.

Sec. 367b. (1) A revenue estimating conference shall be held in the second week of January and in the last week in May of each year, and as otherwise provided in this act.

(2) The principals of the conference shall be the state budget director or the state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency, or their respective designees.

(3) The conference shall establish an official economic forecast of major variables of the national and state economies. The conference shall also establish a forecast of anticipated state revenues as the conference determines including the following:

(a) State income tax collections.

(b) State sales tax collections.

(c) Single business tax collections.

(d) Michigan business tax collections.

(e) Total general fund/general purpose revenues.

(f) Lottery transfers to the school aid fund.

(g) Total school aid fund revenues.

(h) Annual percentage growth in the basic foundation allowance provided for in the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(i) Compliance with the state revenue limit established by section 26 of article IX of the state constitution of 1963.

(j) Pay-ins or pay-outs required under the countercyclical budget and economic stabilization fund.

(4) The conference's official forecast of economic and revenue variables shall be determined by consensus among the principals.

(5) The forecasts required by this section shall be for the fiscal year in which the conference is being held and the ensuing fiscal year.

(6) The official conference forecast shall be based upon the assumption that the current law and current administrative procedures will remain in effect for the forecast period.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 184]

(HB 5485)

AN ACT to amend 1984 PA 385, entitled "An act to provide for the establishment of technology park districts in local governmental units; to provide certain facilities located in

technology park districts an exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain state agencies and officers and certain officers of local governmental units; and to provide remedies and penalties," by amending section 12 (MCL 207.712), as amended by 2004 PA 321.

The People of the State of Michigan enact:

207.712 Technology park facilities tax; levy; amount; collection, disbursement, and assessment of tax; payment; copy of amount of disbursement; facility located in renaissance zone; facility of qualified start-up business.

Sec. 12. (1) Except as provided in subsections (8) and (9), there is levied upon every owner of record and every user or occupant, if known, of a facility to which a certificate is issued, a specific tax to be known as a technology park facilities tax.

(2) The amount of the technology park facilities tax in each year shall be determined by multiplying the state equalized valuation of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied by a local or intermediate school district within which the facility is located for school operating purposes or mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus 1/2 of the number of mills levied for school operating purposes in 1993.

(3) The technology park facilities tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The technology park facilities tax shall be an annual tax payable at the same time, in the same manner, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse technology park facilities tax payments received each year to the state, cities, townships, villages, school districts, counties, community and junior colleges, and authorities, at the times and in the proportions required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (6) for taxes collected pursuant to technology park facilities exemption certificates issued before January 1, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(5) Except as provided in subsection (6), all or a portion of the amount to be disbursed to intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, as determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) For technology park facilities taxes levied after 1993 for school operating purposes, the amount to be disbursed to a local school district shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the department on a form provided by the department.

(8) A facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the technology park facilities tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the technology park facilities tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The technology park facilities tax calculated under this subsection shall be disbursed proportionately to the local taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(9) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a facility of a qualified start-up business from the collection of the technology park facilities tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, the facility owned or operated by a qualified start-up business is exempt from the technology park facilities tax levied under this act, except for that portion of the technology park facilities tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The technology park facilities tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 185]

(HB 5487)

AN ACT to amend 1933 (Ex Sess) PA 18, entitled "An act to authorize any city, village, township, or county to purchase, acquire, construct, maintain, operate, improve, extend, and

repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals, or welfare; and for any such purposes to authorize any such city, village, township, or county to create a commission with power to effectuate said purposes, and to prescribe the powers and duties of such commission and of such city, village, township, or county; and for any such purposes to authorize any such commission, city, village, township, or county to issue notes and revenue bonds; to regulate the issuance, sale, retirement, and refunding of such notes and bonds; to regulate the rentals of such projects and the use of the revenues of the projects; to prescribe the manner of selecting tenants for such projects; to provide for condemnation of private property for such projects; to confer certain powers upon such commissions, cities, villages, townships, and counties in relation to such projects, including the power to receive aid and cooperation of the federal government; to provide for a referendum thereon; to provide for cooperative financing by 2 or more commissions, cities, villages, townships, or counties or any combination thereof; to provide for the issuance, sale, and retirement of revenue bonds and special obligation notes for such purposes; to provide for financing agreements between cooperating borrowers; to provide for other matters relative to the bonds and notes and methods of cooperative financing; for other purposes; and to prescribe penalties and provide remedies," by amending section 1 (MCL 125.651), as amended by 1996 PA 338.

The People of the State of Michigan enact:

125.651 Definitions.

Sec. 1. As used in this act:

(a) "Borrower" means either of the following:

(*i*) The city, village, township, or county operating under this act.

(*ii*) A commission created under this act if empowered by ordinance of the creating governing body to act as a borrower for purposes of issuing bonds or notes under this act.

(b) "Business activity" means that term as defined in section 3(2) of the former single business tax act, 1975 PA 228, or in section 105 of the Michigan business tax act, 2007 PA 36, MCL 208.1105.

(c) "Commission" means the housing commission created under this act.

(d) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission, or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the board of supervisors or county commissioners.

(e) "Incorporating unit" means the city, village, township, or county that creates a commission.

(f) "Ordinance" means either of the following:

(*i*) An ordinance of a city, village, township, or county.

(*ii*) To the extent the incorporating unit has granted or empowered a commission to take those actions otherwise required to be taken by the incorporating unit by ordinance, a resolution of the commission.

(g) "Township" means a township having a population over 100.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 186]

(HB 5488)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending sections 9 and 10 (MCL 125.2689 and 125.2690), section 10 as amended by 2005 PA 164.

The People of the State of Michigan enact:

125.2689 Exemption, deduction, or credit.

Sec. 9. (1) Except as otherwise provided in section 10, an individual who is a resident of a renaissance zone or a business that is located and conducts business activity within a renaissance zone shall receive the exemption, deduction, or credit as provided in the following for the period provided under section 6(2)(b):

(a) Section 39b of the single business tax act, 1975 PA 228, MCL 208.39b, or section 433 of the Michigan business tax act, 2007 PA 36, MCL 208.1433.

(b) Section 31 of the income tax act of 1967, 1967 PA 281, MCL 206.31.

(c) Section 35 of chapter 2 of the city income tax act, 1964 PA 284, MCL 141.635.

(d) Section 5 of the city utility users tax act, 1990 PA 100, MCL 141.1155.

(2) Except as otherwise provided in section 10, property located in a renaissance zone is exempt from the collection of taxes under all of the following:

(a) Section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff.

(b) Section 11 of 1974 PA 198, MCL 207.561.

(c) Section 12 of the commercial redevelopment act, 1978 PA 255, MCL 207.662.

(d) Section 21c of the enterprise zone act, 1985 PA 224, MCL 125.2121c.

(e) Section 1 of 1953 PA 189, MCL 211.181.

(f) Section 12 of the technology park development act, 1984 PA 385, MCL 207.712.

(g) Section 51105 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51105.

(h) Section 9 of the neighborhood enterprise zone act, 1992 PA 147, MCL 207.779.

(3) During the last 3 years that the taxpayer is eligible for an exemption, deduction, or credit described in subsections (1) and (2), the exemption, deduction, or credit shall be reduced by the following percentages:

(a) For the tax year that is 2 years before the final year of designation as a renaissance zone, the percentage shall be 25%.

(b) For the tax year immediately preceding the final year of designation as a renaissance zone, the percentage shall be 50%.

(c) For the tax year that is the final year of designation as a renaissance zone, the percentage shall be 75%.

125.2690 Individuals or businesses ineligible for exemption, deduction, or credit; limitations.

Sec. 10. (1) An individual who is a resident of a renaissance zone or a business that is located and conducts business activity within a renaissance zone or a person that owns property located in a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2) for that taxable year if 1 or more of the following apply:

(a) The resident, business, or property owner is delinquent on December 31 of the prior tax year under 1 or more of the following:

(*i*) The single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(*ii*) The income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(*iii*) 1974 PA 198, MCL 207.551 to 207.572.

(*iv*) The commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

(*v*) The enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(*vi*) 1953 PA 189, MCL 211.181 to 211.182.

(*vii*) The technology park development act, 1984 PA 385, MCL 207.701 to 207.718.

(*viii*) Part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120.

(*ix*) The neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786.

(*x*) The city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

(b) The resident, business, or property owner is substantially delinquent as defined in a written policy by the qualified local governmental unit in which the renaissance zone is located on December 31 of the prior tax year under 1 or both of the following:

(*i*) The city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(*ii*) Taxes, fees, and special assessments collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(c) For residential rental property in a renaissance zone, the residential rental property is not in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, or codes and, except as otherwise provided in this subdivision, the residential rental property owner has not filed an affidavit before December 31 in the immediately preceding tax year with the local tax collecting unit in which the residential rental property is located as required under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff. Beginning December 31, 2004, a residential rental property owner is not required to file an affidavit if the qualified local governmental unit in which the residential rental property is located determines that the residential rental property is in substantial compliance with all applicable state and local zoning, building, and housing laws, ordinances, and codes on December 31 of the immediately preceding tax year.

(2) An individual who is a resident of a renaissance zone is eligible for an exemption, deduction, or credit under section 9(1) and (2) until the department of treasury determines that the aggregate state and local tax revenue forgone as a result of all exemptions, deductions, or credits granted under this act to that individual reaches $10,000,000.00.

(3) A casino located and conducting business activity within a renaissance zone is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). Real property in a renaissance zone on which a casino is operated, personal property of a casino located in a renaissance zone, and all property associated or affiliated with the operation of a casino is not eligible for the exemption, deduction, or credit listed in section 9(1) or (2). As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned

or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(4) For tax years beginning on or after January 1, 1997, an individual who is a resident of a renaissance zone shall not be denied the exemption under subsection (1) if the individual failed to file a return on or before December 31 of the prior tax year under subsection (1)(a)(*ii*) and that individual was entitled to a refund under that act.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 187]

(HB 5489)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments,

and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 224, 440a, 443, 476a, 476b, 1239, 2352, 2954, 3390, and 5208 (MCL 500.224, 500.440a, 500.443, 500.476a, 500.476b, 500.1239, 500.2352, 500.2954, 500.3390, and 500.5208), section 224 as amended by 2001 PA 143, section 440a as added and section 443 as amended by 1990 PA 256, section 476a as amended by 1998 PA 121, sections 476b, 2352, 2954, and 3390 as added by 1987 PA 261, section 1239 as added by 2001 PA 228, and section 5208 as amended by 2002 PA 146.

The People of the State of Michigan enact:

500.224 Examinations and investigations of insurers; expenses; statement to insurers; employment of expert personnel; regulatory fees; expense of administering delinquency proceeding; definitions.

Sec. 224. (1) All actual and necessary expenses incurred in connection with the examination or other investigation of an insurer or other person regulated under the commissioner's authority shall be certified by the commissioner, together with a statement of the work performed including the number of days spent by the commissioner and each of the commissioner's deputies, assistants, employees, and others acting under the commissioner's authority. If correct, the expenses shall be paid to the persons by whom they were incurred, upon the warrant of the state treasurer payable from appropriations made by the legislature for this purpose.

(2) Except as otherwise provided in subsection (4), the commissioner shall prepare and present to the insurer or other person examined or investigated a statement of the expenses and reasonable cost incurred for each person engaged upon the examination or investigation, including amounts necessary to cover the pay and allowances granted to the persons by the Michigan civil service commission, and the administration and supervisory expense including an amount necessary to cover fringe benefits in conjunction with the examination or investigation. Except as otherwise provided in subsection (4), the insurer or other person, upon receiving the statement, shall pay to the commissioner the stated amount. The commissioner shall deposit the funds with the state treasurer as provided in section 225.

(3) The commissioner may employ attorneys, actuaries, accountants, investment advisers, and other expert personnel not otherwise employees of this state reasonably necessary to assist in the conduct of the examination or investigation or proceeding with respect to an insurer or other person regulated under the commissioner's authority at the insurer's or other person's expense except as otherwise provided in subsection (4). Except as otherwise provided in subsection (4), upon certification by the commissioner of the reasonable expenses incurred under this section, the insurer or other person examined or investigated shall pay those expenses directly to the person or firm rendering assistance to the commissioner. Expenses paid directly to such person or firm and the regulatory fees imposed by this section shall be examination expenses under section 22e of the former single business tax act, 1975 PA 228, or under section 239(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1239.

(4) An insurer is subject to a regulatory fee instead of the costs and expenses provided for in subsections (2) and (3). By June 30 of each year or within 30 days after the enactment into law of any appropriation for the insurance bureau's operation, the commissioner shall impose upon all insurers authorized to do business in this state a regulatory fee calculated as follows:

(a) As used in this subsection:

(*i*) "A" means total annuity considerations written in this state in the immediately preceding year.

(*ii*) "B" means base assessment rate. The base assessment rate shall not exceed .00038 and shall be a fraction the numerator of which is the total regulatory fee and the denominator of which is the total amount of direct underwritten premiums written in this state by all insurers for the immediately preceding calendar year as reported to the commissioner on the insurer's annual statements filed with the commissioner.

(*iii*) "I" means all direct underwritten premiums other than life insurance premiums and annuity considerations written in this state in the immediately preceding year by all insurers.

(*iv*) "L" means all direct underwritten life insurance premiums written in this state in the immediately preceding year by all life insurers.

(*v*) Total regulatory fee shall not exceed 80% of the gross appropriations for the insurance bureau's operation for a fiscal year and shall be the difference between the gross appropriations for the insurance bureau's operation for that current fiscal year and any restricted revenues, other than the regulatory fee itself, as identified in the gross appropriation for the insurance bureau's operation.

(*vi*) Direct premiums written in this state do not include any amounts that represent claims payments that are made on behalf of, or administrative fees that are paid in connection with, any administrative service contract, cost-plus arrangement, or any other noninsured or self-insured business.

(b) Two actual assessment rates shall be calculated so as to distribute 75% of the burden of the regulatory fee shortfall created by the exclusion of annuity considerations from the assessment base to life insurance and 25% to all other insurance. The 2 actual assessment rates shall be determined as follows:

(*i*) $\frac{\text{L x B + .75 x B x A}}{\text{L}}$ = assessment rate for life insurance.

(*ii*) $\frac{\text{I x B = .25 x B x A}}{\text{I}}$ = assessment rate for insurance other than life insurance.

(c) Each insurer's regulatory fee shall be a minimum fee of $250.00 and shall be determined by multiplying the actual assessment rate by the assessment base of that insurer as determined by the commissioner from the insurer's annual statement for the immediately preceding calendar year filed with the commissioner.

(5) Not less than 67% of the revenue derived from the regulatory fee under subsection (4) shall be used for the regulation of financial conduct of persons regulated under the commissioner's authority and for the regulation of persons regulated under the commissioner's authority engaged in the business of health care and health insurance in this state.

(6) The amount, if any, by which amounts credited to the commissioner pursuant to section 225 exceed actual expenditures pursuant to appropriations for the insurance bureau's operation for a fiscal year shall be credited toward the appropriation for the insurance bureau in the next fiscal year.

(7) All money paid into the state treasury by an insurer under this section shall be credited as provided under section 225.

(8) A regulatory fee under this section shall not be treated by an insurer as a levy or excise upon premium but as a regulatory burden that is apportioned in relation to insurance activity in this state and reflects the insurance regulatory burden on this state as a result of this insurance activity. A foreign or alien insurer authorized to do business in this state may consider the liability required under this section as a burden imposed by this state in the calculation of the insurer's liability required under section 476a.

(9) An insurer may file with the commissioner a protest to the regulatory fee imposed not later than 15 days after receipt of the regulatory fee. The commissioner shall review the

grounds for the protest and shall hold a conference with the insurer at the insurer's request. The commissioner shall transmit his or her findings to the insurer with a restatement of the regulatory fee based upon the findings. Statements of regulatory fees to which protests have not been made and restatements of regulatory fees are due and shall be paid not later than 30 days after their receipt. Regulatory fees that are not paid when due bear interest on the unpaid fee which shall be calculated at 6-month intervals from the date the fee was due at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, until the assessment is paid in full. An insurer who fails to pay its regulatory fee within the prescribed time limits may have its certificate of authority or license suspended, limited, or revoked as the commissioner considers warranted until the regulatory fee is paid. If the commissioner determines that a regulatory fee or a part of a regulatory fee paid by an insurer is in excess of the amount legally due and payable, the amount of the excess shall be refunded or, at the insurer's option, be applied as a credit against the regulatory fee for the next fiscal year. An overpayment of $100.00 or less shall be applied as a credit against the insurer's regulatory fee for the next fiscal year unless the insurer had a $100.00 or less overpayment in the immediately preceding fiscal year. If the insurer had a $100.00 or less overpayment in the immediately preceding fiscal year, at the insurer's option, the current fiscal year overpayment of $100.00 or less shall be refunded.

(10) Any amounts stated and presented to or certified, assessed, or imposed upon an insurer as provided in subsections (2), (3), and (4) that are unpaid as of the date that the insurer is subjected to a delinquency proceeding pursuant to chapter 81 shall be regarded as an expense of administering the delinquency proceeding and shall be payable as such from the general assets of the insurer.

(11) In addition to the regulatory fee provided in subsection (4), each insurer that locates records or personnel knowledgeable about those records outside this state pursuant to section 476a(3) or section 5256 shall reimburse the insurance bureau for expenses and reasonable costs incurred by the insurance bureau as a result of travel and other costs related to examinations or investigations of those records or personnel. The reimbursement shall not include any costs that the insurance bureau would have incurred if the examination had taken place in this state.

(12) As used in this section:

(a) "Annuity considerations" means receipts on the sale of annuities as used in section 22a of the former single business tax act, 1975 PA 228, or in section 235 of the Michigan business tax act, 2007 PA 36, MCL 208.1235.

(b) "Insurer" means an insurer authorized to do business in this state and includes nonprofit health care corporations, dental care corporations, and health maintenance organizations.

500.440a Credit against tax imposed by MCL 500.476a; claim; refund; retroactive application.

Sec. 440a. (1) Beginning August 3, 1987, an insurer that is subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may credit against the tax imposed by section 476a an amount equal to the amount paid during that tax year by the insurer under section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation under section 391 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) The credit under this section shall be claimed in the manner prescribed by the revenue commissioner.

(3) A taxpayer claiming a credit under this section shall claim a portion of the credit allowed by this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the quarterly payments required under section 443. The state treasurer shall refund a credit in excess of a quarterly payment to the taxpayer on a quarterly basis within 60 days after receipt of a properly completed quarterly filing as required by this act. A subsequent increase or decrease in the amount claimed for payments made by the insurer or self-insurer shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(4) Except as otherwise provided in this subsection, the state treasurer shall refund, without interest, a credit under this section that is in excess of the insurer's tax liability for the calendar year to the insurer within 60 days after receipt of a properly completed annual tax return as required by this act. The state treasurer shall only make a refund to an insurer whose tax liability or fee amount under this act is greater than its tax liability under the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(5) This section shall be applied retroactively to August 3, 1987.

500.443 Foreign insurer; payment of quarterly installments of estimated tax; filing statement with revenue commissioner.

Sec. 443. (1) Before April 30, July 31, October 31, and January 31 of each year, each foreign insurer admitted to do insurance business in this state and subject to the tax prescribed in section 476a shall pay to the state treasurer, accompanied by forms prescribed by the revenue commissioner, quarterly installments of the insurer's total estimated tax for the current year. Failure of an insurer to make quarterly payments of at least 1/4 of either of the following shall subject the insurer to the penalty and interest prescribed in 1941 PA 122, MCL 205.1 to 205.31:

(a) If the preceding year's liability was $20,000.00 or less, the total tax liability of the insurer for the previous calendar year. For purposes of this subdivision, an insurer's tax liability for the previous calendar year shall be considered to be the amount of tax imposed that year under section 476a or under the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, whichever is greater.

(b) Eighty-five percent of the actual tax liability of the insurer for the current calendar year.

(2) Annually before March 1, each insurer described in subsection (1) shall make and file with the revenue commissioner its statement showing all of the data necessary for computation of its taxes under this chapter, upon forms and including information that the revenue commissioner prescribes, and shall pay any additional amount due for the preceding calendar year. The failure to file the statement with the revenue commissioner does not excuse or relieve an insurer from the payment of the tax that is justly due.

500.476a Alien or foreign insurers; deposit of securities or making certain payments; computation; revocation of certificate of authority; purpose of section; domestic insurer owned or controlled by alien or foreign insurer; domestic insurer as alien or foreign insurer; compliance; taxes subject to MCL 208.22d or MCL 208.1243; administration of tax; disclosure of tax return.

Sec. 476a. (1) Beginning August 3, 1987, whenever, by a law in force outside of this state or country, a domestic insurer or agent of a domestic insurer is required to make a deposit of securities for the protection of policyholders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, or otherwise, or a special burden or other burden is imposed, greater in the aggregate than is required by the laws of this

state for a similar alien or foreign insurer or agent of an alien or foreign insurer, the alien or foreign insurer of that state or country is required, as a condition precedent to its transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the revenue commissioner for taxes, fines, penalties, certificates of authority, valuation of policies, and otherwise an amount equal in the aggregate to the charges and payments imposed by the laws of the other state or country upon a similar domestic insurer and the agents of a domestic insurer, regardless of whether a domestic insurer or agent of a domestic insurer is actually transacting business in that state or country. For fire department or salvage corps taxes or other local taxes the amount shall be computed by the revenue commissioner by dividing the total of the payments made by domestic insurers in that state or country by the gross premium received by domestic insurers in that state or country less return premiums. The commissioner shall revoke the certificate of authority of an alien or foreign insurer refusing for 30 days to make payment of fees or taxes as required by this chapter. Except as provided in subsections (3) and (4), for purposes of this section, an insurer organized under the laws of a state or country other than these United States shall be considered an insurer of the state in which its general deposit for the benefit of its policyholders is made.

(2) The purpose of this section is to promote the interstate business of domestic insurers by deterring other states from enacting discriminatory or excessive taxes.

(3) Subsection (4) does not apply to a domestic insurer that is owned or controlled, directly or indirectly, by an alien or foreign insurer who prior to 1998 and with the commissioner's approval did not keep books, records, and files or true copies thereof in this state.

(4) For purposes of this section, the state treasurer, after consultation with the commissioner, shall determine that a domestic insurer is an alien or foreign insurer domiciled in a state or country determined by the state treasurer if the insurer does not comply with all of the following:

(a) Maintain its principal place of business in this state.

(b) Maintain in this state officers and personnel responsible for and knowledgeable of the company's operation, books, records, administration, and annual statement.

(c) Conduct in this state a substantial portion of its underwriting, sales, claims, legal, and, if applicable, medical operations relating to Michigan policyholders and certificate holders.

(d) Comply with section 5256(1)(a) and (2) through (6). The commissioner shall inform the state treasurer when a domestic insurer is not in compliance with section 5256(1)(a) or (2) through (6).

(5) Taxes collected pursuant to this section are subject to section 22d of the former single business tax act, 1975 PA 228, or section 243 of the Michigan business tax act, 2007 PA 36, MCL 208.1243.

(6) The state treasurer shall administer the tax prescribed by this section in the manner provided in 1941 PA 122, MCL 205.1 to 205.31.

(7) The requirements of section 28 of 1941 PA 122, MCL 205.28, that prohibit an employee or an authorized representative or former employee or authorized representative or anyone connected with the department of treasury from divulging any facts or information obtained in connection with the administration of taxes, do not apply to disclosure of the tax return prescribed in this act.

500.476b Taxes to which authorized insurer subject.

Sec. 476b. Authorized insurers are subject to the tax as provided in section 476a if applicable or the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, whichever is greater.

500.1239 Probation, suspension, revocation, or refusal to issue insurance producer's license; causes; civil fine; notice of license denial; hearing; license of business entity; penalties and remedies.

Sec. 1239. (1) In addition to any other powers under this act, the commissioner may place on probation, suspend, revoke, or refuse to issue an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for any 1 or more of the following causes:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(f) Having been convicted of a felony.

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud.

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

(i) Having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory.

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction.

(k) Improperly using notes or any other reference material to complete an examination for an insurance license.

(*l*) Knowingly accepting insurance business from an individual who is not licensed.

(m) Failing to comply with an administrative or court order imposing a child support obligation.

(n) Failing to pay the single business tax or the Michigan business tax or comply with any administrative or court order directing payment of the single business tax or the Michigan business tax.

(2) Before the commissioner denies an application for a license, the commissioner shall notify in writing the applicant or licensee of the denial and of the reason for the denial. Not later than 30 days after this written denial, the applicant or licensee may make written demand upon the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. A hearing under this subsection shall be held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

(4) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil fine under section 1244.

(5) In addition to the penalties under this section, the commissioner may enforce the provisions of and impose any penalty or remedy authorized by this act against any person who is

under investigation for or charged with a violation of this act even if the person's license or registration has been surrendered or has lapsed by operation of law.

500.2352 Determinations made by commissioner.

Sec. 2352. Determinations made by the commissioner pursuant to this chapter shall be made independent of the credits provided to insurers pursuant to the former single business tax act, 1975 PA 288, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

500.2954 Determinations made by commissioner.

Sec. 2954. Determinations made by the commissioner pursuant to this chapter shall be made independent of the credits provided to insurers pursuant to the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

500.3390 Determinations made by commissioner.

Sec. 3390. Determinations made by the commissioner pursuant to this chapter shall be made independent of the credits provided to insurers pursuant to the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

500.5208 Corporate powers; limitations; applicability of prohibition; services performed in connection with noninsured benefit plan; provisions; interference with rights and obligations under collective bargaining agreement prohibited; report; liability of employee covered under noninsured benefit plan; "noninsured benefit plan" or "plan" defined.

Sec. 5208. (1) The corporate powers of an insurer incorporated in this state is limited to the issuance of policies insuring persons or property or other hazards in the state of domicile and in other states from which it has received authority to transact insurance business from the insurance department of that state, and to the provision of services of the kind it performs in the normal conduct of its insurance business whether or not those services are performed in connection with an insurance contract. This section does not apply to insurers organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states, because the laws of those states do not permit the writing of the class or kind of insurance written by those insurers.

(2) For services provided under subsection (1) that are performed in connection with a noninsured benefit plan, all of the following apply:

(a) An insurer's fees for services rendered shall be on a basis that precludes cost transfers between individuals receiving those services and policyholders of the insurer.

(b) Any insurer providing services described in subsection (1) in connection with a noninsured benefit plan shall offer a program of specific or aggregate excess loss insurance.

(c) Except as provided in subdivision (d), an insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall not enter into the service contract for a plan covering a group of less than 500 individuals. However, an insurer may continue a service contract for a plan covering a group of less than 500 individuals if the contract was in existence on December 29, 1981.

(d) An insurer may enter into a service contract for a plan covering a group of less than 500 individuals if either the insurer makes arrangements for excess loss insurance or the sponsor of the plan that covers the individuals is liable for the plan's liabilities and is a sponsor of 1 or more plans covering 500 or more individuals in the aggregate. The commissioner, upon obtaining the advice of insurers, shall establish the standards for the manner

and amount of the excess loss insurance required by this subdivision. It is the intent of the legislature that the excess loss insurance requirements be uniform as between insurers and other persons authorized to provide similar services.

(e) An insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall comply with section 5208a.

(f) A service contract containing an administrative services only arrangement between an insurer and a governmental entity not subject to ERISA, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by an insurer, health care corporation, dental care corporation, or health maintenance organization before the signing of the service contract, is void unless the governmental entity has provided the notice described in section 5208a(8) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subdivision does not relieve the governmental entity of any obligations to the insurer under the service contract.

(3) Nothing in this section shall be construed to permit an actionable interference by an insurer with the rights and obligations of the parties under a collective bargaining agreement.

(4) Services provided under subsection (1) that are performed in connection with a noninsured benefit plan shall be considered a business activity that is not an insurance carrier service and are subject to tax as authorized by the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(5) An insurer shall report with its annual statement the amount of business it has conducted as services provided under subsection (1) that are performed in connection with a noninsured benefit plan, and the commissioner shall annually transmit this information to the state commissioner of revenue.

(6) An employee covered under a noninsured benefit plan for which services are provided under a service contract authorized under subsection (1) is not liable for that portion of claims incurred and subject to payment under the plan if the service contract is entered into between an employer and insurer, unless that portion of the claim has been paid directly to the employee.

(7) As used in this section, "noninsured benefit plan" or "plan" means a benefit plan without insurance or the noninsured portion of a benefit plan that has specific or aggregate excess loss insurance.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

Compiler's note: The formula contained in MCL 500.224(4)(b)(*ii*) should evidently read $\frac{I \times B + .25 \times B \times A.}{I}$

[No. 188]

(HB 5491)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide

for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 19 (MCL 421.19), as amended by 2002 PA 192.

The People of the State of Michigan enact:

421.19 Contribution rate of contributing employer; determination; reserve fund balance of reorganized employer; distressed employer; irrevocability of excess payments to experience account.

Sec. 19. (a) The commission shall determine the contribution rate of each contributing employer for each calendar year after 1977 as follows:

(1)(*i*) Except as provided in paragraph (*ii*), an employer's rate shall be calculated as described in table A with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 8 or more consecutive calendar quarters during which the employer has not had workers in covered employment, and if the employer becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of table A or table B of this subsection.

(*ii*) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in "employment", not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar construction projects, shall be liable for contributions to that employer's account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B.

Table A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B	
Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4 consecutive years of liability, each employer's contribution rate shall be the sum of the following components, all of which are determined as of the computation date: a chargeable benefits component determined under subdivision (3), an account building component determined under subdivision (4), and a nonchargeable benefits component determined under subdivision (5).

(3)(*i*) The chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%.

(*ii*) For benefit years established before October 1, 2000, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the statutory ratio of regular benefit payments to credit weeks. In the event of a change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. In the event of an increase in the statutory ratio of regular benefit payments to credit weeks, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the ratio of regular benefit payments to credit weeks. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%. For benefit years established after October 1, 2000, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the percentage factor of base period wages, which defines maximum duration, as provided in section 27(d). If there is a statutory change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. If there is an increase in the statutory percentage factor of base period wages,

as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the percentage factor of base period wages. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(4) The account building component of an employer's contribution rate is the percentage arrived at by the following calculations: (*i*) Multiply the amount of the employer's total payroll for the 12 months ending on the computation date, by the cost criterion; (*ii*) Subtract the amount of the balance in the employer's experience account as of the computation date from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the account building component of the employer's contribution rate shall be zero; but (*iv*) if the remainder is a positive quantity, the account building component of the employer's contribution rate shall be determined by dividing that remainder by the employer's total payroll paid within the 12 months ending on the computation date. The account building component shall not exceed the lesser of 1/4 of the percentage calculated or 2%. However, except as otherwise provided in this subdivision, the account building component shall not exceed the lesser of 1/2 of the percentage calculated or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, times the cost criterion. For calendar years after 1993 and before 1996, the account building component shall not exceed the lesser of .69 of the percentage calculated, or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), times the cost criterion; selected for the computation date under section 18(e). If the account building component determined under this subdivision is not an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(5) The nonchargeable benefits component of employers' contribution rates is the percentage arrived at by the following calculations: (*i*) multiply the aggregate amount of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), by the cost criterion selected for the computation date under section 18(e); (*ii*) subtract the balance of the unemployment fund on the computation date, net of federal advances, from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the nonchargeable benefits component of employers' contribution rates shall be zero; but (*iv*) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates shall be determined by dividing that remainder by the total of wages subject to contributions under this act paid by all contributing employers within the 12 months ending on March 31 and adjusting the quotient, if not an exact multiple of 1/10 of 1%, to the next higher multiple of 1/10 of 1%. The maximum nonchargeable benefits component shall be 1%. However, for calendar years after 1993, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, or for calendar years after 1995, if the employer's chargeable benefits component is less than 2/10 of 1%, the maximum nonchargeable benefit component shall not exceed 1/2 of 1%. For calendar years after 1995, if there are no benefit charges against an employer's account for the 72 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 4/10 of 1%. For calendar years after 1996, if there are no benefit charges against an employer's account for the 84 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 3/10 of 1%. For calendar years after 1997, if there are no benefit charges against an employer's account for the 96 months ending as of the computation date, the maximum nonchargeable benefits component shall not

exceed 2/10 of 1%. For calendar years after 1998, if there are no benefit charges against an employer's account for the 108 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component shall not exceed 1/10 of 1% if there are no benefit charges against an employer's account for the 60 months ending as of the computation date; 9/100 of 1% if there are no benefit charges against an employer's account for the 72 months ending as of the computation date; 8/100 of 1% if there are no benefit charges against an employer's account for the 84 months ending as of the computation date; 7/100 of 1% if there are no benefit charges against an employer's account for the 96 months ending as of the computation date; or 6/100 of 1% if there are no benefit charges against an employer's account for the 108 months ending as of the computation date. For purposes of determining a nonchargeable benefits component under this subsection, an employer account shall not be considered to have had a charge if claim for benefits is denied or determined to be fraudulent pursuant to section 54 or 54c. An employer with a positive balance in its experience account on the June 30 computation date preceding the calendar year shall receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 USC 1321. However, the credit for any calendar year shall not exceed an amount determined by multiplying the employer's nonchargeable benefit component for that calendar year times the employer's taxable payroll for that year. Contributions paid by an employer shall be credited to the employer's experience account, in accordance with the provisions of section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account shall be the amount of the employer's tax before deduction of the credit provided in this subsection.

(6) The total of the chargeable benefits and account building components of an employer's contribution rate shall not exceed by more than 1% in the 1983 calendar year, 1.5% in the calendar year 1984, or 2% in the 1985 calendar year the higher of 4% or the total of the chargeable benefits and the account building components that applied to the employer during the preceding calendar year. For calendar years after 1985, the total of the chargeable benefits and account building components of the employer's contribution rate shall be computed without regard to the foregoing limitation provided in this subdivision. During a year in which this subdivision limits an employer's contribution rate, the resulting reduction shall be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(7) Unless an employer's contribution rate is 1/10 of 1% for calendar years beginning after December 31, 1995, the employer's contribution rate shall be reduced by any of the following calculation methods that results in the lowest rate:

(*i*) The chargeable benefits component, the account building component, and the nonchargeable benefits component of the contribution rate calculated under this section shall each be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%. The 3 components as increased shall then be added together.

(*ii*) One-tenth of 1% shall be deducted from the contribution rate.

(*iii*) The contribution rate shall be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%.

The contribution rate reduction described in this section applies to employers who have been liable for the payment of contributions in accordance with this act for more than 4 consecutive years, if the balance of money in the unemployment compensation fund established under section 26, excluding money borrowed from the federal unemployment trust fund, is equal to or greater than 1.2% of the aggregate amount of all contributing employers' payrolls for the 12-month period ending on the computation date. If the employer's contribution rate is reduced by a 1/10 of 1% deduction in accordance with this subdivision, the employer's contributions shall be credited to each of the components of the contribution rate on a pro rata basis. As used in this subdivision:

(*i*) "Federal unemployment trust fund" means the fund created under section 904 of title IX of the social security act, 42 USC 1104.

(*ii*) "Payroll" means that term as defined in section 18(f).

(b) An employer previously liable for contributions under this act which on or after January 1, 1978 filed a petition for arrangement under the bankruptcy act of July 1, 1898, chapter 541, 30 Stat. 544, or on or after October 1, 1979 filed a petition for reorganization under title 11 of the United States Code, 11 USC 101 to 1330, pursuant to which a plan of arrangement or reorganization for rehabilitation purposes has been confirmed by order of the United States bankruptcy court, shall be considered as a reorganized employer and shall have a reserve fund balance of zero as of the first calendar year immediately following court confirmation of the plan of arrangement or reorganization, but not earlier than the calendar year beginning January 1, 1983, if the employer meets each of the following requirements:

(1) An employer whose plan of arrangement or reorganization has been confirmed as of January 1, 1983 shall, within 60 days after January 1, 1983, notify the commission of its intention to elect the status of a reorganized employer. An employer that has not had a plan of arrangement or reorganization confirmed as of January 1, 1983 shall, within 60 days after the entry by the bankruptcy court of the order of confirmation of the plan of arrangement or reorganization, notify the commission of its intention to elect the status of a reorganized employer. An employer shall not make an election under this subdivision after December 31, 1985.

(2) The employer has paid to the commission all contributions previously owed by the employer pursuant to this act for all calendar years prior to the calendar year as to which the employer elects to begin its status as a reorganized employer.

(3) More than 50% of the employer's total payroll is paid for services rendered in this state during the employer's fiscal year immediately preceding the date the employer notifies the fund administrator of its intention to elect the status of a reorganized employer.

(4) The employer, within 180 days after notifying the commission of its intention to elect the status of a reorganized employer, makes a cash payment to the commission, for the unemployment compensation fund, equal to: .20 times the first $2,000,000.00 of the employer's negative balance, .35 times the amount of the employer's negative balance above $2,000,000.00 and up to $5,000,000.00, and .50 times the amount of the negative balance above $5,000,000.00. The total amount determined by the commission shall be based on the employer's negative balance existing as of the end of the calendar month immediately preceding the calendar year in which the employer will begin its status as a reorganized employer. If the employer fails to pay the amount determined, within 180 days of electing status as a reorganized employer, the commission shall reinstate the employer's negative balance previously reduced and redetermine the employer's rate on the basis of the reinstated negative balance. The redetermined rate shall then be used to redetermine the employer's quarterly contributions for that calendar year. The redetermined contributions shall be subject to the interest provisions of section 15 as of the date the redetermined quarterly contributions were originally due.

(5) Except as provided in subdivision (6), the employer contribution rates for a reorganized employer beginning with the first calendar year of the employer's status as a reorganized employer shall be as follows:

Year of Contribution Liability	Contribution Rate
1	2.7% of total taxable wages paid
2	2.7%
3	2.7%
4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)

(6) To provide against the high risk of net loss to the fund in such cases, any reorganized employer that employs in "employment", not necessarily simultaneously but in any 1 week 25 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar major construction projects, shall be liable beginning the first calendar year of the employer's status as a reorganized employer for contribution rates as follows:

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(c) Upon application by an employer to the commission for designation as a distressed employer, the commission, within 60 days after receipt of the application, shall make a determination whether the employer meets the conditions set forth in this subsection. Upon finding that the conditions are met, the commission shall notify the legislature of the determination and request legislative acquiescence in the determination. If the legislature approves the determination by concurrent resolution, the employer shall be considered to be a "distressed employer" as of January 1 of the year in which the determination is made. The commission shall notify the employer of that determination and notify the employer of its contribution rate as a distressed employer and the contribution rate that would apply if the employer was not a distressed employer. The distressed employer shall determine its tax contribution using the 2 rates furnished by the commission and shall pay its tax contribution based on the lower of the 2 rates. If the determination of distressed employer status is made during the

calendar year, the employer shall be entitled to a credit on future quarterly installments for any excess contributions paid during that initial calendar year. The employer shall notify the commission of the difference between the amount paid and the amount that would have been paid if the employer were not determined to be a distressed employer and the difference will be owed to the unemployment compensation fund, payable in accordance with this subsection. Cumulative totals of the difference must be reported to the commission with each return required to be filed. The commission may periodically determine continued eligibility of an employer under this subsection. When the commission makes a determination that an employer no longer qualifies as a distressed employer, the commission shall notify the employer of that determination. After notice by the commission that the employer no longer qualifies as a distressed employer, the employer will be liable for contributions, beginning with the first quarter occurring after receipt of notification of disqualification, on the basis of the rate that would apply if the employer was not a distressed employer. The contribution rate for a distressed employer shall be calculated under the law in effect for the 1982 calendar year except that the rate determined shall be reduced by the applicable solvency tax rate assessed against the employer under section 19a. The distressed employer will pay in 10 equal annual installments the amount of the unpaid contributions owed to the unemployment compensation fund due to the application of this subsection, without interest. Each installment shall be made with the fourth quarterly return for the respective year. As used in this subsection, "distressed employer" means an employer whose continued presence in this state is considered essential to the state's economic well-being and who meets the following criteria:

(1) The employer's average annual Michigan payroll in the 5 previous years exceeded $500,000,000.00.

(2) The employer's average quarterly number of employees in Michigan in the 5 previous years exceeded 25,000.

(3) The employer's business income as defined in section 3 of the single business tax act, 1975 PA 228, MCL 208.3, or section 105 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, as applicable, has resulted in an aggregate loss of $1,000,000,000.00 or more during the 5-year period ending in the second year prior to the year for which the application is being made.

(4) The employer has received from this state loans totaling $50,000,000.00 or more or loan guarantees from the federal government in excess of $500,000,000.00, either of which are still outstanding.

(5) Failure to give an employer designation as a distressed employer would adversely impair the employer's ability to repay the outstanding loans owed to this state or that are guaranteed by the federal government.

(d) An employer may at any time make payments to that employer's experience account in the fund in excess of the requirements of this section, but these payments, when accepted by the commission, shall be irrevocable. A payment made by an employer within 30 days after mailing to the employer by the commission of a notice of the adjusted contribution rate of the employer shall be credited to the employer's account as of the computation date for which the adjusted contribution rate was computed, and the employer's contribution rate shall be further adjusted accordingly. However, a payment made more than 120 days after the beginning of a calendar year shall not affect the employer's contribution rate for that year.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 189]

(HB 5492)

AN ACT to amend 2002 PA 593, entitled "An act to create and provide for the operation of the Michigan next energy authority; to provide for the powers and duties of the authority; to promote alternative energy technology and economic growth; and to exempt property of an authority from tax," by amending section 5 (MCL 207.825).

The People of the State of Michigan enact:

207.825 Powers and duties of authority.

Sec. 5. (1) Except as otherwise provided in this act, the authority may do all things necessary to implement the purposes of this act, including, but not limited to, all of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the seal at the pleasure of the board.

(c) Sue and be sued in its own name and plead and be impleaded.

(d) Solicit and accept gifts, grants, loans, and other assistance from any person or the federal, the state, or a local government or any agency of the federal, the state, or a local government or participate in any other way in any federal, state, or local government program.

(e) Research and publish studies, investigations, surveys, and findings on the development and use of alternative energy technology.

(f) Promote the research, development, and manufacturing of alternative energy technology.

(g) Do all other things necessary to promote and increase the research, development, and manufacturing of alternative energy technology and to otherwise achieve the objectives and purposes of the authority.

(2) The authority shall certify all of the following personal property and shall provide proof of certification to the assessor of the local tax collecting unit in which the following personal property is located:

(a) Alternative energy marine propulsion systems, alternative energy systems, and alternative energy vehicles that meet both of the following requirements:

(*i*) Were not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) Were not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(b) Tangible personal property of a business that is an alternative energy technology business that meets both of the following requirements:

(*i*) Was not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) Was not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(c) Tangible personal property of a business that is not an alternative energy technology business that is used solely for the purpose of researching, developing, or manufacturing an alternative energy technology that meets both of the following requirements:

(*i*) Was not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(*ii*) Was not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(3) The authority shall certify and provide proof of certification of the following business entities:

(a) An alternative energy technology business. The authority shall provide proof of certification to the assessor of the local tax collecting unit in which the alternative energy technology business is located.

(b) A taxpayer as an eligible taxpayer for the purposes of claiming the credit under section 39e(2) of the former single business tax act, 1975 PA 228, or under section 429 of the Michigan business tax act, 2007 PA 36, MCL 208.1429.

(4) The authority shall certify and provide proof of certification of the qualified business activity of a taxpayer eligible under subsection (3)(b). As used in this subsection, "qualified business activity" means that term as defined in section 39e of the former single business tax act, 1975 PA 228, or in section 429 of the Michigan business tax act, 2007 PA 36, MCL 208.1429.

(5) The authority shall not operate an alternative energy technology business or otherwise engage in the manufacturing of any commercial products.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 190]

(HB 5493)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending sections 352 and 391 (MCL 418.352 and 418.391), as amended by 1984 PA 46.

The People of the State of Michigan enact:

418.352 Supplement to weekly compensation.

Sec. 352. (1) An employee receiving or entitled to receive benefits equal to the maximum payable to that employee under section 351 or the dependent of a deceased employee receiving or entitled to receive benefits under section 321 whose benefits are based on a date of personal

injury between September 1, 1965, and December 31, 1979, shall be entitled to a supplement to weekly compensation. The supplement shall be computed using the total annual percentage change in the state average weekly wage, rounded to the nearest 1/10 of 1%, as determined under section 355. The supplement shall be computed as a percentage of the weekly compensation rate that the employee or the dependent of a deceased employee is receiving or is entitled to receive on January 1, 1982 had the employee been receiving benefits at that time, rounded to the nearest dollar. The supplement shall not exceed 5% compounded for each calendar year in the adjustment period. The percentage change for purposes of the adjustment shall be computed from the base year through December 31, 1981. A supplement shall not be paid retroactively for any period of disability before January 1, 1982.

(2) For personal injuries occurring from September 1, 1965, through December 31, 1968, the base year shall be 1968. For personal injuries occurring between January 1, 1969 and December 31, 1979, the base year shall be the year in which the personal injury occurred.

(3) Pursuant to subsection (1), the director shall announce on December 1, 1981, the supplement percentages payable on January 1, 1982.

(4) All personal injuries found compensable under this act after January 1, 1982 with a personal injury date before January 1, 1980, shall be paid at a rate determined pursuant to this section.

(5) An employee who is eligible to receive differential benefits from the second injury fund shall be paid the supplement pursuant to this section as reduced by the amount of the differential payments being made to the employee by the second injury fund at the time of the payment of the supplement pursuant to this section.

(6) The supplement paid pursuant to this section, when added to the original benefit, shall not exceed the maximum weekly rate of compensation provided in section 355 in effect on the date of the adjustment.

(7) An employee is not entitled to supplements under this section for a personal injury for which the liability has been redeemed.

(8) The supplements under this section shall be paid by an insurer or self-insurer on a weekly basis. The insurer, self-insurer, the second injury fund, and the self-insurers' security fund are entitled to quarterly reimbursement for these payments from the compensation supplement fund in section 391, except that an insurer or self-insurer subject to section 440a of the insurance code of 1956, 1956 PA 218, MCL 500.440a, section 38b of the single business tax act, 1975 PA 228, MCL 208.38b, or section 423 of the Michigan business tax act, 2007 PA 36, MCL 208.1423, shall take a credit under either section 440a of the insurance code of 1956, 1956 PA 218, MCL 500.440a, section 38b of the single business tax act, 1975 PA 228, MCL 208.38b, or section 423 of the Michigan business tax act, 2007 PA 36, MCL 208.1423, as applicable.

(9) This section does not apply to an employee receiving benefits under section 361(1).

(10) An insurer, self-insurer, the second injury fund, or the self-insurers' security fund shall make the supplemental payments required by this section for each quarter of the state's fiscal year that the state treasurer certifies that there are sufficient funds available to meet the obligations of the fund created in section 391 for that quarter. The state treasurer shall certify whether there are sufficient funds in the fund created in section 391 to meet the obligations of that fund for each quarter of the fiscal year of the state on or before the first day of each quarter.

(11) An insurer, self-insurer, the second injury fund, or the self-insurers' security fund shall make the supplemental payments required by this section for the period July 1, 1982 to September 30, 1982 and shall be reimbursed for those payments.

418.391 Compensation supplement fund; creation; administration; appropriation; rules; payments; personnel; recommendations; carrying forward unexpended funds; reduction of appropriation; report; reimbursement of insurers, self-insurers, second injury fund, and self-insurers' security fund; certification; application.

Sec. 391. (1) The compensation supplement fund is created as a separate fund in the state treasury. The fund shall be administered by the state treasurer pursuant to this section. The legislature shall appropriate to the compensation supplement fund from the general fund the amounts necessary to meet the obligations of the compensation supplement fund under section 352, and the administrative costs incurred by the bureau under this section.

(2) The director shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe the conditions under which the money in the compensation supplement fund shall be expended pursuant to section 352 and this section.

(3) The department of treasury shall cause to be paid from the compensation supplement fund those amounts and at those times as are prescribed by the director pursuant to subsection (2).

(4) The director may employ the personnel the director considers necessary for the proper administration of the compensation supplement fund.

(5) The director shall annually recommend to the governor and the chairpersons of the senate and house appropriations committees the amount of money the director considers necessary to implement and enforce this section and section 352 during the ensuing fiscal year. The compensation supplement fund may carry forward into a subsequent fiscal year any unexpended funds, and reduce the necessary appropriation by the amount of the unobligated balance in the fund.

(6) Not later than April 1 of each year the director shall submit a report to the governor and the legislature summarizing the transactions of the compensation supplement fund during the preceding calendar year. The report shall identify each insurer and self-insurer that receives a reimbursement payment from the compensation supplement fund and the amount of reimbursement. When all liabilities of the compensation supplement fund for reimbursements required pursuant to section 352 are paid, the director shall recommend to the governor and the legislature that the compensation supplement fund be abolished. The director shall certify to the department of treasury and the commissioner of insurance the identity of each insurer and self-insurer that claims a credit as provided for under section 352(8) and the amount of each supplemental payment under section 352 paid by that insurer or self-insurer to which the credit applies.

(7) Pursuant to section 352, insurers and self-insurers not subject to either section 440a of the insurance code of 1956, 1956 PA 218, MCL 500.440a, section 38b of the single business tax act, 1975 PA 228, MCL 208.38b, or section 423 of the Michigan business tax act, 2007 PA 36, MCL 208.1423, the second injury fund, and the self-insurers' security fund are entitled to reimbursement from the compensation supplement fund. An application for reimbursement shall be on the forms and contain information as required by the director. Application for a claim for reimbursement from the compensation supplement fund shall be filed with the director within 3 months after the date on which the right to reimbursement first accrues. After the insurer, self-insurer, the second injury fund, or the self-insurers' security fund has established a right to reimbursement, payment from the compensation supplement fund shall be made without interest on a proper showing every quarter. A reimbursement shall not be allowed for a period that is more than 1 year before the date of the filing of the application for reimbursement pursuant to this section. A reimbursement shall not be allowed

for payments made under section 352 for which an insurer or self-insurer takes a credit as provided for in section 352(8).

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 191]

(HB 5494)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending sections 7hh and 8a (MCL 211.7hh and 211.8a), section 7hh as added by 2004 PA 252 and section 8a as amended by 1998 PA 537.

The People of the State of Michigan enact:

211.7hh Qualified start-up business; exemption from tax.

Sec. 7hh. (1) Notwithstanding the tax day provided in section 2 and except as limited in subsection (5) and otherwise provided in subsection (7), for taxes levied after December 31, 2004, real and personal property of a qualified start-up business is exempt from taxes levied under this act for each tax year in which all of the following occur:

(a) The qualified start-up business applies for the exemption as provided in subsection (2) or (3).

(b) The governing body of the local tax collecting unit adopts a resolution approving the exemption as provided in subsection (4).

(2) Except as otherwise provided in subsection (3), a qualified start-up business may claim the exemption under this section by filing an affidavit on or before May 1 in each tax year with the assessor of the local tax collecting unit. The affidavit shall be in a form prescribed by the state tax commission. The affidavit shall state that the qualified start-up business was eligible for and claimed the qualified start-up business credit under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, for the applicant's last tax year ending before May 1. The affidavit shall include all of the following:

(a) A copy of the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36,

MCL 208.1101 to 208.1601, in which the qualified start-up business claimed the qualified start-up business credit under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

(b) A statement authorizing the department of treasury to release information contained in the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that pertains to the qualified start-up business credit claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

(3) If a qualified start-up business applies for an extension for filing its annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505, the qualified start-up business may claim the exemption under this section after May 1 if all of the following conditions are met:

(a) The governing body of the local tax collecting unit adopts a resolution under subsection (4)(b) approving the exemption for all qualified start-up businesses that apply for an extension for filing the annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505.

(b) The qualified start-up business submits a copy of its application for an extension for filing its annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505, and the affidavit described in subsection (2) to the December board of review provided in section 53b. For purposes of section 53b, an exemption granted under this subsection shall be considered the correction of a clerical error.

(4) On or before its last meeting in May in each tax year, the governing body of a local tax collecting unit may adopt a resolution approving the exemption provided in this section. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. A resolution approving the exemption provided in this section may be for 1 or both of the following:

(a) One or more of the individual qualified start-up businesses that claim the exemption under this section by filing an affidavit on or before May 1 as provided in subsection (2).

(b) All qualified start-up businesses that claim the exemption under this section after May 1 as provided in subsection (3).

(5) A qualified start-up business shall not receive the exemption under this section for more than a total of 5 tax years. A qualified start-up business may receive the exemption under this section in nonconsecutive tax years.

(6) If an exemption under this section is erroneously granted, the tax rolls shall be corrected for the current tax year and the 3 immediately preceding tax years. The property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner pays the corrected tax bill

issued under this subsection within 60 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. If an owner pays a corrected tax bill issued under this subsection more than 60 days after the corrected tax bill is issued, the owner is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(7) Real and personal property of a qualified start-up business is not exempt from collection of the following:

(a) A special assessment levied by the local tax collecting unit in which the property is located.

(b) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.

(c) A tax levied under section 705 or 1212 of the revised school code, 1976 PA 451, MCL 380.705 and 380.1212.

(8) As used in this section, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

211.8a Qualified personal property of qualified business; availability for use by another person; assessment to user; statements; filing; copies; examination of books and records; additions to statement; definitions; requirements of nonprofit organization not affected.

Sec. 8a. (1) Qualified personal property made available by a person that is a qualified business for use by another person shall not be assessed to the qualified business and instead is assessable and taxable to the user who acquires or possesses the qualified personal property to the extent provided for in this section. Property assessed under this section shall not be required to be assessed separately from other personal property assessed to the user.

(2) A person who is a qualified business that makes available qualified personal property shall file the statement required by section 19 not later than February 1. A person to whom qualified personal property is taxable as provided in this section shall file the statement required by section 19 by February 20 and shall include the qualified personal property on that statement. The statement filed by the qualified business shall include, itemized for each user, all of the following for all qualified personal property:

(a) The name of the qualified business.

(b) The user responsible for payment of the tax.

(c) The type of property.

(d) The location of the property, as indicated in the records of the qualified business.

(e) The purchase price including sales tax, freight, and installation.

(f) The year the property was purchased.

(g) If the qualified business is the manufacturer of the property, the original selling price, and if there is no original selling price, then the original cost.

(h) The amount and frequency of periodic payments required of the user.

(i) An affirmation that the person making the statement is a qualified business and that property included in the statement is qualified personal property as defined in this section.

(3) A user of qualified personal property may request from the assessor, and the assessor shall provide, a copy of that portion of the statement filed by the qualified business by

February 1 that includes qualified personal property for that user. If a good faith statement is not filed by February 1, or if property is not included in the statement required to be filed by February 1, then that property omitted or not reported is assessable and taxable to the person who makes the property available regardless of whether the person is a qualified business or the property is qualified personal property.

(4) A designee of the local tax collecting unit who is a certified assessor may examine the books and records of a person who files the statement required by section 19 that are necessary to determine if property included in the statement required by section 19 is qualified personal property. A person is not required to be a certified personal property examiner to examine books and records pursuant to this subsection.

(5) The state tax commission shall develop additions to the statement required by section 19 necessary to assure that property reported pursuant to subsection (2) is certified under oath to be qualified personal property reported by a person to whom qualified personal property is taxable.

(6) As used in this section:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(b) "Qualified business" means a for-profit business that obtains services relating to that business from 30 or fewer employees or employees of independent contractors performing services substantially similar to employees during a random week in the year ending on the tax day. If a person is a unified business group as that term is defined in section 117 of the Michigan business tax act, 2007 PA 36, MCL 208.1117, the number of employees from whom services are obtained includes all employees of the unitary business group and employees of independent contractors of the unitary business group rendering services to the qualified business.

(c) "Qualified personal property" means property on which a retail sales tax has been paid or liability accrued contemporaneous with the user acquiring possession of the property, or on which sales tax would be payable if the property was not exempt, and that is subject to an agreement entered into after December 31, 1993 to which all of the following apply:

(*i*) A party engaged in a for-profit business obtains the right to use or possess personal property in exchange for making periodic payments for a noncancelable term of 12 months or more.

(*ii*) The party making periodic payments can obtain legal title to the property by making all the periodic payments or all of the periodic payments and a final payment that is less than the true cash value of the property determined using state tax commission cost multipliers for personal property.

(*iii*) The written agreement between the qualified business and the party making periodic payments requires that party to report the property as qualified personal property pursuant to section 19 and to pay taxes assessed against the property.

(d) "Random week" means a 7-day period during a calendar year beginning on a Monday and ending on a Sunday that is selected at random. Not later than January 15 each year, the state tax commission shall establish the random week for the immediately preceding year.

(7) This section does not affect the requirements for reporting or assessing personal property acquired or possessed by a nonprofit organization.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 192]

(HB 5496)

AN ACT to amend 1953 PA 189, entitled "An act to provide for the taxation of lessees and users of tax-exempt property," by amending section 1a (MCL 211.181a), as added by 2004 PA 324.

The People of the State of Michigan enact:

211.181a Real and personal property of qualified start-up business; exemption from tax; "qualified start-up business" defined.

Sec. 1a. (1) Notwithstanding the tax day provided in section 2 of the general property tax act, 1893 PA 206, MCL 211.2, and except as limited in subsection (5) and otherwise provided in subsection (7), for taxes levied after December 31, 2004, real and personal property of a qualified start-up business is exempt from taxes levied under this act for each tax year in which all of the following occur:

(a) The qualified start-up business applies for the exemption as provided in subsection (2) or (3).

(b) The governing body of the local tax collecting unit adopts a resolution approving the exemption as provided in subsection (4).

(2) Except as otherwise provided in subsection (3), a qualified start-up business may claim the exemption under this section by filing an affidavit on or before May 1 in each tax year with the assessor of the local tax collecting unit. The affidavit shall be in a form prescribed by the state tax commission. The affidavit shall state that the qualified start-up business was eligible for and claimed the qualified start-up business credit under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, for the applicant's last tax year ending before May 1. The affidavit shall include all of the following:

(a) A copy of the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, in which the qualified start-up business claimed the qualified start-up business credit under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

(b) A statement authorizing the department of treasury to release information contained in the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that pertains to the qualified start-up business credit claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

(3) If a qualified start-up business applies for an extension for filing its annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505, the qualified start-up business may claim the exemption under this section after May 1 if all of the following conditions are met:

(a) The governing body of the local tax collecting unit adopts a resolution under subsection (4)(b) approving the exemption for all qualified start-up businesses that apply for an extension for filing the annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505.

(b) The qualified start-up business submits a copy of its application for an extension for filing its annual single business tax return under section 73 of the single business tax act, 1975 PA 228, MCL 208.73, or section 505 of the Michigan business tax act, 2007 PA 36, MCL 208.1505, and the affidavit described in subsection (2) to the December board of review provided in section 53b of the general property tax act, 1893 PA 206, MCL 211.53b. For purposes of section 53b of the general property tax act, 1893 PA 206, MCL 211.53b, an exemption granted under this subsection shall be considered the correction of a clerical error.

(4) On or before its last meeting in May in each tax year, the governing body of a local tax collecting unit may adopt a resolution approving the exemption provided in this section. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. A resolution approving the exemption provided in this section may be for 1 or both of the following:

(a) One or more of the individual qualified start-up businesses that claim the exemption under this section by filing an affidavit on or before May 1 as provided in subsection (2).

(b) All qualified start-up businesses that claim the exemption under this section after May 1 as provided in subsection (3).

(5) A qualified start-up business shall not receive the exemption under this section for more than a total of 5 tax years. A qualified start-up business may receive the exemption under this section in nonconsecutive tax years.

(6) If an exemption under this section is erroneously granted, the tax rolls shall be corrected for the current tax year and the 3 immediately preceding tax years. The property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner pays the corrected tax bill issued under this subsection within 60 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. If an owner pays a corrected tax bill issued under this subsection more than 60 days after the corrected tax bill is issued, the owner is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(7) Real and personal property of a qualified start-up business is not exempt from collection of the following:

(a) A special assessment levied by the local tax collecting unit in which the property is located.

(b) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.

(c) A tax levied under section 705 or 1212 of the revised school code, 1976 PA 451, MCL 380.705 and 380.1212.

(8) As used in this section, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 193]

(HB 5497)

AN ACT to amend 2000 PA 146, entitled "An act to provide for the establishment of obsolete property rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local government officials; and to provide penalties," by amending section 10 (MCL 125.2790), as amended by 2004 PA 251.

The People of the State of Michigan enact:

125.2790 Obsolete properties tax; amount; collection, disbursement, and assessment; payment; copy of disbursement amount; form; property located in renaissance zone; exemption of rehabilitated facility of qualified start-up business from tax collection; resolution; "qualified start-up business" defined.

Sec. 10. (1) There is levied upon every owner of a rehabilitated facility to which an obsolete property rehabilitation exemption certificate is issued a specific tax to be known as the obsolete properties tax.

(2) The amount of the obsolete properties tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the rehabilitated facility is located by the taxable value of the real and personal property of the obsolete property on the December 31 immediately preceding the effective date of the obsolete property rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the obsolete property rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the rehabilitated facility, after deducting all of the following:

(*i*) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(*ii*) The taxable value used to calculate the tax under subdivision (a).

(3) The obsolete properties tax shall be collected, disbursed, and assessed in accordance with this act.

(4) The obsolete properties tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the obsolete properties tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(5) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of obsolete property tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The amount of obsolete property tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(7) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(8) A rehabilitated facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the obsolete properties tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

(9) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a rehabilitated facility of a qualified start-up business from the collection of the obsolete properties tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, the rehabilitated facility owned or operated by a qualified start-up business is exempt from the obsolete properties tax levied under this act, except for that portion of the obsolete properties tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The obsolete properties tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

This act is ordered to take immediate effect.
Approved December 20, 2007.
Filed with Secretary of State December 21, 2007.

[No. 194]

(HB 5193)

AN ACT to amend 1941 PA 122, entitled "An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments, and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending sections 22, 30b, and 30c (MCL 205.22, 205.30b, and 205.30c), section 22 as amended by 1993 PA 13, section 30b as added by 1986 PA 58, and section 30c as amended by 2002 PA 616.

The People of the State of Michigan enact:

205.22 Appeal; procedure; assessment, decision, or order as final and not reviewable.

Sec. 22. (1) A taxpayer aggrieved by an assessment, decision, or order of the department may appeal the contested portion of the assessment, decision, or order to the tax tribunal within 35 days, or to the court of claims within 90 days after the assessment, decision, or order. The uncontested portion of an assessment, order, or decision shall be paid as a prerequisite to appeal. However, an action shall be commenced in the court of claims within 6 months after payment of the tax or an adverse determination of the taxpayer's claim for refund, whichever is later, if the payment of the tax or adverse determination of the claim for refund occurred under the former single business tax act, 1975 PA 228, and before May 1, 1986.

(2) An appeal under this section shall be perfected as provided under the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779, and rules promulgated under that act for the tax tribunal, or chapter 64 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6401 to 600.6475, and rules adopted under that chapter for the court of claims. In an appeal to the court of claims, the appellant shall first pay the tax, including any applicable penalties and interest, under protest and claim a refund as part of the appeal.

(3) A taxpayer or the department may take an appeal by right from a decision of the tax tribunal or the court of claims to the court of appeals. The appeal shall be taken on the record made before the tax tribunal or the court of claims. The taxpayer or department may take further appeal to the supreme court in accordance with the court rules provided for appeals to the supreme court.

(4) The assessment, decision, or order of the department, if not appealed in accordance with this section, is final and is not reviewable in any court by mandamus, appeal, or other method of direct or collateral attack.

(5) An assessment is final, conclusive, and not subject to further challenge after 90 days after the issuance of the assessment, decision, or order of the department, and a person is not entitled to a refund of any tax, interest, or penalty paid pursuant to an assessment unless the aggrieved person has appealed the assessment in the manner provided by this section.

205.30b Report regarding application of revenue limitation; petition for refund; method of refund; escrow account.

Sec. 30b. (1) Within 45 days after the publication of the comprehensive annual financial report by the director of the department of management and budget pursuant to section 494 of the management and budget act, 1984 PA 431, MCL 18.1494, the director of the department of management and budget and the state treasurer shall issue a report regarding the application of the revenue limitation in section 26 of article IX of the state constitution of 1963 to the fiscal year for which the comprehensive annual financial report applies. Within 30 days after the director of the department of management and budget and the state treasurer issue their report, the auditor general shall audit that report. This audit shall examine the past and present methodology of calculating revenues and comment on differences, if any, from past practices.

(2) If a refund is required by section 26 of article IX of the state constitution of 1963, a taxpayer shall petition for the refund by filling out the appropriate line to be provided on the annual income tax return, single business tax return, or Michigan business tax return. The amount of refund shall be based on the tax liability for the taxpayer's year commencing in the state's fiscal year in which the revenue limit was exceeded. Failure to fill out the appropriate line on the annual income tax return, single business tax return, or Michigan business tax return shall not extinguish the taxpayer's right to petition for the refund pursuant to section 350d of the management and budget act, 1984 PA 431, MCL 18.1350d.

(3) If before November 1, 1986, a final determination is made that the method of refund provided for in subsection (2) is unconstitutional, the state treasurer shall cause the refunds due, if any, to be paid for the state fiscal year 1984-85 beginning January 1, 1987 and through February 28, 1987.

(4) The governor may create an escrow account in the general fund and set aside in that account an amount equal to the refunds required by section 26 of article IX of the state constitution of 1963.

205.30c Voluntary disclosure agreement.

Sec. 30c. (1) The state treasurer, or an authorized representative of the state treasurer, on behalf of the department, may enter into a voluntary disclosure agreement pursuant to subsections (2) to (11) or an agreement with a federally recognized Indian tribe within the state of Michigan pursuant to subsections (12) and (13).

(2) A voluntary disclosure agreement may be entered into with a person who makes application, who is a nonfiler, and who meets 1 or more of the following criteria:

(a) Has a filing responsibility under nexus standards issued by the department after December 31, 1997.

(b) Has a reasonable basis to contest liability, as determined by the state treasurer, for a tax or fee administered under this act.

(3) All taxes and fees administered under this act are eligible for inclusion in a voluntary disclosure agreement.

(4) To be eligible for a voluntary disclosure agreement, subject to subsection (1), a person must meet all of the following requirements:

(a) Except as otherwise provided in this subdivision, has had no previous contact by the department or its agents regarding a tax covered by the agreement. For purposes of this subdivision, a letter of inquiry, whether a final letter or otherwise, requesting information under section 21(2)(a) that was sent to a nonfiler shall not be considered a previous contact under this subdivision if the nonfiler sends a written request to the department to enter into a voluntary disclosure agreement not later than June 30, 1999.

(b) Has had no notification of an impending audit by the department or its agents.

(c) Is not currently under audit by the department of treasury or under investigation by the department of state police, department of attorney general, or any local law enforcement agency regarding a tax covered by the agreement.

(d) Is not currently the subject of a civil action or a criminal prosecution involving any tax covered by the agreement.

(e) Has agreed to register, file returns, and pay all taxes due in accordance with all applicable laws of this state for all taxes administered under this act for all periods after the lookback period.

(f) Has agreed to pay all taxes due for each tax covered under the agreement for the lookback period, plus statutory interest as stated in section 23, within the period of time and in the manner specified in the agreement.

(g) Has agreed to file returns and worksheets for the lookback period as specified in the agreement.

(h) Has agreed not to file a protest or seek a refund of taxes paid to this state for the lookback period based on the issues disclosed in the agreement or based on the person's lack of nexus or contacts with this state.

(5) If a person satisfies all requirements stated in subsections (1), (2), and (4), the department shall enter into a voluntary disclosure agreement with that person providing the following relief:

(a) Notwithstanding section 28(1)(e) of this act, the department shall not assess any tax, delinquency for a tax, penalty, or interest covered under the agreement for any period before the lookback period identified in the agreement.

(b) The department shall not assess any applicable discretionary or nondiscretionary penalties for the lookback period.

(c) The department shall provide complete confidentiality of the agreement and shall also enter into an agreement not to disclose, in accordance with section 28(1)(f), any of the terms or conditions of the agreement to any tax authorities of any state or governmental authority or to any person except as required by exchange of information agreements authorized under section 28(1)(f), including the international fuel tax agreement under chapter 317 of title 49 of the United States Code, 49 USC 31701 to 31707. The department shall not exchange information obtained under this section with other states regarding the person unless information regarding the person is specifically requested by another state.

(6) The department shall not bring a criminal action against a person for failure to report or to remit any tax covered by the agreement before or during the lookback period if the facts established by the department are not materially different from the facts disclosed by the person to the department.

(7) A voluntary disclosure agreement is effective when signed by the person subject to the agreement, or his, her, or its lawful representative, and returned to the department within the time period specified in the agreement. The department shall only provide the relief specified in the executed agreement. Any verbal or written communication by the department before the effective date of the agreement shall not afford any penalty waiver, limited lookback period, or other benefit otherwise available under this section.

(8) A material misrepresentation of the fact by an applicant relating to the applicant's current activity in this state renders an agreement null and void and of no effect. A change in the activities or operations of a person after the effective date of the agreement is not a material misrepresentation of fact and shall not affect the agreement's validity.