

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 861

A bill to authorize the creation of promise authorities and the implementation of promise zone development plans; to prescribe the powers and duties of promise zone authorities; to provide for the capture and disbursement of certain tax revenue; and to prescribe powers and duties of certain state and local officials.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan promise zone authority act".

3       Sec. 3. As used in this act:

4       (a) "Authority" means a promise zone authority created under  
5 this act.

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

7       (c) "Eligible entity" means a city, township, county, local

1 school district, or intermediate school district, in which the  
2 percentage of families with children under age 18 that are living  
3 at or below the federal poverty level is greater than or equal to  
4 the state average of families with children under age 18 living at  
5 or below the federal poverty level, as determined by the department  
6 of treasury.

7 (d) "Federal poverty level" means the poverty guidelines  
8 published annually in the federal register by the United States  
9 department of health and human services under its authority to  
10 revise the poverty line under section 673(2) of subtitle B of title  
11 VI of the omnibus budget reconciliation act of 1981, Public Law 97-  
12 35, 42 USC 9902.

13 (e) "Governing body" means the elected body of an eligible  
14 entity having legislative powers.

15 (f) "Nonpublic high school" means a high school operated by a  
16 nonpublic school that includes grades 9 to 12 or 10 to 12 and that  
17 awards a high school diploma. Nonpublic high school also includes a  
18 general education development test.

19 (g) "Nonpublic school" means that term as defined in section 5  
20 of the revised school code, 1976 PA 451, MCL 380.5.

21 (h) "Promise of financial assistance" means a commitment by an  
22 eligible entity to provide financial resources for public or  
23 private postsecondary education to eligible students living in a  
24 promise zone and who have graduated from a public high school or  
25 nonpublic high school located within that promise zone.

26 (i) "Promise zone" means that area created by a governing body  
27 under this act.

1       (j) "Promise zone development plan" means that plan developed  
2 by an authority under this act that will ensure that the financial  
3 resources are available to adequately fund the promise of financial  
4 assistance.

5       (k) "Public high school" means a public school that includes  
6 grades 9 to 12 or 10 to 12 and that awards a high school diploma.

7       (l) "Public school" means that term as defined in section 5 of  
8 the revised school code, 1976 PA 451, MCL 380.5.

9       (m) "School district" means that term as defined in the  
10 revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

11       (n) "State education tax" means the tax levied under the state  
12 education tax act, 1993 PA 331, MCL 211.901 to 211.906.

13       Sec. 5. (1) If the department of treasury certifies the  
14 eligibility of a governing body to establish a promise zone and the  
15 governing body, by resolution, establishes a promise zone under the  
16 Michigan promise zone act, the governing body shall, by resolution,  
17 create a promise zone authority.

18       (2) An authority is a public body corporate that may sue and  
19 be sued in any court of this state. An authority possesses all the  
20 powers necessary to carry out its purpose. The enumeration of a  
21 power in this act shall not be construed as a limitation upon the  
22 general powers of an authority.

23       (3) An authority shall be under the supervision and control of  
24 a board consisting of 11 members. Nine members shall be appointed  
25 by the chief executive officer of the eligible entity with the  
26 advice and consent of the governing body. One member shall be  
27 appointed by the senate majority leader. One member shall be

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1 appointed by the speaker of the house of representatives. Not more  
2 than [3] members shall be government officials. One member shall be a  
3 representative of the public school community. Of the members first  
4 appointed, an equal number of the members, as near as is  
5 practicable, shall be appointed for 1 year, 2 years, 3 years, and 4  
6 years. A member shall hold office until the member's successor is  
7 appointed. After the initial appointment, each member shall serve  
8 for a term of 4 years. An appointment to fill a vacancy shall be  
9 made by the chief executive officer of the eligible entity for the  
10 unexpired term only. Members of the board shall serve without  
11 compensation, but may be reimbursed for actual and necessary  
12 expenses. The chairperson of the board shall be elected by the  
13 board. As used in this subsection, for a local school district or  
14 an intermediate school district, "chief executive officer" means  
15 the superintendent of the local school district or intermediate  
16 school district.

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

20 (5) The proceedings and rules of the board are subject to the  
21 open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board  
22 shall adopt rules governing its procedure and the holding of  
23 regular meetings, subject to the approval of the governing body.  
24 Special meetings may be held if called in the manner provided in  
25 the rules of the board.

26 (6) After having been given notice and an opportunity to be  
27 heard, a member of the board may be removed for cause by the

1 governing body.

2 (7) A writing prepared, owned, used, in the possession of, or  
3 retained by the board in the performance of an official function is  
4 subject to the freedom of information act, 1976 PA 442, MCL 15.231  
5 to 15.246.

6 Sec. 7. (1) A promise zone authority created under section 5  
7 shall prepare a promise zone development plan.

8 (2) The promise zone development plan shall include, but is  
9 not limited to, all of the following:

10 (a) A complete description of the proposed promise of  
11 financial assistance. The proposed promise of financial assistance  
12 shall include, but is not limited to, a promise of financial  
13 assistance to all students residing within the promise zone and who  
14 graduate from a public high school or nonpublic high school located  
15 within that promise zone. The proposed promise of financial  
16 assistance shall, at a minimum, provide funding sufficient to  
17 provide an eligible student the tuition necessary to obtain an  
18 associate degree or its equivalent at a community or junior college  
19 in this state or combination of community or junior colleges in  
20 this state and, at most, provide funding sufficient to provide an  
21 eligible student the tuition necessary to obtain a bachelor's  
22 degree or its equivalent at a public postsecondary institution in  
23 this state or combination of public postsecondary institutions in  
24 this state, subject to any limitations authorized under this  
25 section. The proposed promise of financial assistance may also, at  
26 most, provide funding for an eligible student to attend a private  
27 college in this state in an amount not to exceed the average

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1 tuition [necessary to obtain a bachelor's degree] at all public  
2 universities in this state. The proposed  
3 promise of financial assistance may also authorize the expenditure  
4 of funds for educational improvement activities designed to  
5 increase readiness for postsecondary education at public schools  
6 located in the promise zone.

6 (b) A complete description of any limitation on the promise of  
7 financial assistance; if the promise of financial assistance will  
8 be prorated based on the number of years the student has resided  
9 within the promise zone; if the promise of financial assistance  
10 will be restricted to students who have resided within or attended  
11 a public high school or nonpublic high school within the promise  
12 zone for a minimum number of years; if the promise of financial  
13 assistance is predicated on the student maintaining a minimum  
14 college grade point average and carrying a minimum college credit  
15 hour classload; or if the promise of financial assistance is  
16 restricted to attendance at 1 or more public or private  
17 postsecondary institutions in this state.

18 (c) A requirement that graduates of a public high school or  
19 nonpublic high school exhaust all other known and available  
20 restricted grants for tuition and fees for postsecondary education  
21 provided by a federal, state, or local governmental entity, as  
22 determined by the board.

23 (d) How the funds necessary to accomplish the promise of  
24 financial assistance will be raised. Any amount received under the  
25 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772,  
26 shall not be included as a method of raising the necessary funds.  
27 The promise zone development plan shall be financed from 1 or more

1 of the following sources:

2 (i) Donations.

3 (ii) Revenues.

4 (iii) Money obtained from other sources approved by the  
5 governing body or otherwise authorized by law.

6 (e) An actuarial model of how much the proposed plan is  
7 estimated to cost, based on actuarial formulas developed by the  
8 department of treasury.

9 (3) The proposed promise of financial assistance under  
10 subsection (2) shall not include funding for attendance at a public  
11 or private postsecondary institution not located in this state.

12 (4) The board shall submit the promise zone development plan  
13 to the department of treasury promptly after its adoption. The  
14 promise zone development plan shall be published on the website of  
15 the eligible entity that established the promise zone.

16 (5) The department of treasury shall review the promise zone  
17 development plan submitted under subsection (4). Not more than 60  
18 days after receipt of a promise zone development plan submitted  
19 under subsection (4), the department of treasury shall either  
20 approve the promise zone development plan or provide a written  
21 notice of deficiencies. If the department of treasury does not  
22 approve a promise zone development plan submitted under subsection  
23 (4) or provide a written notice of deficiencies within 60 days, the  
24 promise zone development plan shall be considered approved. If a  
25 promise zone development plan is approved, the department of  
26 treasury shall certify that the promise zone development plan meets  
27 all requirements under this act and is sustainable.

1           (6) The department of treasury shall review any proposed  
2 amendments to a promise zone development plan. Not more than 60  
3 days after receipt of proposed amendments to a promise zone  
4 development plan, the department of treasury shall either approve  
5 the proposed amendments or provide a written notice of  
6 deficiencies. If the department of treasury does not approve  
7 proposed amendments or provide a written notice of deficiencies  
8 within 60 days, the proposed amendments shall be considered  
9 approved. If proposed amendments are approved, the department of  
10 treasury shall certify that the amendments meet all requirements  
11 under this act.

12           Sec. 9. The establishment of a promise zone development plan  
13 does not create a cause of action in law or in equity against this  
14 state, an eligible entity, or a promise zone authority, if the  
15 proposed promise of financial assistance set forth in the promise  
16 zone development plan is not paid to an eligible student.

17           Sec. 11. (1) The board may employ and fix the compensation of  
18 a director. The director shall serve at the pleasure of the board.  
19 A member of the board is not eligible to hold the position of  
20 director. Before beginning his or her duties, the director shall  
21 take and subscribe to the constitutional oath and furnish bond by  
22 posting a bond in the sum determined in the resolution establishing  
23 the authority payable to the authority for use and benefit of the  
24 authority, approved by the board, and filed with the clerk of the  
25 eligible entity. The premium on the bond shall be considered an  
26 operating expense of the authority, payable from funds available to  
27 the authority for expenses of operation. The director shall be the



1 chief executive officer of the authority.

2 (2) Subject to the approval of the board, the director shall  
3 supervise and be responsible for implementing the promise zone  
4 development plan and the performance of the functions of the  
5 authority in the manner authorized by this act. The director shall  
6 attend the meetings of the board and shall provide to the board,  
7 the governing body, and the chief executive officer of the eligible  
8 entity a regular report covering the activities and financial  
9 condition of the authority. If the director is absent or disabled,  
10 the board may designate a qualified person as acting director to  
11 perform the duties of the office. Before beginning his or her  
12 duties, the acting director shall take and subscribe to the oath,  
13 and furnish bond, as required of the director. The director shall  
14 furnish the board with information or reports governing the  
15 operation of the authority as the board requires.

16 (3) The board may employ and fix the compensation of a  
17 treasurer, who shall keep the financial records of the authority  
18 and who, together with the director, shall approve all vouchers for  
19 the expenditure of funds of the authority. The treasurer shall  
20 perform all duties delegated to him or her by the board and shall  
21 furnish a bond in an amount prescribed by the board.

22 (4) The board may employ and fix the compensation of a  
23 secretary, who shall maintain custody of the official seal and of  
24 records, books, documents, or other papers not required to be  
25 maintained by the treasurer. The secretary shall attend meetings of  
26 the board and keep a record of its proceedings and shall perform  
27 other duties delegated by the board.

1           (5) The board may retain legal counsel to advise the board in  
2 the proper performance of its duties.

3           (6) The board may employ other personnel considered necessary  
4 by the board.

5           (7) Money received by the authority shall immediately be  
6 deposited to the credit of the authority, subject to disbursement  
7 under this act.

8           (8) The authority shall not expend more than 15% of the  
9 proposed annual budget for administrative costs.

10          Sec. 13. The board may do any of the following:

11          (a) Prepare an analysis of the postsecondary educational  
12 opportunities for the residents of the promise zone.

13          (b) Study and analyze the need for financial resources to  
14 provide postsecondary educational opportunities for residents of  
15 the promise zone.

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

23          (d) Fix, charge, and collect fees, rents, and charges for the  
24 use of any facility, building, or property under its control or any  
25 part of the facility, building, or property.

26          (e) Lease, in whole or in part, any facility, building, or  
27 property under its control.

1           (f) Solicit and accept grants and donations of money,  
2 property, labor, or other things of value from a public or private  
3 source.

4           Sec. 15. The director of the authority shall submit a budget  
5 to the board for the operation of the authority for each fiscal  
6 year before the beginning of the fiscal year. The budget shall be  
7 prepared in the manner and contain the information required of  
8 municipal departments. After review by the board, the budget shall  
9 be submitted to the governing body. The governing body must approve  
10 the budget before the board may adopt the budget. Unless authorized  
11 by the governing body, funds of the eligible entity shall not be  
12 included in the budget of the authority.

13           Sec. 17. (1) The authority shall determine the base year for  
14 calculating the amount of incremental growth for the capture of the  
15 state education tax as provided in this section. The base year is  
16 the amount of revenue received from the collection of the state  
17 education tax in the promise zone in the year immediately preceding  
18 the year in which an authority makes its initial tuition payment in  
19 accordance with the promise of financial assistance or the amount  
20 of revenue received from the collection of the state education tax  
21 in the promise zone in any 1 of the 3 immediately succeeding years,  
22 whichever is less.

23           (2) If the authority continues to make annual payments in  
24 accordance with the promise of financial assistance, in the year  
25 immediately succeeding the base year determined in subsection (1)  
26 and each year thereafter, this state shall capture 1/2 of the  
27 increase in revenue, if any, from the collection of the state

1 education tax. This state shall not capture any revenue from the  
2 collection of the state education tax under this act if that  
3 revenue is subject to capture under any other law of this state.  
4 Proceeds from the capture of the state education tax under this  
5 section shall be deposited in the state treasury and credited to a  
6 restricted fund to be used solely for the purposes of this act.

7 (3) If the authority continues to make annual tuition payments  
8 in accordance with the promise of financial assistance, 2 years  
9 after the authority's initial payment of financial assistance and  
10 each year thereafter, this state shall pay to the authority the  
11 state education tax captured under subsection (2). If the  
12 boundaries of 2 or more promise zones created under this act  
13 overlap, payments under this section shall only be made to the  
14 first authority eligible for payment under this subsection.

15 (4) If at any time the authority does not make annual tuition  
16 payments in accordance with the promise for financial assistance,  
17 any amount captured from that promise zone in the restricted fund  
18 created under subsection (2) shall be paid into the school aid fund  
19 established in section 11 of article IX of the state constitution  
20 of 1963.

21 (5) For purposes of this section, payments under this section  
22 shall not be included in determining payments for financial  
23 assistance in the immediately preceding year.

24 Sec. 19. (1) The department of treasury shall oversee the  
25 operations of any promise zone authority or board created under  
26 this act. If the department of treasury determines that the actions  
27 of a promise zone authority or board are not in accordance with the

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promise zone development plan, the department of treasury may

assume operational control of that promise zone authority or board.

(2) An authority that has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the eligible entity.

[Enacting section 1. This amendatory act does not take effect unless House Bill No. 5375 of the 94th Legislature is enacted into law.

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