SUBSTITUTE FOR

HOUSE BILL NO. 4549

A bill to amend 1984 PA 431, entitled "The management and budget act," (MCL 18.1101 to 18.1594) by adding section 262a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 262A. (1) BEGINNING APRIL 1, 2010, WHEN DETERMINING UNDER THIS ACT WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING OF SUPPLIES, MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY FINANCING, EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD, AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE DEPARTMENT SHALL, IN ADDITION TO THE TOTAL OVERALL VALUE TO THIS STATE, CONSIDER ALL OF THE FOLLOWING:

1 (A) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL
2 OFFENSE INCIDENT TO THE APPLICATION FOR OR PERFORMANCE OF A STATE
3 CONTRACT OR SUBCONTRACT. AS USED IN THIS SUBDIVISION, VENDOR
4 INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, MANAGERIAL
5 EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR INDIRECTLY, HOLDS A
6 PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF 20% OR MORE.
7 (B) WHETHER THE VENDOR HAS BEEN CONVICTED OF A CRIMINAL
8 OFFENSE, OR HELD LIABLE IN A CIVIL PROCEEDING, THAT NEGATIVELY
9 REFLECTS ON THE PERSON'S BUSINESS INTEGRITY, BASED ON A FINDING OF
10 EMBEZZLEMENT, THEFT, FORGERY, BRIBERY, FALSIFICATION OR DESTRUCTION
11 OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF STATE OR
12 FEDERAL ANTITRUST STATUTES. THE DEPARTMENT MAY REQUEST THE
13 DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL RECORDS CHECK
14 THROUGH THE FEDERAL BUREAU OF INVESTIGATION ON THE VENDOR. THE
15 DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR CONDUCTING THE
16 CRIMINAL RECORDS CHECK. THE DEPARTMENT MAY CHARGE THE VENDOR THE
17 FEE FOR CONDUCTING THE CRIMINAL RECORDS CHECK. AS USED IN THIS
18 SUBDIVISION, VENDOR INCLUDES AFFILIATES, SUBSIDIARIES, OFFICERS,
19 DIRECTORS, MANAGERIAL EMPLOYEES, AND ANY PERSON WHO, DIRECTLY OR
20 INDIRECTLY, HOLDS A PECUNIARY INTEREST IN THAT BUSINESS ENTITY OF
21 20% OR MORE.
22 (C) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
23 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER
24 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
25 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
26 DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.
27 (D) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS

STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

(E) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

(F) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE, ITS RESIDENTS, OR THIS STATE'S ECONOMY.

(G) WHETHER THE PROVISION OF SERVICES TO THIS STATE AT A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE DETRIMENTAL TO THE PRIVACY INTERESTS OF MICHIGAN RESIDENTS, OR RISK THE DISCLOSURE OF PERSONAL INFORMATION OF MICHIGAN RESIDENTS, SUCH AS SOCIAL SECURITY, FINANCIAL, OR MEDICAL DATA.

(H) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS STATE FROM A LOCATION OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY, PRACTICE, OR PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

(I) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD CONSTITUTE UNDUE RISK UNDER A RISK MANAGEMENT POLICY, PRACTICE, OR PROCEDURE ADOPTED BY THE DEPARTMENT UNDER SECTION 204.

(2) WHEN DETERMINING UNDER THIS ACT WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING OF SUPPLIES, MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY FINANCING, EQUIPMENT, PRINTING,

1 AND OTHER ITEMS NEEDED BY STATE AGENCIES IS IN THE BEST INTERESTS
2 OF THIS STATE, AND IN MAKING ALL DISCRETIONARY DECISIONS CONCERNING
3 THE SOLICITATION, AWARD, AMENDMENT, CANCELLATION, OR APPEAL OF
4 STATE CONTRACTS, THE DEPARTMENT SHALL NEXT CONSIDER ALL OF THE
5 FOLLOWING:
6 (A) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE SERVICES TO THIS
7 STATE USING EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR OTHER
8 INDIVIDUALS WHO ARE NOT CITIZENS OF THE UNITED STATES, LEGAL
9 RESIDENT ALIENS, OR INDIVIDUALS WITH A VALID VISA WOULD BE
10 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
11 THE ECONOMY OF THE UNITED STATES.
12 (B) WHETHER A PROPOSAL BY A VENDOR TO PROVIDE GOODS TO THIS
13 STATE PRODUCED OUTSIDE OF THIS STATE OR THE UNITED STATES WOULD BE
14 DETRIMENTAL TO THIS STATE OR ITS RESIDENTS BY NEGATIVELY IMPACTING
15 THE ECONOMY OF THE UNITED STATES.
16 (C) WHETHER THE ACQUISITION OF GOODS OR SERVICES FROM A VENDOR
17 THAT IS AN EXPATRIATED BUSINESS ENTITY LOCATED IN A TAX HAVEN
18 COUNTRY OR AN AFFILIATE OF AN EXPATRIATED BUSINESS ENTITY LOCATED
19 IN A TAX HAVEN COUNTRY WOULD BE DETRIMENTAL TO THIS STATE OR ITS
20 RESIDENTS BY NEGATIVELY IMPACTING THE ECONOMY OF THE UNITED STATES.
21 (3) TO ASSIST THE DEPARTMENT IN DETERMINING UNDER THIS ACT
22 WHETHER THE PURCHASE, CONTRACTING FOR, OR PROVIDING OF SUPPLIES,
23 MATERIALS, SERVICES, INSURANCE, UTILITIES, THIRD PARTY FINANCING,
24 EQUIPMENT, PRINTING, AND OTHER ITEMS NEEDED BY STATE DEPARTMENTS OR
25 AGENCIES IS IN THE BEST INTERESTS OF THIS STATE, AND IN MAKING ALL
26 DISCRETIONARY DECISIONS CONCERNING THE SOLICITATION, AWARD,
27 AMENDMENT, CANCELLATION, OR APPEAL OF STATE CONTRACTS, THE

1 DEPARTMENT MAY REQUIRE A VENDOR OR SUBCONTRACTOR TO PROVIDE 1 OR
2 MORE OF THE FOLLOWING:
3 (A) INFORMATION RELATING TO THE LOCATION OF WORK PERFORMED
4 UNDER A STATE CONTRACT BY THE VENDOR AND ANY SUBCONTRACTORS,
5 EMPLOYEES, OR OTHER PERSONS PERFORMING A STATE CONTRACT.
6 (B) INFORMATION REGARDING THE CORPORATE STRUCTURE AND LOCATION
7 OF CORPORATE EMPLOYEES AND ACTIVITIES OF THE VENDOR, ITS
8 AFFILIATES, OR ANY SUBCONTRACTORS.
9 (C) NOTICE OF THE RELOCATION OF THE VENDOR, EMPLOYEES OF THE
10 VENDOR, SUBCONTRACTORS OF THE VENDOR, OR OTHER PERSONS PERFORMING
11 SERVICES UNDER A STATE CONTRACT OUTSIDE OF THIS STATE OR THE UNITED
12 STATES.
13 (D) FOR A VENDOR OR SUBCONTRACTOR PROVIDING CALL OR CONTACT
14 CENTER SERVICES TO THIS STATE, DISCLOSE TO INBOUND CALLERS THE
15 LOCATION FROM WHICH THE CALL OR CONTACT CENTER SERVICES ARE BEING
16 PROVIDED.
17 (E) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
18 WILL NOT USE STATE FUNDS OR THE PROCEEDS OF A STATE CONTRACT TO
19 INDUCE A BUSINESS ENTERPRISE TO LEAVE THIS STATE.
20 (F) A WRITTEN AFFIRMATION THAT THE VENDOR OR SUBCONTRACTOR
21 WILL NOT ENGAGE IN ACTIVITIES THAT CONTRIBUTE TO THE VIOLATION OF
22 INTERNATIONALLY RECOGNIZED WORKERS' RIGHTS, AS DEFINED IN SECTION
23 507(4) OF THE TRADE ACT OF 1974, 19 USC 2467(4), OF WORKERS IN A
24 COUNTRY OTHER THAN THE UNITED STATES, INCLUDING ANY DESIGNATED ZONE
25 OR AREA IN THAT COUNTRY.
26 (4) AS USED IN THIS SECTION:
27 (A) "EXPATRIATED BUSINESS ENTITY" MEANS A CORPORATION OR AN

1 **AFFILIATE OF THE CORPORATION INCORPORATED IN A TAX HAVEN COUNTRY**
2 **AFTER SEPTEMBER 11, 2001, BUT WITH THE UNITED STATES AS THE**
3 **PRINCIPAL MARKET FOR THE PUBLIC TRADING OF THE CORPORATION'S STOCK.**
4 **(B) "TAX HAVEN COUNTRY" INCLUDES, BUT IS NOT LIMITED TO, EACH**
5 **OF THE FOLLOWING: BARBADOS, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN**
6 **ISLANDS, COMMONWEALTH OF THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF**
7 **MAN, THE PRINCIPALITY OF LIECHTENSTEIN, THE PRINCIPALITY OF MONACO,**
8 **AND THE REPUBLIC OF THE SEYCHELLES.**