

CHAPTER 18. DEPARTMENT OF MANAGEMENT AND BUDGET

DEPARTMENT OF MANAGEMENT AND BUDGET

Act 51 of 1948 (1st Ex. Sess.)

18.1-18.17 Repealed. 1963, Act 116, Imd. Eff. May 10, 1963;—1980, Act 374, Imd. Eff. Dec. 30, 1980;—1984, Act 431, Eff. Mar. 29, 1985.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1971-2

18.21 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to transfer of building division.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1973-4

18.22 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to transfers from executive office to department of administration.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1973-5

18.23 Michigan commission on criminal justice.

WHEREAS, Executive Order 1970-12 created the Office of Criminal Justice Programs and described its composition, powers, duties, functions and responsibilities; and

WHEREAS, Executive Order 1973-7 ordered certain transfers and reorganizations which affect Executive Order 1970-12; and

WHEREAS, additional reorganizations are necessary to insure the orderly transfer of the Office of Criminal Justice Programs to the Department of Administration and the more effective utilization of resources;

THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to the authority vested in me by the Constitution and Laws of the State of Michigan, do hereby order that the Commission on Criminal Justice and Law Enforcement established by Executive Order 1970-12 be abolished.

A Michigan Commission on Criminal Justice is hereby created within the Department of Administration which shall have the following powers, duties, functions, and responsibilities;

1. to recommend goals and standards for Michigan's criminal justice system and to relate these recommendations to a timetable for implementation.

2. to review the comprehensive law enforcement and criminal justice plans prepared each year by the Office of Criminal Justice Programs and to submit its recommendations regarding such plans to the Governor through its Chairman prior to the submittal to the federal government.

3. to make recommendation through its chairman to the Governor regarding the decisions of the Administrator of the Office of Criminal Justice Programs pertaining to applications submitted for funding pursuant to the State's comprehensive plan; and

4. to undertake such other duties as may be assigned by the Governor.

The Commission shall consist of a Chairman, Vice-Chairman, and such committees, councils and task forces as may be designated by the Governor. Terms of members shall be at the pleasure of the Governor. The Commission shall serve in an advisory capacity to the Office of Criminal Justice Programs.

The Organized Crime Prevention Council and the Juvenile Delinquency Advisory Council established by Executive Order 1970-12 are hereby abolished. The provisions of Executive Order 1973-7 regarding the abolition of the Commission on Law Enforcement and Criminal Justice and the transfer of the Organized Crime Prevention Council and the Juvenile Delinquency Advisory Council shall be interpreted in a manner consistent with this Executive Order.

The Administrator of the Office of Criminal Justice Programs is hereby authorized to approve and reject applications for funds available through the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, in behalf of the Governor and in a manner consistent with the State's comprehensive plan and state laws and regulations. All other powers, duties, functions, and responsibilities set forth for the Office of Criminal Justice Programs in Executive Order 1970-12 shall be retained as described therein.

History: 1973, E.R.O. No. 1973-5, Eff. Aug. 10, 1973.

Compiler's note: The above was promulgated June 11, 1973, as Executive Order No. 1973-8 and contained no effective date provision.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1982-2

18.24 Transfer of medical cost containment functions from department of labor to department of management and budget.

WHEREAS, Public Act 195 of 1981 establishes a program in the Department of Labor, Bureau of Workers' Disability Compensation, to constrain increases in health-related workers' compensation costs; and

WHEREAS, the nature of the program is such that experience and expertise in health care cost containment programs are necessary to achieve the program's purposes; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or assignment of functions among its units which are necessary for efficient administration,

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to the authority vested in me by the provisions of Article V, Section 2, of the Michigan Constitution of 1963, do hereby order the following:

All statutory authority, powers, duties, functions, and responsibilities of the Department of Labor, Bureau of Workers' Disability Compensation pursuant to subsections (2), (3), (4), (5), (6), (7), (8), and (9) of Section 315 of Act No. 317 of the Public Acts of 1969 as amended, being subsections (2), (3), (4), (5), (6), (7), (8), and (9) of Section 418.315 of the Compiled Laws of 1979, are hereby transferred to the Department of Management and Budget, Office of Health and Medical Affairs.

All records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Labor, Bureau of Workers' Disability Compensation, for the functions are transferred to the Department of Management and Budget, Office of Health and Medical Affairs.

In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this Executive Order shall become effective on April 1, 1982.

History: 1982, E.R.O. No. 1982-2, Eff. Apr. 1, 1982.

Compiler's note: This section was promulgated January 23, 1982, as Executive Order No. 1982-2 and became effective April 1, 1982.

Administrative rules: R 418.10104 et seq. of the Michigan Administrative Code.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1984-1

18.25 Governor's office for job training; transfer to department of management and budget.

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, a well-coordinated program of occupational training and economic development is needed to increase employment opportunities for Michigan's citizens; and

WHEREAS, the resources available to the Governor to support this program are extremely limited and must be utilized as effectively and efficiently as possible; and

WHEREAS, Executive Order 1983-13 created the Governor's Office for Job Training (GOJT) and specified responsibility for programs authorized under the Job Training Partnership Act (JTPA), P.L. 97-300 of 1982, between the GOJT and the Michigan Department of Labor (MDOL).

NOW, THEREFORE, I, JAMES J. BLANCHARD, Governor of the State of Michigan, pursuant to the authority vested in me by the Constitution of the State of Michigan of 1963, Article V, Section 2, and mandates of Public Law 97-300, do hereby order the following:

A. That GOJT is hereby transferred from the Executive Office of the Governor to the Department of Management and Budget (DMB). The purpose of this transfer is to accomplish administrative efficiency. The GOJT remains a temporary agency as established under Article V, Section 4, of the Michigan constitution.

B. That budgeting, accounting, procurement and related management functions for the GOJT shall be performed by the Director of DMB.

C. That the Director of the GOJT, reporting directly to the Governor, shall:

1. Be responsible for coordinating policy and program development, service provider selection, and program oversight of:

- JTPA Title I, Sec. 123: State Education Coordination and Grants; and
- JTPA Title I, Sec. 124: Training Programs for Older Individuals; and
- JTPA Title II(b)(3) program year 1983 funds appropriated for Incentive Grants and Technical Assistance to the Service Delivery Areas; and
- JTPA Title III: Employment and Training Assistance for Dislocated Workers.

2. Provide staff support to the Michigan Job Training Coordinating Council (MJTCC) established and maintained under JTPA Title I, Sec. 122.

3. Review policies and programs from C. 1. above with the MDOL, the Cabinet Council on Jobs and Economic Development and the MJTCC to insure coordination.

4. Maintain contact with U.S. Department of Labor regarding programmatic issues related to C. 1. above.

D. That funds appropriated for JTPA administration under Title II, Section 202(b)(4), sufficient, as agreed to by MDOL AND GOJT, to provide the functions identified in Section C above are hereby transferred from the MDOL to DMB for use by the GOJT. Persons performing functions outlined in Section C above, as agreed to by MDOL AND GOJT, shall be placed on leave of absence from the MDOL to accepted limited term appointments with DMB.

E. That the Director of the MDOL shall:

1. Be responsible for coordinating policy and program development, service provider selection (as appropriate), and program oversight of:

- JTPA Title IIA and B: Training Services for the Disadvantaged operated through local Service Delivery Areas (SDAs); and
- JTPA Title II(b)(3) funds appropriated for Incentive Grants and Technical Assistance to the SDAs beginning July 1, 1984, and including the development of criteria for awarding these funds;
- A comprehensive management information and assessment system for all programs funded by JTPA.

Planning for this system shall be accomplished jointly with the GOJT.

2. Be responsible for internal management and oversight of all funds appropriated to Michigan under JTPA including such functions as contract development, compliance monitoring, auditing, grievance review, federal reporting and maintenance of grant liaison with the U.S. Department of Labor.

In this capacity, the Michigan Department of Labor will maintain grant records, state plan documents, and financial resources in compliance with JTPA Title I, Parts A. and B., Section 121, C-E, and additional requirements specified by the U.S. Department of Labor.

3. Review policies and programs from E. 1. above with the GOJT, the Cabinet Council on Jobs and Economic Development and MJTCC to insure coordination.

F. That to insure adequate resources to perform its functions, the MDOL shall have available for its use the JTPA administrative funds appropriated under Title II, Sec. 202(b)(4) less the amount which is provided to support the GOJT under provision D. above.

G. That the GOJT, MDOL, DMB, and other offices and departments, as appropriate, shall enter into agreements as needed to implement the letter and spirit of this Executive Order.

H. In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution of 1963, the provisions of this Executive Order shall become effective sixty (60) days after submission to the Legislature.

History: 1984, E.R.O. No. 1984-1, Eff. May 21, 1984.

Compiler's note: For transfer of Governor's Office of Job Training to the Department of Labor, see E.R.O. No. 1986-1, compiled at MCL 408.43 of the Michigan Compiled Laws.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1987-1

18.26 Rescinded. 1991, E.R.O. 1991-19, Eff. Dec. 22, 1987.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1991-17

18.31 Office of drug agencies director abolished; establishment of office of drug control policy as autonomous agency within department of management and budget; functions.

WHEREAS, on June 14, 1989, the Office of the Drug Agencies Director was established within the Department of Management and Budget; and

WHEREAS, the activities of that office can be strengthened through increased program control and direction; and

WHEREAS, drug abuse, illegal drug trafficking and the resultant crime and violence are among the most serious problems facing our state and country; and

WHEREAS, it is necessary in the interest of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. Executive Order 1989-5 is rescinded and the Office of the Drug Agencies director is abolished. All records, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Office of the Drug Agencies Director are transferred to the Department of Management and Budget.

2. For the purpose of this Executive Order drug abuse includes the abuse or unlawful use of alcohol and all illicit drug use.

3. The Office of Drug Control Policy is established as an autonomous agency within the Department of Management and Budget. The director of the Office of Drug Control Policy shall be appointed by the Governor and shall serve at the pleasure of the Governor. The director of the Office of Drug Control Policy shall report directly to the governor for the purpose of rendering advice and recommendations on programs and laws related to drug-abuse prevention, drug-abuse treatment and drug law enforcement. The director of the Office of Drug Control Policy shall report to the director of the Department of Management and Budget with respect to budget, procurement and management-related functions.

4. The Office of Drug Control Policy shall perform the following functions:

(a) Report to the Governor on the effectiveness of drug treatment and prevention programs within the Department of Public Health. Review, investigate, evaluate and assess all other programs within the Executive Branch of government related to drug-abuse prevention, drug-abuse treatment and drug law enforcement, serve as the coordinating office for all agencies of the Executive Branch of government which are responsible for programs related to drug-abuse prevention, drug-abuse treatment and drug law enforcement, and develop a state drug-abuse prevention, drug-abuse treatment and drug law enforcement plan.

(b) Receive, administer and distribute funds received by the State of Michigan under or through Titles III and VI of the federal Anti-Drug Abuse Act of 1988, P.L. 100-690, for education and criminal justice programs, except for those funds received by the Department of Public Health, which shall be administered as set out below in number six.

(c) Analyze and make recommendations to the Governor on proposed programs relating to drug-abuse prevention, drug-abuse treatment and drug law enforcement, and on the elimination of duplication in existing state programs in these areas.

(d) Provide information and assistance to all agencies of the Executive Branch of government, both directly and by functioning as a clearinghouse for information received from other such agencies, from other states and from the federal government.

(e) Serve as the Governor's liaison with the Department of Public Health, with the Department of Education and with other departments and agencies of the Executive Branch of government with respect to drug control policy.

(f) Serve as the single point of contact for communicating the Governor's drug control policy to the Legislature.

(g) Agree and comply with conditions attached to federal financial assistance relating to drug control policy.

(h) Accept gifts, grants, loans, appropriations or other aid from the federal, state or local government, from a subdivision, agency, or instrumentality of the federal, state or local government, or from a person, corporation, firm or other organization.

(i) Make and execute contracts and other instruments necessary or convenient to the proper exercise of its functions.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds, used, held, employed, available or to be made available to the Departments of Education and Management and Budget for the administration and distribution of funds received by the State of Michigan through Titles III and VI of the federal Anti-Drug Abuse Act of 1988, P.L. 100-690, are transferred to the Office of Drug Control Policy by a Type III transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

6. The Department of Public Health shall continue to receive and administer funds for prevention and treatment under Title II of the federal Anti-Drug Abuse Act of 1988, P.L. 100-690, and shall submit its annual plan to the Office of Drug Policy for review and approval prior to the release of any federal FY92 funds and thereafter.

7. The director of the Office of Drug Control Policy shall provide executive direction and supervision for the implementation of the transfer of federal funds and department personnel. The functions of the Office of Drug Control Policy, except the power to appoint the director and except for budget, procurement and management-related functions, shall be administered under the direction and supervision of the director of the Office of Drug Control Policy.

8. The director of the Office of Drug Control Policy and the directors of the Departments of Education, Management and Budget, Public Health and the Superintendent of Public Instruction shall immediately develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved relating to the functions transferred to the Office of Drug Control Policy by this Order.

9. All rules, orders, contracts and agreements relating to the functions transferred to the Office of Drug Control Policy lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

10. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking of effect of this Order. Any suit, action or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

11. All departments and agencies of the state government shall cooperate with the Office of Drug Control Policy in carrying out the functions assigned to it by this Order.

12. The director of the Office of Drug Control Policy may, with the Governor's approval, establish temporary advisory committees to assist in carrying out the functions and responsibilities of the Office.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective immediately.

History: 1991, E.R.O. No. 1991-17, Eff. Sept. 30, 1991.

Compiler's note: For abolition of the Office of the Drug Agencies Director within the Department of Management and Budget and establishment of the Office of Drug Control Policy as an autonomous agency within the Department of Management and Budget, see E.R.O. No. 1991-17 compiled at MCL 18.31 of the Michigan Compiled Laws.

For transfer of powers and duties of the office of drug control policy from the department of management and budget to the department of community health, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For redesignation of the office of drug control policy as a type II agency and transfer of related personnel and funds to department of community health, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1994-7

18.32 Transfer of responsibilities for computer program analysis and programming for the Personnel PayRoll Information System of Michigan (PPRISM), the Payroll-Personnel System (PPS), and the General Accounting and Financial Management Information System (GA/FMIS) from the department of treasury to the department of management and budget.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Department of Management and Budget has been charged with implementing Project Main over a series of years to, among other things, totally upgrade and integrate the State's financial and personnel information systems; and

WHEREAS, the establishment of priorities for changes to and enhancements of the current personnel information systems have been jointly determined by the Departments of Civil Service, Management and Budget and Treasury; and

WHEREAS, the Civil Service Commission has agreed to work in partnership with the Department of Management and Budget on the enhancement, support, and operation of the State's new human resource system which will be part of MAIN, and intends to ensure that their responsibilities and resources are coordinated and included in a statewide effort; and

WHEREAS, certain data processing staff within the Department of Treasury are currently responsible for the maintenance of the State's financial and personnel information systems; and

WHEREAS, drawing together the data processing resources for Project MAIN and the current resources for the present financial and personnel systems in the Department of Treasury will provide for the orderly transition from the current systems to those to be operated as part of MAIN; and

WHEREAS, certain data processing functions, activities, duties and responsibilities now performed by the Department of Treasury can more effectively and efficiently be carried out in the Department of Management and Budget; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All responsibilities for computer program analysis and programming for the Personnel PayRoll Information System for Michigan (PPRISM), the Payroll-Personnel System (PPS), and the General Accounting and Financial Management Information System (GA/FMIS), and systems development functions related thereto now performed by the Department of Treasury, are hereby transferred from the Department of Treasury to the Department of Management and Budget.

2. The Director of the Department of Treasury and Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Management and Budget.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Treasury for the functions transferred to the Department of Management and Budget by this Order are hereby transferred to the Department of Management and Budget.

4. The Director of the Department of Treasury and the Director of the Department of Management and Budget shall make internal organizational and budgetary changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. The Director of the Department of Treasury and the Director of the Department of Management and Budget shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying the records, personnel and property to be transferred, and pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Management and Budget and the terms under which the Department of Management and Budget shall purchase services from and coordinate with the Department of Treasury.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1994, E.R.O. No. 1994-7, Eff. July 11, 1994.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1994-9

18.33 Authority vested in department of management and budget to develop unified and integrated structure for telecommunications systems and related services for executive branch agencies.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government; and

WHEREAS, Section 141 of Act No. 431 of the Public Acts of 1984 ("Act No. 431"), as amended, being Section 18.1141 of the Michigan Compiled Laws, directs the Department of Management and Budget to survey and examine the administrative organization and operations of state agencies to secure greater administrative and program efficiency and economy; and

WHEREAS, attaining this goal requires the application of modern and effective management practices, sound planning, and the development of responsive telecommunications systems; and

WHEREAS, Act No. 431 requires the Department of Management and Budget to minimize the duplication of activities among state agencies and between state agencies and businesses, and to effect a better organization and consolidation of functions among state agencies; and

WHEREAS, the Department of Management and Budget is required to establish, administer, operate, or provide centralized services when advantageous to the state; and

WHEREAS, Section 271 of Act No. 431, being Section 18.1271 of the Michigan Compiled Laws, directs the Department of Management and Budget to establish, manage, and operate, through either state ownership or commercial leasing, telecommunications systems and service for the operations of state agencies; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization and distribution of telecommunications resources in Executive Branch agencies.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The Department of Management and Budget shall plan for and bring about a unified and integrated structure for telecommunications systems and related services for all Executive Branch agencies.

2. The Department of Management and Budget shall continuously maintain and update statewide plans for such integrated and unified structures to assure the effective and efficient use and administration of telecommunications resources.

3. The Department of Management and Budget shall perform continuing analyses and evaluations of telecommunications functions and activities throughout Executive Branch agencies and effect changes and modifications that improve administrative and operational effectiveness and efficiency.

4. The Department of Management and Budget shall be responsible for defining those resources that comprise telecommunications and related services; provide for the acquisition, billing, and record keeping of all telecommunications services provided to Executive Branch agencies; and may delegate to Executive Branch agencies, as appropriate, activities related to the administration of telecommunication resources.

5. The Department of Management and Budget shall, as deemed appropriate, draw upon staff of other Executive Branch agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies.

6. The Department of Management and Budget shall, as necessary, consolidate available resources within Executive Branch agencies, including transfers of equipment, human resources, and associated fiscal resources, in whole or in part, from those Executive Branch agencies to consolidated or centralized operations in support of its mission to minimize duplication of activities, consolidate functions, and effect better organization among state agencies.

7. The Department of Management and Budget shall establish and operate a Network Operations Center for the purpose of planning, provisioning, maintaining, and managing telecommunications network services and systems to be used by all Executive Branch agencies.

8. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of any transfers of equipment, human resources, and fiscal resources from any Executive Branch agency to consolidated or centralized telecommunications operations.

9. The Director of the Department of Management and Budget and the Directors of Executive Branch agencies shall enter into separate memoranda of record to execute transfer of equipment, human resources, and fiscal resources, and any attendant responsibilities and related records such as personnel records, vendor contracts and encumbrance documents, to the Department of Management and Budget pursuant to this order.

In fulfillment of the requirements of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective at 11:59 p.m.

History: 1994, E.R.O. No. 1994-9, Eff. July 21, 1994.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2001-1

18.41 Creation of department of information technology; transfer of authority, powers, and duties relating to information technology services within executive branch or agency to the department of information technology by type II transfer; transfer of certain authority, powers, duties, and functions from the department of management and budget to the department of information technology by type II transfer; abolishment of Michigan information network advisory board and transfer of its functions to department of information technology by type III transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, certain functions, duties and responsibilities currently assigned to other state departments can be more effectively carried out by a new principal Department of Information Technology; and

WHEREAS, reorganizing information technology management functions into a new principal department with a cabinet-level Chief Information Officer will promote a unified approach to information technology management for executive branch agencies; and

WHEREAS, the creation of a new Department of Information Technology will improve the management of information technology investments and allow the state to establish stronger strategic relationships with business partners; and

WHEREAS, the creation of a new Department of Information Technology will strengthen central policymaking and direction-setting in all areas of information technology, bring about improved information management and data standardization, and catalyze the use of improved project management practices and strategic technology infrastructure planning; and

WHEREAS, improvements are necessary to provide the customers of the state of Michigan - be they citizens, businesses or employees - with an improved delivery of state services; and

WHEREAS, it is necessary in the interests of efficient administration and good government to effect these changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. DEFINITIONS

As used herein:

A. The "Department of Management and Budget" means the principal department created by Section 121 of Act No. 431 of the Public Acts of 1984, being Section 18.1121 of the Michigan Compiled Laws.

B. The "Michigan Information Network Office" means the entity created by Executive Order 1995-14, being Section 18.1695 of the Michigan Compiled Laws.

C. The "Michigan Information Network Advisory Board" means the entity created by Executive Order 1995-14, being Section 18.1695 of the Michigan Compiled Laws.

D. "Information Technology Services" means services involving all aspects of managing and processing information including, but not limited to:

- application development and maintenance;
- desktop computer support and management;
- mainframe computer support and management;
- server support and management;
- local area network support and management;
- information technology contract, project and procurement management;
- information technology planning and budget management, and;
- telecommunication services, security, infrastructure and support.

II. CREATION OF THE DEPARTMENT OF INFORMATION TECHNOLOGY

A. The Department of Information Technology (hereafter "Department") is hereby created. This Department shall be headed by a Director who shall be appointed by and serve at the pleasure of the Governor. The Director shall also serve as the state's Chief Information Officer.

B. The Department shall lead state efforts to re-engineer the state's information technology infrastructure with the goal of achieving the use of common technology across the executive branch.

C. The Department shall coordinate a unified executive branch strategic information technology plan, identify best practices from executive branch agencies and other public and private sector entities, and develop and implement processes to replicate information technology best practices and standards throughout the executive branch.

D. The Department shall oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch. Funded projects within executive branch agencies shall use the project and contract management methodologies specified by the Department.

E. The Department shall serve as a general contractor between the state's information technology users and private-sector providers of information technology products and services. The Department shall work toward building stronger partnering relationships with providers.

F. The Department shall develop service-level agreements with executive branch departments and agencies to ensure quality products are delivered on schedule and within budget.

G. The Department shall develop standards for application development including, but not limited to, a standard methodology and cost-benefit analysis that all executive branch departments and agencies shall utilize for application development activities.

H. The Department shall have the full cooperation of executive branch departments and agencies in developing and implementing the sharing of data and information throughout the executive branch. The Department shall determine and implement statewide efforts to standardize data elements and shall determine data ownership assignments among executive branch departments and agencies.

I. The Department shall develop systems and methodologies to review, evaluate and prioritize existing information technology projects within the executive branch and shall report to the Governor the status of information technology projects on a semi-annual basis.

J. The Department will assist the State Budget Office with the development of information technology budgets for the executive branch. All information technology budget requests from the executive branch will be submitted to the State Budget Office and the Department. The State Budget Office and the Department will jointly review and recommend for funding consideration only those proposals that fit into the overall strategic information technology management plan of the state and that provide a reasonable return on investment.

III. INFORMATION TECHNOLOGY FUNCTIONS AND PERSONNEL

A. Except as otherwise provided in part IV of this order, all the authority, powers, duties, functions, responsibilities, personnel, equipment and budgetary resources involved in or related to the provision of information technology services currently located within any executive branch department or agency are hereby transferred to the Department of Information Technology by a Type II transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

B. As necessary to accomplish the missions and goals of executive branch departments and agencies, the Director of the Department of Information Technology, or the individual designated by the Governor as the Information Technology Transition Director, may immediately detail personnel transferred from executive branch departments and agencies under the provisions of this part back to their respective department or agency of origin.

IV. DEPARTMENT OF MANAGEMENT AND BUDGET

A. All the authority, powers, duties, functions and responsibilities of the following units, teams, divisions, and offices within the Department of Management and Budget:

the Michigan Administrative Information Network;
the Computing Services Unit;
the Information Technology Services Division;
the Office of Project Management;
the Information Technology Budget and Finance Division;
the Office of Information Technology Solutions;
the Telecommunications Services Unit, and;
the Michigan Information Network Office;

including, but not limited to, the statutory authority, powers, duties, functions and responsibilities set forth in:

1. Section 203 of Act No. 431 of the Public Acts of 1984, as amended, being Section 18.1203 of the Michigan Compiled Laws (automated information processing installations);

2. Section 269(1)(b) and 269(1)(d) of Act No. 431 of the Public Acts of 1984, as amended, being Section 18.1269(1)(b) and 18.1269(1)(d) of the Michigan Compiled Laws (provision of centralized services to state agencies, specifically telecommunications and optical disc services);

3. Executive Order 1994-13, as amended, being Section 18.32 of the Michigan Compiled Laws (transfer of certain computer program analysis and programming responsibilities to the Michigan Administrative Information Network);

4. Executive Order 1994-15, as amended, being Section 18.33 of the Michigan Compiled Laws (telecommunications systems and related services);

5. Executive Order 1995-10, as amended, being Section 18.1691 of the Michigan Compiled Laws (consolidation of information processing systems for executive branch agencies);

6. Executive Order 1995-14, as amended, being Section 18.1695 of the Michigan Compiled Laws (Michigan Information Network Office); and,

7. Section 1291 of Act No. 335 of the Public Acts of 1993, as amended, being Section 380.1291[1] of the Michigan Compiled Laws (world-class statewide interactive video and data access and exchange system);

are hereby transferred from the Department of Management and Budget to the Department of Information Technology by a Type II transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

B. All the authority, powers, duties, functions and responsibilities of the Michigan Information Center, which is currently located in the Executive Office of the Governor pursuant to the terms of a Memorandum of Understanding and a Memorandum of Agreement executed between the Executive Office of the Governor and the Department of Management and Budget in March of 2001, upon its return from the Executive Office of the Governor to the Department of Management and Budget, is hereby transferred from the Department of Management and Budget to the Department of Information Technology by a Type II transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws

V. MICHIGAN INFORMATION NETWORK ADVISORY BOARD

All the authority, powers, duties, functions and responsibilities of the Michigan Information Network Advisory Board are hereby transferred from the Department of Management and Budget to the Department of Information Technology by a Type III transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws. The Michigan Information Network Advisory Board is hereby abolished.

VI. MISCELLANEOUS

A. The individual designated by the Governor as the Information Technology Transition Director shall provide executive direction and supervision for the implementation of all transfers of authority to the Department of Information Technology made under this Order.

B. The Information Technology Transition Director, and the Directors of all executive branch departments and agencies shall jointly identify the program positions and administrative function positions that will be transferred to the Department of Information Technology according to the terms of this Order. The Information Technology Transition Director and the Directors of all executive branch departments and agencies shall make every effort to develop agreements specifying these positions by the effective date of this order. In the event of a failure to reach agreement on the positions to be transferred under this order, the Information Technology Transition Director shall develop a written recommendation specifying the positions to be transferred to the Department of Information Technology under the terms of this order. The Information Technology Transition Director shall submit the recommendation to the Governor no later than January 1, 2002, for his consideration and approval.

C. The Information Technology Transition Director shall immediately initiate coordination with the directors of all state departments affected by this Order to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

D. All records, personnel, property, equipment, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to any entity for the activities, powers, duties, functions and responsibilities transferred to the Department of Information Technology by this Order are hereby transferred to the Department of Information Technology.

E. The Director of the Department of Information Technology shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

F. The Director of the Department of Information Technology, or other individual designated by the Governor, may establish an administrative unit, including budget, personnel, information systems, internal audit, procurement, legislative and other related administrative functions. The Director of the Department of Information Technology, or other individual designated by the Governor, may also request the assistance of any state department or agency with respect to personnel, budgeting, procurement, information systems and other management-related functions and the state department or agency shall provide such assistance.

G. The Director of the Department of Information Technology, or other individual designated by the Governor, may hire or retain such contractors, sub-contractors, advisors, consultants and agents as the director may deem advisable and necessary, in accordance with the relevant procedures, statutes, rules and regulations of the Civil Service Commission and the Department of Management and Budget, and may make and enter into contracts necessary or incidental to the exercise of the powers and performance of the duties of the department and the director. Under this provision, the Director of the Department of Information Technology, or other individual designated by the Governor, may specifically hire or retain such contractors, sub-contractors, advisors, consultants and agents as the director may deem advisable and necessary to provide legal advice or legal services, to provide for research and development activity, and/or to provide strategic planning services.

H. The Director of the Department of Information Technology, or other individual designated by the Governor, may by written instrument delegate a duty or power conferred by law or this Order, and the department, agency or person to whom such duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the Director of the Department of Information Technology, or other individual designated by the Governor.

I. After consultation with the Director of the Department of Information Technology, or other individual designated by the Governor, the State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

J. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Department of Information Technology by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

K. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

L. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective October 14, 2001.

History: 2001, E.R.O. No. 2001-1, Eff. Oct. 14, 2001.

Compiler's note: For creation of new e-Michigan office within department of information technology; transfer of powers and duties of e-Michigan office to new e-Michigan office; creation of new e-Michigan advisory council; and transfer of powers and duties of e-Michigan advisory council to new e-Michigan advisory council, see E.R.O. No. 2002-2, compiled at MCL 18.61 of the Michigan Compiled Laws.

For transfer of powers and duties of new e-Michigan office and new e-Michigan advisory council to department of information technology and abolishment of new e-Michigan office and new e-Michigan advisory council, see E.R.O. No. 2002-10, compiled at MCL 18.62 of the Michigan Compiled Laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2005-2

18.42 Transfer of powers and duties of department of police under MCL 28.281 to 28.283 to department of information technology; exceptions.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, under Section 1 of 1929 PA 152, MCL 28.281, the Michigan Public Safety Communications System is Michigan's 800-megahertz radio system and telecommunications network, including all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary for the operation and maintenance of the Michigan Public Safety Communications System;

WHEREAS, under Section 2 of 1929 PA 152, MCL 28.282, the Director of the Department of State Police and the Director of the Department of Management and Budget were given responsibility for the construction, implementation, operation, and maintenance of the Michigan Public Safety Communications System;

WHEREAS, all of the powers, duties, functions, responsibilities, personnel, equipment and budgetary resources involved in or related to the provision of information technology services located within any executive branch department or agency, including the Michigan Public Safety Communications System, were transferred by Executive Order 2001-3, MCL 18.41, to the Department of Information Technology;

WHEREAS, Executive Order 2001-3 was implemented in such a way that the Department of Information Technology currently provides technical management services for the Michigan Public Safety Communications System infrastructure pursuant to the Michigan State Police's public safety policy and program direction and that the Department of Management and Budget has authority with respect to MPSCS-related real estate and procurement matters under The Management and Budget Act, 1984 PA 431, MCL 18.1101 to 18.1594, and Section 2(1) of 1929 PA 152, MCL 28.282(1);

WHEREAS, the consolidation of functions related to the Michigan Public Safety Communications System will contribute to a more unified and cost-effective approach for managing information technology among all executive branch departments and agencies, provide consistent professional management of this state's information technology resources, and aid the effective operation and maintenance of the Michigan Public Safety Communications System for police and public safety purposes;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

A. "Department of State Police" means the principal department created under Section 2 of 1935 PA 59, MCL 28.2; and under Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

B. "Department of Management and Budget" means the principal department created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

C. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, MCL 18.41.

D. "Michigan Public Safety Communications System" or "MPSCS" means Michigan's 800-megahertz radio system and telecommunications network, including all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary for the operation and maintenance of the MPSCS established under Section 1 of 1929 PA 152, MCL 28.281.

II. TRANSFER OF RESPONSIBILITIES AND FUNCTIONS RELATED TO THE MICHIGAN PUBLIC SAFETY COMMUNICATIONS SYSTEM

A. Except for the statutory authority, powers, duties, functions, and responsibilities of the Department of State Police under Section 3(1) of 1929 PA 152, MCL 28.283(1), all the statutory authority, powers, duties, functions, and responsibilities of the Department of State Police under 1929 PA 152, MCL 28.281 to 28.283, are transferred to the Department of Information Technology.

B. The transfer of authority, powers, duties, functions, and responsibilities to the Department of Information Technology includes authority related to or necessary to implement the transfer of authority, powers, duties, functions, and responsibilities under this Order. The Department of Management and Budget

shall continue to exercise its authority with respect to MPSCS-related real estate and procurement matters under The Management and Budget Act, 1984 PA 431, MCL 18.1101 to 18.1594, and Section 2(1) of 1929 PA 152, MCL 28.282(1).

C. Exercise of the authority, powers, duties, functions, and responsibilities transferred to the Department of Information and Technology under this Order, shall include, but not be limited to, all of the following duties and responsibilities related to public safety communications and interoperability:

1. Promotion of seamless, coordinated, and integrated public safety wireless communications within Michigan, the Great Lakes region, and nationally, for the safe, effective, and efficient protection of life and property.

2. Promotion, coordination, and administration of available state and federal funding.

3. Promotion, coordination, and administration of the efficient use of radio spectrum standards-based technology and appropriate security measures for the betterment of public safety wireless communications in Michigan.

4. Planning for and coordination of public safety wireless interoperability among local, state, tribal, and federal wireless networks in Michigan for public safety purposes.

5. Monitoring, making recommendations, and reporting to the Governor and the Legislature on necessary changes in the statutory, regulatory, fiscal, and technical environment to ensure the continued development of up-to-date interoperability solutions in the interests of public safety and homeland security.

III. IMPLEMENTATION

A. The Directors of the Department of Information Technology, Department of Management and Budget, and the Department of State Police shall immediately initiate coordination to facilitate the implementation of the transfers under this Order.

B. The Director of the Department of Information Technology, after consultation with the Directors of the Department of Management and Budget and the Department of State Police, shall provide executive direction and supervision for the implementation of the transfers to the Department of Information Technology under this Order. The functions transferred shall be administered under the direction and supervision of the Director of the Department of Information Technology, including but not limited to, any prescribed functions of rule-making, licensing, registration, and the prescription of rules, regulations, standards, and adjudications.

C. All records, personnel, property, and funds used, held, employed, available, or to be made available to the Departments of State Police, for the activities, powers, duties, functions, and responsibilities transferred under this Order, are transferred to the Department of Information Technology.

D. The Directors of the Department of Michigan State Police and the Department of Information Technology shall develop a memorandum of record identifying any pending settlements, issues of compliance with any applicable state or federal laws or regulations, or other obligations to be resolved by the Department of State Police.

E. Any authority, duties, powers, functions, and responsibilities transferred under this Order, and not otherwise mandated statutorily, may in the future be reorganized to promote efficient administration by the Director of the Department of Information Technology.

F. The Director of the Department of Information Technology may perform a duty or exercise a power conferred by law or executive order upon the Director at the time and to the extent the duty or power is delegated to the Director by law or order.

G. The Director of the Department of Information Technology may by written instrument delegate within the Department of Information Technology a duty or power conferred by law or this Order and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent the duty or power is delegated by the Director of the Department of Information Technology.

H. The Director of the Department of Information Technology shall administer the assigned functions transferred under this Order in such ways as to promote efficient administration and shall make organizational changes within the Department as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

IV. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system related to this Order for the remainder of the fiscal year.

B. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

C. This Order shall not be construed to impair a bond or debt obligation of the State Building Authority issued under 1964 PA 183, MCL 830.411 to 830.425.

D. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2005, E.R.O. No. 2005-2, Eff. Mar. 27, 2005.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2006-4

18.43 Transfer of duties and responsibilities of department of management and budget under uniform electronic transactions act from department of management and budget to department of information technology by type II transfer.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Information Technology was created as a principal department of state government by Executive Order 2001-3, MCL 18.41;

WHEREAS, the Department of Information Technology is focused on promoting a unified approach to information technology management for departments and agencies in the executive branch of state government;

WHEREAS, the Department of Management and Budget was created as a principal department of state government under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121;

WHEREAS, the Department of Management and Budget is focused on providing for centralized administration of services for state departments and agencies such as acquisition services, employee resources, financial services, and audit services;

WHEREAS, the functions relating to approval of electronic signatures currently performed by the Department of Management and Budget are more compatible with the mission of the Department of Information Technology and can be more efficiently and effectively administered by the Department of Information Technology;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law order:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

B. "Department of Information Technology" means the principal department of state government created under Executive Order 2001-3, MCL 18.41.

C. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121;

D. "State Budget Director" means the Director of the State Budget Office created under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

E. "Type II Transfer" means that type of transfer as defined in Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

II. TRANSFER OF AUTHORITY

A. All the authority, powers, duties, functions, and responsibilities of the Department of Management and Budget under the Uniform Electronic Transactions Act, 2000 PA 305, MCL 450.831 to 450.849, are transferred by Type II Transfer from the Department of Management and Budget to the Department of Information Technology.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department of Information Technology shall provide executive direction and supervision for the implementation of the transfers to the Department of Information Technology under this Order.

B. All rule-making, licensing, and registration functions related to the functions of the Department of Management and Budget transferred under this Order, including, but not limited to, the prescription of rules, regulations, standards, and adjudications, under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, are transferred to the Director of the Department of Information Technology.

C. The Director of the Department of Management and Budget shall immediately initiate coordination with the Department of Information Technology to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and

regulations, or other obligations to be resolved by the Department of Management and Budget.

D. The functions transferred under this Order shall be administered by the Director of the Department of Information Technology in such ways as to promote efficient administration.

E. The Director of the Department of Information Technology shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

F. The Director of the Department of Information Technology may delegate within the Department of Information Technology a duty or power conferred on the Director of the Department of Information Technology by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Department of Information Technology.

G. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to Department of Management and Budget for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Information Technology.

H. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary to implement this Order for Fiscal Year 2006-2007.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2006, E.R.O. No. 2006-4, Eff. Oct. 22, 2006.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-2

18.44 Transfer of powers, duties, and unexpended balances of Ronald Wilson Reagan memorial monument fund commission to department of management and budget by type III transfer; abolishment of Ronald Wilson Reagan memorial monument fund commission.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Ronald Wilson Reagan Memorial Monument Fund Commission ("Reagan Commission") was established by the Ronald Wilson Reagan Memorial Monument Fund Commission Act, 2004 PA 489, MCL 399.261 to 399.266, effective December 28, 2004;

WHEREAS, the Reagan Commission was required to initially convene within six months of the first deposit of money in the Ronald Wilson Reagan Memorial Monument Fund ("Fund") created by the Ronald Wilson Reagan Memorial Monument Fund Act, 2004 PA 488, MCL 399.271 to 399.274, but no money has ever been deposited in the Fund and the Reagan Commission has never met;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, abolishing the Reagan Commission will contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

B. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER OF AUTHORITY

A. All of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds of the Ronald Wilson Reagan Memorial Monument Fund Commission under the Ronald Wilson Reagan Memorial Monument Fund Commission Act, 2004 PA 489, MCL 399.261 to 399.266, and the Ronald Wilson Reagan Memorial Monument Fund Act, 2004 PA 488, MCL 399.271 to 399.274, are transferred by Type III transfer to the Department of Management and Budget.

B. The Ronald Wilson Reagan Memorial Monument Fund Commission is abolished.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Management and Budget in such ways as to promote efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Ronald Wilson Reagan Memorial Monument Fund Commission for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Management and Budget.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by,

against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective July 15, 2007 at 12:01 a.m.

History: 2007, E.R.O. No. 2007-2, Eff. July 15, 2007.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-21

18.45 Transfer of board of ethics, state officers compensation commission, and civil service commission to department of management and budget; transfer of position of director of department of civil service as member of Michigan women's commission to state personnel director; transfer of director of department of civil service as member of interagency council on Spanish-speaking affairs to state personnel director.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Section 5 of Article XI of the Michigan Constitution of 1963 empowers the Civil Service Commission to fix rates of compensation for all classes of positions, to approve or disapprove all disbursements for personal services, to make rules and regulations covering all personnel transactions, and to regulate all conditions of employment in the classified state civil service;

WHEREAS, the transfer of functions relating to management of state employees and related programs will result in enhanced accountability, more effective control of personnel management functions, and enhanced service to both state agencies and state employees;

WHEREAS, the consolidation of state government functions providing services to other state departments and agencies will eliminate unnecessary duplication and facilitate more effective and efficient coordination of executive branch functions;

WHEREAS, the Department of Management and Budget is required to minimize the duplication of activities among state agencies, between state agencies and businesses, to effect a better organization and consolidation of functions among state agencies, and to establish, administer, operate, or provide centralized services when advantageous to this state;

WHEREAS, consolidation of human resource operations within one principal state department will promote a unified approach to human resource administration within the executive branch of state government and improve the effectiveness of the administration human resource operations and related functions;

WHEREAS, a reduction in the number of principal state departments and improvements in the organization of state government are necessary to provide Michigan residents with improved delivery of state services;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government and to reduce the number of principal state departments;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" or "Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

B. "Department of Civil Service" means the principal department of state government created under Section 200 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.300.

C. "Department of Management and Budget" or "Department" means the Department of Management and Budget, the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

D. "HRMN System" means the State of Michigan's statewide Human Resource Management Network System that delivers payroll, personnel, employee benefits, and other human resource functionality and data exchange, and includes, but is not limited to, the standards, guidelines, processes, procedures, practices, rules, regulations, hardware, and software for the operation of the system.

E. "Office of the State Budget Director" means the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

F. "Office of the State Employer" means the autonomous office created within the Department of Management and Budget by Executive Order 1979-5, whose duties include, but are not limited to, those

assigned by Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, and 2004-31.

G. "State Personnel Director" means the administrative and principal executive officer of the Civil Service Commission provided for under Section 5 of Article XI of the Michigan Constitution of 1963 and Section 204 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.304.

H. "Type I transfer" means that type of transfer as defined in Section 3(a) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

I. "Type III transfer" means that term as defined under Section 3(c) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. DEPARTMENT OF MANAGEMENT AND BUDGET

A. Board of Ethics

1. The Board of Ethics created under 1973 PA 196, MCL 15.341 to MCL 15.348, and all the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the Board of Ethics are transferred by Type I transfer to the Department of Management and Budget.

2. With the consent of the Civil Service Commission, the State Personnel Director shall continue to designate an employee of the Commission, acceptable to the Board of Ethics, to act as Executive Secretary of the Board of Ethics and provide clerical or administrative assistance from the Civil Service Commission as the Board of Ethics may, from time to time, request.

B. State Officers Compensation Commission

1. The State Officers Compensation Commission created under Section 12 of Article IV of the Michigan Constitution and all the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the State Officers Compensation Commission are transferred by Type I transfer to the Department of Management and Budget. The State Officers Compensation Commission is assigned to the Department of Management and Budget for the purposes of administration, budgeting, procurement, and related management functions. With the consent of the Civil Service Commission, the State Personnel Director shall continue to act as the Secretary to the State Officers Compensation Commission.

2. The members of the State Officers Compensation Commission shall receive no compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties subject to available appropriations to be paid from the appropriation made to the Department of Management and Budget for the Civil Service Commission.

C. Civil Service Commission

1. The Civil Service Commission is transferred to the Department of Management and Budget. The Commission shall be an autonomous entity within the Department and shall possess the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources vested in the Commission under Section 5 of Article XI of the Michigan Constitution of 1963 and transferred to the Commission under this Order. The budgeting, procurement, personnel, and management-related functions of the Commission shall be retained by the Commission and shall be exercised by the Commission independently of the Department. As used in this paragraph, "budgetary resources" include the funds required to be appropriated to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963 equal to not less than 1 percent of the aggregate payroll of the classified state civil service for a prior fiscal year, as certified by the Commission.

2. The Civil Service Commission shall retain all of the constitutional authority vested in the Commission under Section 5 of Article XI of the Michigan Constitution of 1963, including, but not limited to, authority to classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified state civil service.

3. As required by Section 5 of Article XI of the Michigan Constitution of 1963, the administration of the Civil Service Commission's power shall continue to be vested in the State Personnel Director, who shall be a member of the state classified service and who shall be responsible to and selected by the Commission after open competitive examination. The State Personnel Director shall continue to be the principal executive officer of the Commission. All of the authority, powers, duties, and functions of the Director of the Department of Civil Service under Executive Order 2002-19, MCL 38.1173, are transferred to the State Personnel Director.

4. All of the authority, powers, duties, functions, records, personnel, property, unexpended balances of

appropriations, allocations, and other funds of the Department of Civil Service under any of the following are transferred to the Civil Service Commission:

- a. 1976 PA 199, MCL 15.501 to 15.512.
- b. Section 6 of 1976 PA 169, MCL 15.406.
- c. Section 237 of The Management and Budget Act, 1984 PA 431, MCL 18.1237.
- d. Sections 281 and 281a of The Management and Budget Act, 1984 PA 431, MCL 18.1281 and 18.1281a.
- e. Section 454 and 455 of The Management and Budget Act, 1984 PA 431, MCL 18.1454 and 18.1455.
- f. Executive Order 2002-13, MCL 38.1172. The Commission shall actively cooperate with the Office of the State Employer and provide information as requested by the Office of the State Employer on matters relating to state employee benefits programs to enable the Office of the State Employer to fulfill its duties and obligations under Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, and 2004-31. As used in this paragraph, "state employee benefits programs" include, without limitation, all of the following:
 - i. Health screening programs.
 - ii. Group insurance plans for medical, dental, vision, disability, life, long-term care, and other similar benefits.
 - iii. Pre-tax benefit programs.
 - iv. Health benefit continuation programs under the federal Consolidated Omnibus Budget Reconciliation Act of 1986, as amended ("COBRA"), and other benefit continuation programs.
- g. Executive Order 2002-19, MCL 38.1173. The Commission shall actively cooperate with the Office of the State Budget Director and shall provide information as requested by the Office of the State Budget Director relating to the HRMN System to enable the Office of the State Budget Director to assure compliance with The Management and Budget Act, 1984 PA 431, MCL 18.1101 to 18.1594.
- h. Section 10j of 1951 PA 51, MCL 247.660j.
- i. Section I.D of Executive Order 2000-9, MCL 388.996.
- j. Section 4 of the Higher Education Loan Authority Act, 1975 PA 222, MCL 390.1154.
- k. 1976 PA 154, MCL 390.1201 to 390.1207.
- l. Section 2 of 1978 PA 260, MCL 393.352.
- m. Section 7 of 1982 PA 540, MCL 397.17.
- n. Sections 103 and 203 of the Michigan Museum Act, 1990 PA 325, MCL 399.403 and 399.503.
- o. Section 4 of the Correctional Industries Act, 1968 PA 15, MCL 800.324.

5. Except as otherwise provided in this Order, all the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources pertaining to the administration of human resource operations within the principal departments of the executive branch of state government, including, but not limited to, administration of human resource processes, human resource programs, disbursements for personnel services, personnel transactions, and employee benefits, are transferred to the Civil Service Commission. Upon the completion of the transfers authorized by this Order, all authority, power, duties, functions, responsibilities, personnel, equipment, and budgeting resources within the executive branch of state government relating to human resource operations shall be conducted by the Commission. The transfers under this paragraph shall not be construed to inhibit the head of a principal department, elected or appointed, from supervising the powers, duties, and functions of the principal department or to alter the powers and duties of the Office of the State Employer. The transfers under this paragraph shall not alter the authority of a department head, agency head, or a state officer to act as an appointing authority for department or agency personnel, and appointing authorities shall retain the authority to do any of the following:

- a. Direct and control the activities of employees, subject to the constitutional authority of the Civil Service Commission to regulate all conditions of employment in the state classified civil service.
- b. Participate in the recruitment of employees.
- c. Advise the Civil Service Commission on qualifications for positions.
- d. Process employee grievances.
- e. Conduct in-service training of employees.
- f. Establish or abolish positions.
- g. Evaluate employees and recommend employees for promotion.
- h. Select employees for positions based upon eligibility lists provided by the Civil Service Commission.

6. The Civil Service Commission shall continue to operate a human resource services center ("MI HR Service Center and "MI HR Gateway") to assist state employees and the principal departments of the executive branch of state government with human resource operations issues and may develop standardized policies and procedures for administration of human resource operations transferred to the Commission under this Order.

7. All of the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, Rendered Monday, July 7, 2025

equipment, and budgetary resources of the Advisory Board to the Michigan Internship Office under Section 4 of 1976 PA 154, are transferred to the Civil Service Commission. The Advisory Board to the Michigan Internship Office is abolished.

8. Any of the remaining authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, budgetary resources, and discretionary activities of the Department of Civil Service not otherwise transferred to the Department of Management and Budget or the Civil Service Commission under this Order are transferred by Type III transfer to the Department of Management and Budget. The Department of Civil Service is abolished.

III. DEPARTMENT OF CIVIL RIGHTS

A. Michigan Women's Commission

1. The position of the Director of the Department of Civil Service, or his or her representative, as an *ex officio* member of the Michigan Women's Commission under Section 1 of 1968 PA 1, MCL 10.71, is transferred to the State Personnel Director or his or her designee from within the Civil Service Commission.

IV. DEPARTMENT OF LABOR AND ECONOMIC GROWTH

A. Interagency Council on Spanish Speaking Affairs

1. The position of the Director of the Department of Civil Service, or his or her authorized representative, as a member of the Interagency Council on Spanish-Speaking Affairs restored under Section III.E.1 of Executive Order 2003-18, MCL 445.2011, is transferred to the State Personnel Director or his or her designee from within the Civil Service Commission.

V. IMPLEMENTATION BY CIVIL SERVICE COMMISSION

A. The State Personnel Director and the director of each principal department shall jointly identify the program positions and administrative function positions that will be transferred to the Civil Service Commission under Section II.C.5. The State Personnel Director and the directors of the principal departments within the executive branch of state government shall make every effort to develop the agreements specifying the positions to be transferred by the effective date of this Order. In the event of a failure to reach an agreement on positions to be transferred under this Order, the State Personnel Director shall develop a written recommendation specifying the positions to be transferred and submit the recommendation to the Civil Service Commission for consideration and approval. All transfers to the Commission under Section II.C.5 shall be consistent with this Order and documented by a memorandum of understanding between the director of each principal department affected by this Order and the State Personnel Director.

B. For the purpose of implementing this Order or facilitating the administration of human resource operations, the Civil Service Commission may enter into a written agreement, including a service level agreement, with any other department or agency regarding the performance of human resource operations.

C. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Civil Service Commission are transferred to the Commission.

D. The Civil Service Commission shall provide executive direction and supervision for the implementation of the transfers to the Civil Service Commission under this Order. The functions transferred to the Commission shall be administered under the direction and supervision of the Commission.

E. The Civil Service Commission shall immediately initiate coordination with departments and agencies within the executive branch of state government to facilitate the transfers to the Commission under this Order. Each principal department affected by the transfers to the Commission under this Order shall issue, after consultation with the Commission, a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the transferring department related to the transfers to the Commission under this Order.

F. Departments, agencies, and state officers within the executive branch of state government shall fully and actively cooperate with the Civil Service Commission in the implementation of this Order. The Civil Service Commission may request the assistance of other departments, agencies, and state officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other issues related to implementation of the transfers under this Order, and the departments and agencies shall provide the assistance requested.

G. The Civil Service Commission shall administer the assigned functions transferred to the Commission under this Order in such ways as to promote efficient administration and may make internal organizational changes within the Commission as may be administratively necessary to complete the realignment of responsibilities under this Order.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds

used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Civil Service Commission are transferred to the Commission.

VI. IMPLEMENTATION BY DEPARTMENT OF MANAGEMENT AND BUDGET

A. Except as otherwise provided in this Order, the Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of the transfers to the Department under this Order. The functions transferred to the Department shall be administered under the direction and supervision of the Director of the Department.

B. The Director of the Department of Management and Budget shall immediately initiate coordination with departments and agencies within the executive branch of state government to facilitate the transfers to the Department under this Order. Each principal department affected by the transfers to the Department under this Order shall issue, after consultation with the Director of the Department, a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the transferring department related to the transfers to the Department under this Order.

C. The Director of the Department of Management and Budget shall administer the assigned functions transferred to the Department under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

D. Except as otherwise provided in this Order, any authority, duties, powers, functions, and responsibilities transferred to the Department of Management and Budget under this Order, and not otherwise mandated by law, may in the future be reorganized to promote efficient administration by the Director of the Department.

E. The Director of the Department of Management and Budget may perform a duty or exercise a power conferred by law or executive order upon the Director of the Department at the time and to the extent the duty or power is delegated to the Director of the Department by law or order.

F. The Director of the Department of the Department of Management and Budget in writing may delegate within the Department a duty or power conferred on the Director of the Department by this Order or by other law, and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the Director of the Department.

G. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Department of Management and Budget are transferred to the Department.

VII. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, orders, contracts, and agreements relating to the functions transferred to the under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. Nothing in this Order shall be construed to diminish or limit the power of the Civil Service Commission to exercise authority granted to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963.

E. A copy of this Order shall be transmitted to the members of the Civil Service Commission and the State Personnel Director. The Civil Service Commission is urged to take any action necessary to implement the provisions of this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective August 26, 2007 at 12:01 a.m.

History: 2007, E.R.O. No. 2007-21, Eff. Aug. 26, 2007.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-22

18.46 Transfer of powers and duties of internal auditors of principal departments under MCL 18.1486 and 18.1487 to office of the state budget director; transfer of powers and duties of principal departments to appoint and supervise internal auditor under MCL 18.1486 to state budget director.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Section 53 of Article IV of the Michigan Constitution of 1963 limits the duties of the legislative Auditor General to the conduct of post audits of financial transactions and accounts of this state and state entities and performance post audits thereof;

WHEREAS, under Section 485 of The Management and Budget Act, 1984 PA 431, MCL 18.1485, each principal department within the executive branch is required to establish and maintain its own internal accounting and administrative control system and appoint its own internal auditor;

WHEREAS, the Department of Management and Budget is required to minimize the duplication of activities among state agencies, between state agencies and businesses, to effect a better organization and consolidation of functions among state agencies, and to establish, administer, operate, or provide centralized services when advantageous to this state;

WHEREAS, consolidation of internal audit functions within the Department of Management and Budget will promote a more unified approach to internal audit functions within the executive branch of state government and improve the effectiveness of financial controls;

WHEREAS, consolidating state internal audit functions will increase administrative efficiencies;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

B. "Office of the State Budget Director" means the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. TRANSFERS TO OFFICE OF THE STATE BUDGET DIRECTOR

A. All the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of internal auditors within principal departments of this state under Sections 486 and 487 of The Management and Budget Act, 1984 PA 431, MCL 18.1486 and 18.1487, are transferred to the Office of the State Budget Director. The transfers under this paragraph shall not be construed to inhibit the head of a principal department, elected or appointed, from supervising the powers, duties, and functions of that principal department.

B. All of the authority, powers, duties, functions, responsibilities of a principal department of this state to appoint and supervise an internal auditor for a principal department under Section 486 of The Management and Budget Act, 1984 PA 431, MCL 18.1486, are transferred to the State Budget Director. The State Budget Director may appoint an internal auditor to serve as the internal auditor for one or more principal departments.

C. The Office of the State Budget Director shall operate an internal audit services center to assist departments and agencies within the executive branch with accounting functions and may develop standardized policies and procedures for the performance of accounting functions.

III. ADMINISTRATION OF INTERNAL AUDIT FUNCTIONS

A. Each internal auditor appointed by the State Budget Director shall be a member of the classified state civil service. Each internal auditor shall report to and be under the general supervision of the State Budget Director.

B. A person shall not prevent or prohibit an internal auditor from initiating, carrying out, or completing any

audit or investigation. An internal auditor shall be protected pursuant to the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 to 15.369.

C. An internal auditor appointed by the State Budget Director under Section II.B shall do all of the following:

1. Receive and investigate any allegations that false or misleading information was received in evaluating a principal department's internal accounting and administrative control system or in connection with the preparation of the biennial report on the system.

2. Conduct and supervise audits relating to financial activities of a principal department's operations.

3. Review existing activities and recommend policies designed to promote efficiency in the administration of a principal department's programs and operations.

4. Recommend policies for activities to protect this state's assets under the control of a principal department, and to prevent and detect fraud and abuse in the principal department's programs and operations.

5. Review and recommend activities designed to ensure that a principal department's internal financial control and accounting policies are in conformance with the accounting directives issued by the Office of the State Budget Director pursuant to Sections 421 and 444 of The Management and Budget Act, 1984 PA 431, MCL 18.1421 and 18.1444.

6. Provide a means to keep the State Budget Director and the head of a principal department fully and currently informed about problems and deficiencies relating to the administration of the principal department's programs and operations, and the necessity for, and progress of, corrective action.

7. Conduct other audit and investigative activities as assigned by the State Budget Director.

8. Prepare biennial reports for principal departments required under Section 485(4) of The Management and Budget Act, 1984 PA 431, MCL 18.1485.

D. Each internal auditor appointed by the State Budget Director under Section II.B shall adhere to appropriate professional and auditing standards in carrying out any financial or program audits or investigations.

E. Each internal auditor appointed by the State Budget Director under Section II.B shall report immediately to the State Budget Director and the principal department head if the internal auditor becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of a principal department or agencies within the department.

IV. IMPLEMENTATION OF TRANSFERS

A. The State Budget Director and the directors of all principal departments within the executive branch of state government shall jointly identify the program positions and administrative function positions that will be transferred to the Office of the State Budget Director under this Order. The State Budget Director and the directors of all principal departments shall make every effort to develop the agreements specifying the positions to be transferred by the effective date of this Order. In the event of a failure to reach an agreement on positions to be transferred under this Order, the State Budget Director shall develop a written recommendation specifying the positions to be transferred and submit the recommendation to the Governor for consideration and approval. All transfers to the Office of the State Budget Director shall be consistent with this Order and documented by a memorandum of understanding between the director of each principal department affected by this Order and the State Budget Director.

B. For the purpose of implementing this Order or facilitating the performance of internal audit functions, the Office of the State Budget Director may enter into a written agreement, including a service level agreement, with any other department or agency regarding the performance of internal audit functions.

C. The State Budget Director shall provide executive direction and supervision for the implementation of all transfers to the Office of the State Budget Director under this Order.

D. The State Budget Director shall immediately initiate coordination with department and agencies within the executive branch of state government to facilitate the transfers under this Order. Each principal department affected by the transfers under this Order shall issue, after consultation with the State Budget Director, a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the transferring department related to the transfers under this Order.

E. Departments, agencies, and state officers within the executive branch of state government shall fully and actively cooperate with the Office of the State Budget Director in the implementation of this Order. The State Budget Director may request the assistance of other departments, agencies, and state officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other issues related to implementation of the transfers under this Order, and the departments and agencies shall provide the assistance requested.

F. The State Budget Director shall administer the functions transferred under this Order in such ways as to

promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

G. The State Budget Director may delegate within the Office of the State Budget Director a duty or power conferred on the State Budget Director by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the State Budget Director.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Office of the State Budget Director are transferred to the Office of the State Budget Director.

V. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective October 1, 2007 at 12:01 a.m.

History: 2007, E.R.O. No. 2007-22, Eff. Oct. 1, 2007.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2007-23

18.47 Transfer of powers and duties pertaining to accounting functions to office of state budget director; transfer of powers and duties of department of management or director of management and budget under MCL 18.1283 to office of state budget director.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Management and Budget is required to minimize the duplication of activities among state agencies, between state agencies and businesses, to effect a better organization and consolidation of functions among state agencies, and to establish, administer, operate, or provide centralized services when advantageous to this state;

WHEREAS, consolidation of state accounting functions within the Department of Management and Budget will promote a more unified approach to accounting of state expenditures and funds within the executive branch of state government and improve the effectiveness of accounting functions;

WHEREAS, consolidating state accounting functions will increase administrative efficiencies;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Accounting functions" includes all of the following:

1. Processing of expenditure transactions, including, but not limited to, payments.
2. Processing of revenue transactions, including, but not limited to, processing of receipts.
3. Processing of journal vouchers.
4. Processing of budgetary transactions.
5. Preparation of financial reconciliations.
6. Preparation of financial reports and projections.

B. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

C. "Office of the State Budget Director" means the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. TRANSFERS TO OFFICE OF THE STATE BUDGET DIRECTOR

A. All the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources pertaining to accounting functions within the executive branch of state government, are transferred to the Office of the State Budget Director. Upon the completion of the transfers authorized by this Order, all authority, power, duties, functions, responsibilities, personnel, equipment, and budgeting resources within the executive branch of state government relating to accounting functions shall be administered by the Office of the State Budget Director. The transfers under this paragraph shall not be construed to inhibit the head of a principal department, elected or appointed, from supervising the statutory powers, duties, and functions of that principal department.

B. All the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the Department of Management and Budget or the Director of the Department of Management and Budget under Section 283 of The Management and Budget Act, 1984 PA 431, MCL 18.1283, are transferred to the Office of the State Budget Director.

C. All the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the Department of Management and Budget or the Director of the Department of Management and Budget under Article IV of The Management and Budget Act, 1984 PA 431, MCL 18.1401 to 18.1499, are transferred to the Office of the State Budget Director.

D. The Office of the State Budget Director shall operate an accounting functions services center to assist departments and agencies within the executive branch with accounting functions and may develop

standardized policies and procedures for the performance of accounting functions.

III. IMPLEMENTATION OF TRANSFERS

A. The State Budget Director and the directors of all principal departments within the executive branch of state government shall jointly identify the program positions and administrative function positions that will be transferred to the Office of the State Budget Director under this Order. The State Budget Director and the directors of the principal departments shall make every effort to develop the agreements specifying the positions to be transferred by the effective date of this Order. In the event of a failure to reach an agreement on positions to be transferred under this Order, the State Budget Director shall develop a written recommendation specifying the positions to be transferred and submit the recommendation to the Governor for consideration and approval. All transfers to the Office of the State Budget Director shall be consistent with this Order and documented by a memorandum of understanding between the director of each principal department affected by this Order and the State Budget Director.

B. For the purpose of implementing this Order or facilitating the performance of accounting functions, the Office of the State Budget Director may enter into a written agreement, including a service level agreement, with any other department or agency regarding the performance of accounting functions.

C. The State Budget Director shall provide executive direction and supervision for the implementation of all transfers to the Office of the State Budget Director under this Order.

D. The State Budget Director shall immediately initiate coordination with department and agencies within the executive branch of state government to facilitate the transfers under this Order. Each principal department affected by the transfers under this Order shall issue, after consultation with the State Budget Director, a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the transferring department related to the transfers under this Order.

E. Departments, agencies, and state officers within the executive branch of state government shall fully and actively cooperate with the Office of the State Budget Director in the implementation of this Order. The State Budget Director may request the assistance of other departments, agencies, and state officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other issues related to implementation of the transfers under this Order, and the departments and agencies shall provide the assistance requested.

F. The State Budget Director shall administer the functions transferred under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

G. The State Budget Director may delegate within the Office of the State Budget Director a duty or power conferred on the State Budget Director by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the State Budget Director.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Office of the State Budget Director are transferred to the Office of the State Budget Director.

IV. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective October 1, 2007 at 12:01 a.m.

History: 2007, E.R.O. No. 2007-23, Eff. Oct. 1, 2007.

**CONVEYANCE OF LEASEHOLD INTEREST TO PRIVATE PERSONS FOR AGRICULTURAL
PURPOSES
Act 161 of 1974**

18.51-18.53 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2002-2

18.61 Establishment of new e-Michigan advisory council as type I agency within department of information technology; transfer of powers and duties of e-Michigan office to new e-Michigan office by type III transfer; establishment of new e-Michigan advisory council as advisory body; transfer of powers and duties of e-Michigan advisory council to new Michigan advisory council by type III transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the e-Michigan Office was created to lead all state agencies in electronic government initiatives and policy development, including the development of the award-winning Michigan.gov Internet portal; and

WHEREAS, Michigan.gov is recognized as a national leader among state government Internet service delivery portals; and

WHEREAS, Michigan.gov provides more convenient service to Michigan citizens 24-hours-a-day, seven-days-a-week, through an easy-to-understand web connection to government services and information; and

WHEREAS, it is vitally important that the state continuously build upon e-Michigan's successful advancements in the coordinated delivery of trusted electronic government services; and

WHEREAS, the continued development of electronic government services serves as a catalyst for reengineering the state's current business practices; and

WHEREAS, designing better ways of conducting the business of government yields efficiencies for taxpayers and enhances the quality of life for Michigan's citizens, customers and business partners.

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. DEFINITIONS

As used herein:

A. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, being Section 18.41 of the Michigan Compiled Laws.

B. "e-Michigan Advisory Council" means the advisory body created within the e-Michigan Office by Executive Order 2000-6.

C. "e-Michigan Office" means the office created within the Executive Office of the Governor as a temporary agency pursuant to Article V, Section 4, of the Constitution of the state of Michigan of 1963, by Executive Order 2000-6.

D. "New e-Michigan Advisory Council" means the advisory body established by this order.

E. "New e-Michigan Office" means the Type I agency established within the Department of Information Technology by this order.

II. CREATION OF THE NEW E-MICHIGAN OFFICE

A. The new e-Michigan Office is hereby created as a Type I agency within the Department of Information Technology. The office shall exercise its prescribed powers, duties and functions independently of the head of the department. All budgeting, procurement and related management functions of the office shall be performed under the direction and supervision of the head of the department.

B. The new e-Michigan Office shall be headed by a Director who shall be appointed by the Governor. The Director shall be a member of the Executive Cabinet and shall regularly attend and fully participate in cabinet meetings and functions.

C. All of the authority, powers, functions, duties and responsibilities of the e-Michigan Office established by Executive Order 2000-6 are transferred to the new e-Michigan Office by Type III transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

III. NEW E-MICHIGAN ADVISORY COUNCIL

A. The new e-Michigan Advisory Council is established as an advisory body within the new e-Michigan Office.

B. The new e-Michigan Advisory Council shall consist of five (5) members. Four (4) of the members shall be appointed by the Governor. The fifth member shall be the Governor, or the Governor's designee, and shall serve as chair of the advisory council.

C. The advisory council shall advise the director of the e-Michigan office on:

1. Best practices for implementation of e-commerce throughout Michigan state government.
2. Future trends in business, government and education relating to the integration of e-commerce in the support of providing services and products in an efficient manner.
3. Best opportunities for the use of e-commerce to offer the type of services desired in order to provide consistent levels of services, develop efficient, effective and secure operations, and attain the highest quality performance.

D. All of the authority, powers, functions, duties and responsibilities of the e-Michigan Advisory Council established by Executive Order 2000-6 are transferred to the new e-Michigan Advisory Council by Type III transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

E. The advisory council may adopt bylaws, consistent with law and this order, to govern its organization and procedure.

F. A majority of the serving members of the advisory council constitutes a quorum for the transaction of business at a meeting, notwithstanding the existence of vacant member positions. Voting upon actions taken by the advisory council shall be conducted by a simple majority vote of the members present at a meeting, whether in person or by use of video-conferencing or tele-conferencing equipment. The advisory council shall meet at the call of the chair and as may be provided in its bylaws. Meetings of the advisory council may be held at any location within the state of Michigan.

IV. MISCELLANEOUS

A. The Director of the new e-Michigan Office shall provide executive direction and supervision for the implementation of the transfers made under this Order. The assigned functions shall be administered under the direction and supervision of the Director of the new e-Michigan Office.

B. The Director of the new e-Michigan Office shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of Information Technology shall immediately initiate coordination with the e-Michigan Office and the e-Michigan Advisory Council to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the new e-Michigan Office.

D. All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available for the activities, power, duties, functions and responsibilities transferred by this Order are hereby transferred to the new e-Michigan Office.

E. The Director of the new e-Michigan Office shall have the full cooperation of state agencies in re-engineering state business processes to allow services to be transacted through the Internet, or by other electronic means.

F. The Director of the new e-Michigan Office shall utilize the staff of other state agencies for advice and assistance to re-engineer business processes, develop specific electronic government objectives, and establish inter-agency and intra-agency data sharing requirements, policies, procedures and standards to guide the development of Michigan.gov services and transactions for customers of the state of Michigan. All executive branch agencies shall cooperate fully with the new e-Michigan Office in the performance of their respective responsibilities.

G. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the year.

H. The Director of the new e-Michigan Office may hire or retain such contractors, sub-contractors, advisors, consultants and agents as the director may deem advisable and necessary, in accordance with relevant procedures, statutes, rules and regulations of the Civil Service Commission and the Department of Management and Budget, and may make and enter into contracts necessary or incidental to the exercise of the powers of and performance of the duties of the office and the director.

I. The new e-Michigan Office may accept grants of funds and donations of funds, property, labor or other things of value from any department or office of the state of Michigan and the United States and from any other public or private office or person for the purpose of furthering e-Michigan services.

K. The Director of the new e-Michigan Office may by written instrument delegate a duty or power

conferred by law or this Order and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent such duty or power is delegated by the Director of the new e-Michigan Office.

L. All rules, orders, contracts and agreements relating to the functions transferred to the new e-Michigan Office by this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

M. Any suit, action or other proceeding lawfully commenced by, against or before any entity effected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

N. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

O. The e-Michigan Office established by Executive Order 2000-6 and the e-Michigan Advisory Council established by Executive Order 2000- 6 are hereby abolished.

History: 2002, E.R.O. No. 2002-2, Eff. Apr. 23, 2002.

Compiler's note: For transfer of powers and duties of new e-Michigan office and new e-Michigan advisory council to department of information technology and abolishment of new e-Michigan office and new e-Michigan advisory council, see E.R.O. No. 2002-10, compiled at MCL 18.62 of the Michigan Compiled Laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2002-10

18.62 Transfer of powers and duties of new e-Michigan office and new e-Michigan advisory council to department of information technology by type III transfer; abolishment of new e-Michigan office and new e-Michigan advisory council.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the new e-Michigan Office was created to expand the delivery of trusted online cross-agency government services through the award-winning Michigan.gov Internet portal; and

WHEREAS, the Department of Information Technology was created to promote a unified approach to information technology management across all executive branch agencies and is now ready to implement that goal; and

WHEREAS, the functions, duties and responsibilities currently assigned to the new e-Michigan Office can be more effectively carried out by Department of Information Technology; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. DEFINITIONS

As used herein:

A. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, being Section 18.41 of the Michigan Compiled Laws.

B. "New e-Michigan Office" means the Type I agency established within the Department of Information Technology by Executive Order 2002-2.

C. "New e-Michigan Advisory Council" means the advisory body created within the new e-Michigan Office by Executive Order 2002-2.

II. TRANSFER

A. All of the authority, powers, functions, duties, and responsibilities of the new e-Michigan Office are transferred to the Department of Information Technology by Type III transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws. The new e-Michigan Office is hereby abolished.

B. All of the authority, powers, functions, duties, and responsibilities of the new e-Michigan Advisory Council are transferred to the Department of Information Technology by Type III transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws. The new e-Michigan Advisory Council is hereby abolished.

III. MISCELLANEOUS

A. The Director of the Department of Information Technology or the designee of the Director shall provide executive direction and supervision for the implementation of the transfers made under this Order.

B. The Director of the Department of Information Technology or the designee of the Director shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of Information Technology shall immediately initiate coordination with the Director of the new e-Michigan Office to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Information Technology.

D. All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities, power, duties, functions, and responsibilities transferred by this Order shall be transferred to the Department of Information Technology.

E. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the year.

F. The Department of Information Technology may accept grants of funds and donations of funds, property, labor, or other things of value from any department or office of the State of Michigan and the United States and from any other public or private office or person for the purpose of furthering online government services.

G. The Director of the Department of Information Technology may, by written instrument, delegate a duty or power conferred by law or this Order, and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent delegated by the Director of the Department of Information Technology.

H. All rules, orders, contracts, and agreements relating to the functions transferred to the Department of Information Technology by this Order shall continue to be effective until revised, amended, or rescinded.

I. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

J. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

History: 2002, E.R.O. No. 2002-10, Eff. Oct. 1, 2002.

THE FAXON-McNAMEE ART IN PUBLIC PLACES ACT

Act 105 of 1980

AN ACT to encourage integration of art and public places; to establish a state art in public places fund; to establish a committee on art in public places within the department of management and budget; to prescribe the committee's powers and duties; and to prescribe powers and duties of the department of management and budget.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

Compiler's note: For abolition of the Committee on Arts in Public Places, created in the Department of Management and Budget, and transferring its powers, duties, and functions, to the Director of the Department of Commerce, see E.R.O. No. 1991-13, compiled at MCL 2.131 of the Michigan Compiled Laws.

For establishment of the Michigan Council for Arts and Cultural Affairs within the Department of Commerce, see E.R.O. No. 1991-18, compiled at MCL 2.132 of the Michigan Compiled Laws.

For the renaming of the Michigan council for arts and cultural affairs to the Michigan arts and culture council, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

For the authority of the Michigan arts and culture council to exercise certain authority, powers, duties, functions, and responsibilities independently of the Michigan strategic fund, see E.R.O. No. 2024-2, compiled at MCL 16.735.

The People of the State of Michigan enact:

18.71 Definitions.

Sec. 1. As used in this act:

(a) "Art" means an original, visual creation of quality executed in any size or shape, in any media, using any kind or combination of materials.

(b) "Committee" means the committee on art in public places.

(c) "Department" means the department of management and budget.

(d) "Director" means the director of the department of management and budget or the designated representative of the director.

(e) "Fund" means the state art in public places fund.

(f) "Public place" means real property or an appurtenance to the real property which is owned by this state, a public agency, or by a college or university in this state. It may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element used by this state, a college or university in this state, or other public agency in the conduct of the agency's business.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

Compiler's note: For establishment of the Michigan Council for Arts and Cultural Affairs within the Department of Commerce, see E.R.O. No. 1991-18, compiled at MCL 2.132 of the Michigan Compiled Laws.

For the renaming of the Michigan council for arts and cultural affairs to the Michigan arts and culture council, see E.R.O. No. 2022-1, compiled at MCL 333.27002.

For the authority of the Michigan arts and culture council to exercise certain authority, powers, duties, functions, and responsibilities independently of the Michigan strategic fund, see E.R.O. No. 2024-2, compiled at MCL 16.735.

18.72 State art in public places fund; establishment; use.

Sec. 2. A separate account is established within the state treasury to be known and maintained as the state art in public places fund. The fund shall be used for acquisition of art for display in appropriate public places and expenses incurred in the administration of this act.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.73 State art in public places fund; income.

Sec. 3. The fund may derive income from:

(a) Gifts, if the terms of the gift are consistent with the purposes of this act and other lawful requirements.

(b) Transfers from appropriations for specific capital outlay projects, if the projects are estimated to cost at least \$250,000.00 and are identified by the legislature to include art. Each transfer to the fund shall be specifically designated by the legislature, be made only at the time when project money is appropriated, and not exceed 1% of the total appropriation for a specific project.

(c) Other appropriations made by the legislature.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.74 State art in public places fund; expenditures and disbursements.

Sec. 4. Expenditures from the fund shall comply with the terms or restrictions placed on the expenditures by the legislature or by donors. The director shall approve fund disbursements.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.75 Committee on art in public places; creation; appointment, qualifications, and terms of members; vacancies; state architect as secretary and nonvoting member; expenses.

Sec. 5. (1) The committee on art in public places is created within the department and shall consist of 7 members. Five of the members shall be appointed by the governor with the advice and consent of the senate. Three of the appointed members shall be professionals. One shall be an art museum director or curator, 1 an artist and 1 an art historian. Two of the appointed members shall be from the general public. The members shall not be eligible for consecutive reappointment. The sixth member shall be the director of the Detroit institute of arts. The seventh member shall be the director.

(2) The term of office of the appointed members shall be 4 years, except of the members first appointed by the governor, 1 shall be appointed for a term of 2 years, 2 for a term of 3 years, and 2 for terms of 4 years. A vacancy on the committee shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The state architect shall be the secretary of the board and a nonvoting member.

(4) Members of the committee shall serve without pay. They shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

Compiler's note: For abolition of the Committee on Arts in Public Places, created in the Department of Management and Budget, and transferring its powers, duties, and functions, to the Director of the Department of Commerce, see E.R.O. No. 1991-13, compiled at MCL 2.131 of the Michigan Compiled Laws.

18.76 Committee on art in public places; powers and duties; artist selection jury; artists given priority consideration.

Sec. 6. (1) The committee shall determine works of art to be acquired under this act. The committee may select, accept, and purchase an existing work of art. The committee may select an artist to be commissioned to execute a new work of art.

(2) If the cost of a commissioned work of art exceeds \$20,000.00 of legislatively appropriated funds, the action by the committee shall be made only after recommendation by an artist selection jury. The jury shall be appointed by the committee and shall include 3 members from in-state and 3 members from out-of-state; 2 of whom shall be art historians; 2 shall be either art museum directors, curators or critics; 1 an artist, and 1 shall be the project architect for the agency for whom the work is commissioned.

(3) The committee and its selection juries shall give priority consideration to artists who are residents of this state, former residents of this state, or natives of this state.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.77 Annual report.

Sec. 7. The committee shall report annually to the governor and the legislature regarding the progress of programs to integrate art and public places. Included in the report shall be recommendations regarding future program and funding priorities.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.78 Duties of department.

Sec. 8. The department shall continue to inventory and maintain existing state owned art. The department shall be responsible for supervision and maintenance of new artistic decoration supported by the state art fund.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.79 Conducting business at public meeting; notice.

Sec. 9. The business which the committee may perform shall be conducted at a public meeting of the committee held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.80 Availability of writings to public.

Sec. 10. A writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

18.81 Short title.

Sec. 11. This act shall be known as "The Faxon-McNamee Art in Public Places Act".

History: 1980, Act 105, Imd. Eff. Apr. 30, 1980.

RENTAL CHARGES FOR STATE OFFICE SPACE
Act 53 of 1952

18.101-18.104 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

EXPENSES OF STATE OFFICERS AND EMPLOYEES
Act 154 of 1958

18.201,18.202 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

TRAVEL EXPENSES OF COMMERCE DEPARTMENT EMPLOYEES
Act 78 of 1969

18.211,18.212 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

CYBER CIVILIAN CORPS ACT

Act 132 of 2017

AN ACT to create a program under which volunteers may provide services to organizations in this state to respond to cybersecurity incidents; to provide for protection from liability for personal injury and property damage; to provide for the powers and duties of state governmental officers and agencies; and to create the Michigan cyber civilian corps advisory board and prescribe its powers and duties.

History: 2017, Act 132, Eff. Jan. 24, 2018.

The People of the State of Michigan enact:

18.221 Short title.

Sec. 1. This act shall be known and may be cited as the "cyber civilian corps act".

History: 2017, Act 132, Eff. Jan. 24, 2018.

18.222 Definitions.

Sec. 2. As used in this act:

- (a) "Advisory board" means the Michigan cyber civilian corps advisory board created under section 9.
- (b) "Chief information officer" means the individual within the department designated by the governor as the chief information officer for this state.
- (c) "Client" means a municipal, educational, nonprofit, or critical infrastructure organization that has requested and is using the rapid response assistance of the Michigan cyber civilian corps under the direction of the department.
- (d) "Critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States or this state that the incapacity or destruction of that system or asset would have a debilitating impact on security, economic security, public health or safety, or any combination of these as determined by the department.
- (e) "Cybersecurity incident" means an event occurring on or conducted through a computer network that actually or imminently jeopardizes the integrity, confidentiality, or availability of computers, information or communications systems or networks, physical or virtual infrastructure controlled by computers or information systems, or information resident on any of these. Cybersecurity incident includes, but is not limited to, the existence of a vulnerability in an information system, system security procedures, internal controls, or implementation that is subject to exploitation.
- (f) "Department" means the department of technology, management, and budget.
- (g) "Michigan cyber civilian corps advisor" or "advisor" means an individual who has entered into a volunteer agreement with the department to serve as a nondeployable advisor in the Michigan cyber civilian corps.
- (h) "Michigan cyber civilian corps" means the program established by this act under which civilian volunteers who have expertise in addressing cybersecurity incidents may volunteer at the invitation of the department to provide rapid response assistance to a municipal, educational, nonprofit, or critical infrastructure organization in need of expert assistance during a cybersecurity incident.
- (i) "Michigan cyber civilian corps volunteer" means an individual who has entered into a volunteer agreement with the department to serve as a deployable volunteer in the Michigan cyber civilian corps.
- (j) "Volunteer agreement" means the contract entered into between the department and a Michigan cyber civilian corps volunteer or advisor under section 4.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.223 Michigan cyber civilian corps volunteers; appointment; purpose.

Sec. 3. The department may appoint individuals to serve as Michigan cyber civilian corps volunteers and Michigan cyber civilian corps advisors for the purposes of facilitating the responsibilities of the department as provided in this act.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.224 Service as Michigan cyber civilian corps volunteer; contract.

Sec. 4. The department shall enter into a contract with any individual who wishes to accept an invitation by the department to serve as a Michigan cyber civilian corps volunteer or Michigan cyber civilian corps advisor and meets the qualifying criteria for those positions as determined by the advisory board. The contract must include, at a minimum, all of the following:

(a) A provision acknowledging the confidentiality of information relating to this state, state residents, and clients.

(b) A provision protecting from disclosure any confidential information of this state, state residents, or clients acquired by the Michigan cyber civilian corps volunteer or advisor through participation in the Michigan cyber civilian corps.

(c) A provision requiring the Michigan cyber civilian corps volunteer to avoid conflicts of interest that might arise from a particular deployment.

(d) A provision requiring the Michigan cyber civilian corps volunteer or advisor to comply with all existing department security policies and procedures regarding information technology resources.

(e) A provision requiring the Michigan cyber civilian corps volunteer or advisor to consent to background screening considered appropriate by the department under this act, and a section in which the individual gives that consent as described in section 5.

(f) A provision requiring the Michigan cyber civilian corps volunteer or advisor to attest that he or she meets any standards of expertise that may be established by the department.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.225 Criminal history check and criminal records check.

Sec. 5. (1) When an individual accepts an invitation to serve as a Michigan cyber civilian corps volunteer or advisor as described in section 4, the department shall request the department of state police to do both of the following:

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

(b) Conduct a criminal records check through the Federal Bureau of Investigation on the individual.

(2) An individual who accepts an invitation to the Michigan cyber civilian corps shall give written consent in the volunteer agreement for the department of state police to conduct the criminal history check and criminal records check required under this section. The department shall require the individual to submit his or her fingerprints to the department of state police and the Federal Bureau of Investigation for the criminal records check.

(3) The department shall request a criminal history check and criminal records check under this section on all individuals who wish to participate as Michigan cyber civilian corps volunteers or advisors. The department shall make the request on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check and criminal records check on an individual under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report must indicate that the individual is cleared or not cleared to become a Michigan cyber civilian corps volunteer or advisor.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on an individual under this section, the department of state police shall initiate the criminal records check with the Federal Bureau of Investigation. After receiving the results of the criminal records check from the Federal Bureau of Investigation, the department of state police shall provide a report to the department that indicates that the individual is cleared or not cleared to become a Michigan cyber civilian corps volunteer or advisor.

(6) If a criminal arrest fingerprint is subsequently submitted to the department of state police and matches against a fingerprint that was submitted pursuant to this act and stored in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the department that the individual is still cleared or is no longer cleared to continue as a Michigan cyber civilian corps volunteer. When the department of state police is able to participate with the Federal Bureau of Investigation automatic notification system, then any subsequent arrest fingerprint submitted to the Federal Bureau of Investigation must also be reviewed by the department of state police. The department of state police shall provide a report to the department that indicates that the individual is still cleared or is no longer cleared to continue as a Michigan cyber civilian corps volunteer or advisor.

(7) If a background check results in previous criminal history, the individual may appeal to the director or his or her designee for nondeployable Michigan cyber civilian corps advisor status.

(8) Michigan cyber civilian corps volunteers or advisors may not engage in training until either the background check or appeal regarding the background check process has been completed.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.226 Michigan cyber civilian corps volunteer as agent, employee, or independent contractor; liability of state.

Sec. 6. (1) A Michigan cyber civilian corps volunteer or advisor is not an agent, employee, or independent contractor of this state for any purpose and has no authority to bind this state with regard to third parties.

(2) This state is not liable to a Michigan cyber civilian corps volunteer or advisor for personal injury or property damage suffered by the Michigan cyber civilian corps volunteer through participation in the Michigan cyber civilian corps.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.227 Immunity from tort liability; conditions; compromise, settlement, or payment of claim by department; reimbursement for legal expenses; "gross negligence" defined.

Sec. 7. (1) Except as otherwise provided in this section, the department and this state are immune from tort liability for acts or omissions by a Michigan cyber civilian corps volunteer or advisor under this act.

(2) Except as otherwise provided in this section, and without regard to discretionary or ministerial nature of the conduct of a Michigan cyber civilian corps volunteer or advisor, each Michigan cyber civilian corps volunteer or advisor is immune from tort liability for an injury to a person or damage to property that occurred while deployed and acting on behalf of the department if all of the following are met:

(a) The Michigan cyber civilian corps volunteer or advisor is acting or reasonably believes that he or she is acting within the scope of his or her authority.

(b) The Michigan cyber civilian corps volunteer's or advisor's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

(c) The Michigan cyber civilian corps volunteer's or advisor's conduct is not a material breach of the volunteer agreement during that deployment.

(3) If a claim is made or a civil action is commenced against a Michigan cyber civilian corps volunteer or advisor for injuries to persons or property caused by negligence of a Michigan cyber civilian corps volunteer or advisor that occurred while in the course of his or her deployment on behalf of the department and while acting within the scope of his or her authority, the department may pay for, engage, or furnish the services of an attorney to advise the Michigan cyber civilian corps volunteer or advisor as to the claim and to appear for and represent the Michigan cyber civilian corps volunteer or advisor in the action. The department may compromise, settle, and pay the claim before or after the commencement of a civil action. Whenever a judgment for damages is awarded against a Michigan cyber civilian corps volunteer or advisor as a result of a civil action for personal injuries or property damage caused by the Michigan cyber civilian corps volunteer or advisor while in the course of his or her deployment and while acting within the scope of his or her authority, the department may indemnify the Michigan cyber civilian corps volunteer or advisor or pay, settle, or compromise the judgment.

(4) If a criminal action is commenced against a Michigan cyber civilian corps volunteer or advisor based upon the conduct of the Michigan cyber civilian corps volunteer or advisor in the course of his or her deployment, if the Michigan cyber civilian corps volunteer or advisor had a reasonable basis for believing that he or she was acting within the scope of his or her authority at the time of the alleged conduct, the department may pay for, engage, or furnish the services of an attorney to advise the Michigan cyber civilian corps volunteer or advisor as to the action, and to appear for and represent the Michigan cyber civilian corps volunteer or advisor in the action. A Michigan cyber civilian corps volunteer or advisor who has incurred legal expenses for conduct prescribed in this subsection may obtain reimbursement for those expenses under this subsection.

(5) This section does not impose liability on this state or the department.

(6) As used in this section, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 288, Eff. Mar. 24, 2021.

18.228 Deployment of Michigan cyber civilian corps volunteers.

Sec. 8. (1) On the occurrence of a cybersecurity incident that affects a client, the client may request the department to deploy 1 or more Michigan cyber civilian corps volunteers to provide rapid response assistance under the direction of the department.

(2) The department, in its discretion, may initiate deployment of Michigan cyber civilian corps volunteers upon the occurrence of a cybersecurity incident and the request of a client.

(3) Acceptance of a deployment by a Michigan cyber civilian corps volunteer for a particular cybersecurity incident must be made in writing. A Michigan cyber civilian corps volunteer may decline to accept deployment for any reason.

(4) To initiate the deployment of a Michigan cyber civilian corps volunteer for a particular cybersecurity incident, the department shall indicate in writing that the Michigan cyber civilian corps volunteer is

authorized to provide the assistance. A single writing may initiate the deployment of more than 1 Michigan cyber civilian corps volunteer.

(5) The department shall maintain a writing initiating the deployment of a Michigan cyber civilian corps volunteer to provide assistance to a client for 6 years from the time of deployment or for the time required under the department's record retention policies, whichever is longer.

(6) The deployment of a Michigan cyber civilian corps volunteer to provide assistance to a client must be for 7 days unless the writing initiating the deployment contains a different period.

(7) At the direction of the department, the deployment of a Michigan cyber civilian corps volunteer may be extended in writing in the same manner as the initial deployment.

History: 2017, Act 132, Eff. Jan. 24, 2018.

18.229 Michigan cyber civilian corps advisory board; creation; composition; duties.

Sec. 9. (1) The Michigan cyber civilian corps advisory board is created as an advisory body within the department.

(2) The Michigan cyber civilian corps advisory board is composed of the adjutant general, the director of the department, the director of the department of state police, and the director of the department of talent and economic development or their designees.

(3) The Michigan cyber civilian corps advisory board shall review and make recommendations to the department regarding the policies and procedures used by the department in implementing this act.

(4) The advisory board must meet at least twice annually.

(5) The advisory board shall review and make recommendations on individuals applying for nondeployable advisor status.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 289, Eff. Mar. 24, 2021.

18.230 Chief information officer; duties; operation guidelines; contracts with clients; training; compensation for travel and expenses; fee schedule; disclosure of information.

Sec. 10. (1) After consultation with the advisory board, the chief information officer shall do all of the following:

(a) Approve the set of tools that the Michigan cyber civilian corps may use in response to a cybersecurity incident.

(b) Determine the standards of expertise necessary for an individual to become a member of the Michigan cyber civilian corps.

(c) Establish and maintain a formal process to track volunteer and advisor trainings and compliance with standards as determined by the department.

(2) After consultation with the advisory board, the department shall publish guidelines for the operation of the Michigan cyber civilian corps program. At a minimum, the published guidelines must include the following:

(a) An explanation of the standard the department will use to determine whether an individual may serve as a Michigan cyber civilian corps volunteer and an explanation of the process by which an individual may become a Michigan cyber civilian corps volunteer.

(b) An explanation of the requirements the department will impose for a client to receive the assistance of the Michigan cyber civilian corps and an explanation of the process by which a client may request and receive the assistance of the Michigan cyber civilian corps.

(c) An explanation of the process by which the Michigan cyber civilian corps will select and prioritize which prospective clients should receive assistance.

(3) The department may enter into contracts with clients as a condition to providing assistance through the Michigan cyber civilian corps.

(4) The department may provide appropriate training to individuals who wish to participate in the Michigan cyber civilian corps and to existing Michigan cyber civilian corps volunteers and advisors.

(5) The department may provide compensation for actual and necessary travel and subsistence expenses incurred by Michigan cyber civilian corps volunteers on a deployment at the discretion of the department.

(6) The department may establish a fee schedule for clients that wish to use the assistance of the Michigan cyber civilian corps. The department may recoup expenses through the fees but may not generate a profit.

(7) Information voluntarily given to the Michigan cyber command center or obtained under this act that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software is exempt from disclosure under the freedom of information act, 1976

PA 442, MCL 15.231 to 15.246.

History: 2017, Act 132, Eff. Jan. 24, 2018;—Am. 2020, Act 289, Eff. Mar. 24, 2021.

FEDERAL SURPLUS PROPERTY

Act 139 of 1961

AN ACT to designate the department of administration as the official state agency to participate in and administer the federal surplus property program; to prescribe the agency's powers, duties and functions; and to appropriate funds received from the sale of such property.

History: 1961, Act 139, Eff. Sept. 8, 1961.

The People of the State of Michigan enact:

18.251 Federal surplus property program; to be administered by department of administration as state agency.

Sec. 1. The department of administration is hereby designated as the state agency to participate in and administer federal surplus property made available under the provisions of the federal property and administrative services act of 1949, Public Law 152, 81st Congress First Session, as amended, hereinafter referred to as the "federal act". Any such property shall be administered under the provisions of this act and not in accordance with the provisions of Act No. 12 of the Public Acts of the First Extra Session of 1942, as amended, being sections 3.541 and 3.542 of the Compiled Laws of 1948.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.252 Federal surplus property; receipt, warehousing, and distribution by department of administration.

Sec. 2. The department may:

(a) Receive from the United States under and in conformance with the provisions of the federal act such personal property, including any equipment, materials, books or other supplies as shall have been determined to be surplus property and as may be usable and necessary within this state for purposes of education, public health or civil defense, or for research for any such purpose or for any other purpose which may be authorized by federal law.

(b) Warehouse the property.

(c) Distribute the property within the state to tax supported medical institutions, hospitals, clinics, health centers, schools, colleges and universities, and to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501 (c) (3) of the United States internal revenue code of 1954, as amended; to civil defense organizations established pursuant to state law, and to such other types of institutions or activities as are eligible under federal law to acquire the property.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.253 Federal surplus property; applications for acquisition; recommendations of department of administration.

Sec. 3. The department may receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the same, make recommendations regarding the need of the applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of applications for acquisition of real and related personal property of the United States under the provisions of the federal act.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.254 Federal surplus property; permissible action by department of administration.

Sec. 4. The department may make such certifications, take such action, make such expenditures, require such reports and make such investigations as may be required by law or regulation of the United States in connection with the disposal of real property, and the receipt, warehousing and distribution of personal property received by the department from the United States. The department may enter into contracts, agreements and undertakings for and in the name of the state, including cooperative agreements with any federal agencies providing for utilization by and exchange between them, without reimbursement, of the property, facilities, personnel and services of each by the other, and agreements with other state agencies for surplus property and with associations or groups of state agencies.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.255 Federal surplus property; department of administration as clearing house of

information.

Sec. 5. The department may act as a clearing house of information for the public and private nonprofit institutions, organizations and agencies referred to in section 2 of this act and any other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the institutions, organizations and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions, organizations and agencies in every way possible in the consummation of acquisitions or transactions.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.256 Federal surplus property; state plan of operation and reports to be filed by department of administration.

Sec. 6. The department in the administration of this act, shall cooperate to the fullest extent consistent with the provisions of the federal act, with the departments or agencies of the federal government and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with the federal act, and make such reports in such form and containing such information as the federal government or any of its departments or agencies from time to time may lawfully require. It shall comply with the laws of the federal government and the rules and regulations of any of the departments or agencies of the federal government governing the allocation, transfer and use of, or accounting for, property donable or donated to eligible donees in this state.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.257 Federal surplus property; charges to eligible recipients for handling and transfer.

Sec. 7. The department may make charges to the eligible recipients for the acquisition, warehousing, distribution or transfer of any property of the United States. The charges shall be reasonably related to the costs of care and handling in respect to the acquisition, receipt, warehousing, distribution or transfer of surplus personal property by the department and, in the case of real property, shall be limited to the reasonable administrative costs of the department incurred in effecting transfer.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.258 Federal surplus property; accounting of charges; nonreversion of balance.

Sec. 8. All moneys received by the department in payment of such charges shall be credited to a restricted account in the general fund and are hereby appropriated to the department to defray the cost of the administration of the provisions of this act. Any balance remaining at the end of any fiscal year shall not revert to the general fund but shall continue to be available for the purposes authorized in this act.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.259 Federal surplus property; rules and regulations for utilization.

Sec. 9. The department shall promulgate rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948 and take such other action as is deemed necessary and suitable in the administration of this act, to assure maximum utilization, within the state, of property distributed under this act to eligible health, educational, and civil defense institutions and organizations and to such other types of institutions or activities as are eligible under the federal law.

History: 1961, Act 139, Eff. Sept. 8, 1961.

Administrative rules: R 18.1 et seq. of the Michigan Administrative Code.

18.260 Federal surplus property; bonds for employees handling same.

Sec. 10. The controller of the department of administration, with the approval of the state administrative board, may bond any person in the employ of the department of administration handling moneys, signing checks, or receiving or distributing property from the United States under authority of this act.

History: 1961, Act 139, Eff. Sept. 8, 1961.

18.261 Federal surplus property; obligation of state by department prohibited; warehouses.

Sec. 11. Except to the extent expressly provided in this act, nothing contained in this act shall authorize the department to obligate the state. Nothing contained in this act shall authorize the department to construct, acquire, change the location or discontinue the use of any warehouse until approved by the legislature in the annual capital outlay appropriation act.

History: 1961, Act 139, Eff. Sept. 8, 1961.

SPANISH-SPEAKING AFFAIRS

Act 164 of 1975

AN ACT to create a Hispanic/Latino commission of Michigan, an office of Hispanic/Latino affairs, and a Hispanic/Latino interagency council; to prescribe their powers and duties; to provide for appropriations; and to abolish the advisory council for the Spanish-speaking.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of the functions, duties, and responsibilities of the Indian Affairs Commission from the Department of Management and Budget to the Director of the Department of Civil Rights as head of the department, see E.R.O. No. 1991-20 compiled at MCL 37.111 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

18.301 Definitions.

Sec. 1. As used in this act:

- (a) "Commission" means the Hispanic/Latino commission of Michigan created in section 2.
- (b) "Director" means the director of the office of Hispanic/Latino affairs.
- (c) "Office" means the office of Hispanic/Latino affairs as created in section 4.
- (d) "Hispanic/Latino people" means people of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish or indigenous origin or descent.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of the functions, duties, and responsibilities of the Commission on Spanish-Speaking Affairs and the Office of Spanish-Speaking Affairs from the Department of Management and Budget to the Director of the Department of Civil Rights as head of the department, see E.R.O. No. 1991-20 compiled at MCL 37.111 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.302 Hispanic/Latino commission of Michigan; establishment; appointment, qualifications, and terms of members; election of officers; vacancy; meetings; compensation; quorum.

Sec. 2. (1) A Hispanic/Latino commission of Michigan is established within the department of energy, labor, and economic growth. The commission shall consist of 15 members appointed by the governor by and with the advice and consent of the senate. The commission shall elect a chairperson, vice-chairperson, and other officers from its members as it deems advisable.

(2) Members of the commission shall be broadly representative of all fields of interest to Hispanic/Latino people and shall be appointed from urban, suburban, and rural geographical areas representative of the Hispanic/Latino people throughout this state.

(3) The term of each member shall be 3 years. Of the members first appointed, 5 shall serve for 3-year terms, 5 shall serve for 2-year terms, and 5 shall serve for a 1-year term. A vacancy shall be filled by the governor in the same manner as the original appointment for the balance of the unexpired term.

(4) The commission shall meet not less than 6 times during each calendar year. Each member of the commission shall receive per diem compensation as appropriated in the annual budget. Per diem compensation shall be paid only for a full day's commission work at which a quorum is present. A member shall receive reimbursement for actual and necessary traveling expenses incurred in the performance of official business. Reimbursement shall be made in the manner provided by law for state employees.

(5) A majority of the members of the commission constitutes a quorum. A majority of the members of the commission is required for final action by the commission. A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2004, Act 94, Imd. Eff. May 7, 2004;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking

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affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For restoration of the interagency council on Spanish-speaking affairs, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.302a Conducting business of commission or council at public meeting; notice; availability of writings to public.

Sec. 2a. (1) The business which the commission or council created pursuant to this act may perform shall be conducted at a public meeting of the commission or council held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission, council, or office created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1979, Act 170, Imd. Eff. Dec. 11, 1979.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.303 Purpose; duties; priorities.

Sec. 3. (1) The purpose of the commission shall be to develop a unified policy and plan of action to serve the needs of this state's Hispanic/Latino people.

(2) The commission shall do all of the following in the following order of priority:

(a) Advise the governor, the legislature, and the office concerning the coordination and administration of state programs serving Hispanic/Latino people.

(b) Make recommendations to the governor and legislature regarding changes in state programs, statutes, and policies.

(c) Advise the governor and legislature of the nature, magnitude, and priorities of the problems of Hispanic/Latino people.

(d) Review and approve grants to be made from federal, state, or private funds that are administered by the office.

(e) Review and advise the governor and the legislature on the state's policies concerning Hispanic/Latino affairs.

(f) Secure appropriate recognition of Hispanic/Latino accomplishments and contributions to this state.

(g) Review and approve the annual report by the office of Hispanic/Latino affairs as described in section 5.

(h) Assist with the planning and implementation of a Hispanic/Latino heritage month celebration.

(i) Assist with the planning and implementation of Hispanic/Latino holiday celebrations.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the

director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.304 Office of Hispanic/Latino affairs; establishment; selection of director.

Sec. 4. (1) The office of Hispanic/Latino affairs is established within the department of energy, labor, and economic growth.

(2) The commission shall select the director of the office with the concurrence of the director of the department of energy, labor, and economic growth in accordance with state civil service procedures.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2004, Act 94, Imd. Eff. May 7, 2004;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.305 Office of Hispanic/Latino affairs; purpose; duties.

Sec. 5. (1) The purpose of the office shall be to provide the commission with information concerning the problems of Hispanic/Latino people and to implement commission policy.

(2) The office shall:

(a) Conduct studies and recommend solutions to the problems of Hispanic/Latino people in the areas of education, employment, civil rights, health, housing, senior citizens, and other related areas.

(b) Recommend to federal, state, and local governmental departments and agencies the creation of services and facilities as needed.

(c) Serve as a clearinghouse for the collection and distribution of information on Hispanic/Latino affairs.

(d) Apply for and accept grants and gifts from governmental and private sources.

(e) Request the services of all state and local governmental departments and agencies to assure that Hispanic/Latino people have access to decision-making bodies, the policies of which affect Hispanic/Latino people in this state.

(f) Cooperate with departments and agencies to aid in effectuating the purposes of this act.

(g) Submit a full written report of its activities and recommendations each year to the governor, legislature, and various Hispanic/Latino communities throughout the state.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.306 State Hispanic/Latino interagency council; creation; composition; purpose; duties.

Sec. 6. (1) A state Hispanic/Latino interagency council is created within the office.

(2) The council shall consist of all of the following:

- (a) The attorney general or his or her designee.
- (b) The director of the department of agriculture or his or her designee.
- (c) The director of the department of civil rights or his or her designee.
- (d) The director of the department of community health or his or her designee.
- (e) The director of the department of corrections or his or her designee.
- (f) The director of the department of human services or his or her designee.
- (g) The director of the department of energy, labor, and economic growth or his or her designee.
- (h) The director of the department of technology, management, and budget or his or her designee.
- (i) The director of the department of natural resources and environment or his or her designee.
- (j) The executive director of the women's commission.
- (k) The executive director of the Michigan state housing development authority or his or her designee.
- (l) The president of the Michigan strategic fund or his or her designee.
- (m) The state personnel director or his or her designee.
- (n) The state treasurer or his or her designee.
- (o) The secretary of state or his or her designee.
- (p) The superintendent of public instruction or his or her designee.

(3) The purpose of the interagency council shall be to coordinate and provide for the exchange of information on all programs relating to services for Hispanic/Latino people. The interagency council shall also assist the office and commission in the development of an annual report that is to be submitted to the governor, the legislature, and Hispanic/Latino communities throughout the state.

History: 1975, Act 164, Imd. Eff. July 15, 1975;—Am. 2010, Act 146, Imd. Eff. Aug. 23, 2010.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.307 Michigan advisory council for Spanish-speaking abolished; transfer of duties, functions, and property to commission.

Sec. 7. The Michigan advisory council for the Spanish-speaking created pursuant to Executive Order 1974-6, as amended by Executive Order 1974-6(a), is abolished and its duties and functions shall be assumed by the commission. The documents, files, properties, and moneys belonging to the present Michigan advisory council for the Spanish-speaking shall be transferred to the commission on Spanish-speaking affairs.

History: 1975, Act 164, Imd. Eff. July 15, 1975.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

18.308 Effective date.

Sec. 8. This act shall take effect July 1, 1975.

History: 1975, Act 164, Imd. Eff. July 15, 1975.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the commission on Spanish-speaking affairs and office of Spanish-speaking affairs to the director of the department of career development by type I transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of authority, powers, duties, functions, and responsibilities of the interagency council on Spanish-speaking affairs to the

director of the department of career development by type III transfer, see E.R.O. No. 2000-3, compiled at MCL 18.311 of the Michigan compiled laws.

For transfer of powers and duties of Hispanic Latino commission and office of Hispanic Latino affairs from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

For transfer of Hispanic/Latino commission of Michigan and office of Hispanic/Latino affairs from department of civil rights to department of licensing and regulatory affairs, see E.R.O. No. 2016-1, compiled at MCL 445.1993.

For the transfer of the Hispanic/Latino commission of Michigan from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the abolishment of the office of Hispanic/Latino affairs and the position of its director, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2000-3

18.311 Transfer of powers and duties of commission on Spanish-speaking affairs, office of Spanish-speaking affairs, and interagency council on Spanish-speaking affairs to director of the department of career development.

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Commission on Spanish-Speaking Affairs ("Commission"), the Office of Spanish-Speaking Affairs ("Office"), and the Interagency Council on Spanish-Speaking Affairs ("Council") were created by Act No. 164 of the Public Acts of 1975, being Sections 18.301 et seq. of the Michigan Compiled Laws; and

WHEREAS, the Commission, Office and Council are currently located within the Department of Civil Rights pursuant to Executive Order 1991-29; and

WHEREAS, Michigan's Spanish-Speaking community has made many significant contributions to our state's culture and economy; and

WHEREAS, the Commission is dedicated to doing all it can to enable Michigan's Spanish-Speaking community to realize its full potential in our dynamic, rapidly expanding economy; and

WHEREAS, the Department of Career Development was established by Executive Order 1999-1 in order to develop a system that provides Michigan's workforce with the required skills to maintain and enhance Michigan's economy; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions, and responsibilities of the Commission on Spanish-Speaking Affairs and the Office of Spanish-Speaking Affairs set forth in Act No. 164 of the Public Acts of 1975, being Section 18.301 et seq. of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Career Development by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions, and responsibilities of the Interagency Council on Spanish-Speaking Affairs set forth in Act No. 164 of the Public Acts of 1975, being Section 18.301 et seq. of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Career Development by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. The Director of the Department of Career Development shall provide executive direction and supervision for the implementation of the transfers. The assigned functions of the Interagency Council on Spanish-Speaking Affairs shall be administered by the Director of the Department of Career Development.

4. The Chairperson of the Commission on Spanish-Speaking Affairs and the Director of the Department of Career Development shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Commission on Spanish-Speaking Affairs and the Office of Spanish-Speaking Affairs.

5. The Director of the Department of Career Development shall make internal organizational changes as may be administratively necessary to complete the realignment of the responsibilities prescribed by this Order.

6. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the year.

7. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Commission on Spanish-Speaking Affairs, the Office of Spanish-Speaking Affairs and the Interagency Council on Spanish-Speaking Affairs for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the Director of the Department of Career Development.

8. All rules, orders, contracts and agreements related to the assigned functions that were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirements of Article V, Section 2 of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days after filing.

History: 2000, E.R.O. No. 2000-3, Eff. May 10, 2000.

Compiler's note: For restoration of the interagency council on Spanish-speaking affairs, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2002-13

18.321 Transfer of powers and duties pertaining to planning, management and operation, capital renewal, and acquisition of buildings and facilities of executive agencies, excluding Michigan department of transportation, department of military and veterans affairs, and department of natural resources to department of management and budget by type II transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Department of Management and Budget is required to minimize the duplication of activities among state agencies, between state agencies and businesses, to effect a better organization and consolidation of functions among state agencies, and to establish, administer, operate, or provide centralized services when advantageous to the state; and

WHEREAS, certain functions, duties and responsibilities currently assigned to other state departments can be more effectively carried out by the Department of Management and Budget and will strengthen decision making, direction-setting and strategic planning of the state's real property and land use; and

WHEREAS, consolidating statewide real estate planning and occupancy management into one principle department will promote a unified approach to real estate for executive branch agencies, and the consolidation of these functions will improve the management, investment and sale of real property; and

NOW, THEREFORE, I John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

I. Definitions

As used herein:

A. The "Department of Military and Veterans Affairs" means the principal department of state government created as the Department of Military Affairs by Section 125 of Act No. 380 of the Public Acts of 1965, being Section 16.225 of the Michigan Compiled Laws and renamed the Department of Military and Veterans Affairs by Executive Order 1997-7, being Section 32.91 of the Michigan Compiled Laws.

B. The "Department of Management and Budget" means the principal department of state government created by Section 121 of Act No. 431 of the Public Acts of 1984, being Section 18.1121 of the Michigan Compiled Laws.

C. The "Michigan Department of Natural Resources" means the principal department created in Executive Order 1991-31, being Section 299.13 of the Michigan Compiled Laws.

D. The "Department of Transportation" means the principal department of state government created by Section 350 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.450 of the Michigan Compiled Laws.

II. Transfer

A. All of the authority, powers, functions, duties, and responsibilities pertaining to the planning, management and operation, capital renewal, and acquisition of buildings and facilities of the Executive Branch agencies, excluding the Michigan Department of Transportation, Department of Military and Veterans Affairs and Department of Natural Resources, are transferred to the Department of Management and Budget by Type II transfer as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

B. The Directors of all executive branch departments and agencies shall jointly identify the program positions and administrative function positions that will be transferred to the Department of Management and Budget according to the terms of this Order. The Directors of all executive branch departments and agencies shall make every effort to develop agreements specifying these positions by the effective date of this order. In the event of a failure to reach agreement on the positions to be transferred under this order, the Director of the Department of Management and Budget shall develop a written recommendation specifying the positions to be transferred to the Department of Management and Budget under the terms of this order. The Director of the Department of Management and Budget shall submit the recommendation to the Governor no later than December 1, 2002, for his consideration and approval.

II. Duties

A. The Department of Management and Budget shall provide for the development, consolidation and maintenance of data and information on all state-owned and leased facilities and land for all Executive Branch agencies except for land and facilities under the jurisdiction of the Department of Transportation, Department of Natural Resources and Department of Military and Veterans Affairs.

B. The Department of Management and Budget shall provide, continuously maintain, and update a plan for the use and reuse of all state-owned and leased facilities and land for all Executive Branch agencies. The plan shall include:

1. Long-term strategies for the use of state-owned and leased facilities and land that maximizes their utilization for state occupancy purposes for appropriate citizen use and/or asset value.
2. Best opportunities for acquisition and disposal.
3. Resources necessary to implement the plan.

C. The Department of Management and Budget shall provide for the ongoing site selection, management, operation, maintenance, security, and repair of leased and state-owned facilities that are primarily used for office or warehousing purposes by an Executive Branch agency. Facility does not include an existing state owned and managed buildings or structures that is mutually agreed to be excluded by the department and the state agency having jurisdiction over the building or structure.

IV. Miscellaneous

A. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of all transfers of authority to the Department of Management and Budget made under this Order, and shall identify the functions and timeline for the transfer of staff and resources to the Department of Management and Budget.

B. The Director of the Department of Management and Budget shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system.

D. All records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, and available or to be made available to Executive Branch agencies for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the Department of Management and Budget.

E. All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

F. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

G. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

H. In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after the filing of this Order.

History: 2002, E.R.O. No. 2002-13, Eff. Jan. 4, 2003.

CRIME VICTIMS COMPENSATION BOARD
Act 223 of 1976

AN ACT to create an agency concerned with crime victim services; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

The People of the State of Michigan enact:

18.351 Definitions.

Sec. 1. As used in this act:

(a) "Claimant" means a victim or intervenor who is injured, or any other person eligible for an award under section 4(1) or 5(1), who files a claim under this act.

(b) "Commission" means the crime victim services commission.

(c) "Crime" means an act that is 1 of the following:

(i) A crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state.

(ii) An act committed in another state that if committed in this state would constitute a crime under the laws of this state, the United States, or a federally recognized tribe in this state, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within this state or that causes actual bodily harm, including pregnancy or death, to a resident of this state or that poses a reasonably perceived or actual threat of injury or death to a resident of this state within a state that does not have a victim compensation program eligible for funding from the victims of crime act of 1984, chapter XIV of title II of the comprehensive crime control act of 1984, Public Law 98-473.

(iii) An act of international terrorism as that term is defined in 18 USC 2331, committed outside the territorial jurisdiction of the United States that causes actual bodily harm, including pregnancy or death, to a resident of this state or that poses a reasonably perceived or actual threat of injury or death.

(d) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(e) "Dependent" means an individual principally dependent on another for support.

(f) "Household member" means an individual who resides in the same dwelling unit as a victim or intervenor.

(g) "Intervenor" means a person who goes to the aid of one who has become a victim of a crime and who suffers personal injury.

(h) "Other services necessary" means recognized medical treatment, convalescent aids, supplies, and other equipment needed by the victim because of physical incapacity sustained as a direct result of the crime.

(i) "Personal injury" means either of the following injuries:

(i) Actual bodily harm, including pregnancy or death.

(ii) Psychological, mental, or emotional injury resulting from a reasonably perceived or actual threat of injury or death.

(j) "Support" means actual monetary payments made by a victim or intervenor to or for a person principally dependent on the victim or intervenor.

(k) "Victim" means a person who suffers a personal injury as a direct result of a crime.

(l) "Victim services organization" means an organization or agency that has a documented history of providing services to address issues arising from victimization to victims or to family members or household members of victims.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 348, Imd. Eff. Jan. 10, 1994;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2022, Act 77, Eff. Aug. 12, 2023.

18.352 Crime victims compensation board; creation; renaming as crime victim services commission; duties of department; appointment, qualifications, and terms of members; vacancy; chairperson; compensation.

Sec. 2. (1) The crime victims compensation board formerly created within the department of management and budget under this section is renamed the crime victim services commission, which shall continue as the

successor agency of the board in all respects and for all purposes. Office budget development, procurement, and related management functions shall be performed by the department of community health.

(2) Members of the crime victims compensation board shall continue in office as commission members for their unexpired terms. The commission shall consist of 5 members as follows, of whom not more than 3 shall belong to the same political party and who shall be appointed by the governor with the advice and consent of the senate:

(a) One member admitted to the practice of law in this state for not less than 5 years immediately preceding his or her appointment.

(b) One member who is a county prosecuting attorney.

(c) One member who is a peace officer.

(d) One member who is a member of the medical profession.

(e) One member who is a community-based victim advocate.

(3) A member's term of office shall be 3 years, except that of the 2 members appointed to satisfy the expanded membership requirement created by 1996 PA 519, 1 shall be appointed to serve an initial term of 2 years and the other shall be appointed to serve an initial term of 3 years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(4) The governor shall designate 1 commission member to serve as chairperson at the governor's pleasure.

(5) The commission members shall be paid on a per diem basis as determined by the legislature.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008.

18.353 Crime victims services commission; powers and duties generally.

Sec. 3. (1) The commission shall do all of the following:

(a) Promulgate rules under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, including rules for the approval of attorneys' fees for representation before the commission or before the court of appeals upon judicial review as provided for in section 8.

(b) Obtain from a state or local governmental unit assistance and data to enable the commission to carry out its functions and duties.

(c) Investigate and determine claims for awards and reinvestigate or reopen cases as the commission considers necessary.

(d) Direct medical examination of victims.

(e) Review all appeals, hold hearings, administer oaths or affirmations, examine any person under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses and the production of books, papers, documentary or other evidence. For the purposes of this section, a certified copy of an investigative report relating to the hearing meets the requirements of this section.

(f) Take or cause to be taken affidavits or depositions within or without the state.

(g) Give an annual written report of its activities to the governor and the legislature.

(h) Conduct a program to insure continued public awareness of the provisions of this act in cooperation with state and local agencies.

(i) Monitor, evaluate, and coordinate state and local victim assistance programs.

(j) Administer and provide advice for the disbursement of federal funds available from the victims of crime act of 1984, chapter XIV of the comprehensive crime control act of 1984, title II of Public Law 98-473, 98 Stat. 2170, for the purposes of compensating and assisting crime victims.

(k) Perform the duties required under Act No. 196 of the Public Acts of 1989, being sections 780.901 to 780.911 of the Michigan Compiled Laws.

(2) With the exception of subsection (1)(e), the powers provided in subsection (1) may be delegated by the commission to a member of the commission or its staff.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

Administrative rules: R 18.351 et seq. of the Michigan Administrative Code.

18.353a Repealed. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

Compiler's note: The repealed section pertained to informational pamphlet for victims of domestic violence.

18.354 Eligibility for awards; limitations; waiver; verification of residence.

Sec. 4. (1) Except as provided in subsection (2), the following persons are eligible for awards:

(a) A victim or an intervenor of a crime.

- (b) Any of the following individuals:
 - (i) An individual who is related to a victim or intervenor by blood or affinity to the second degree, including a child born after the death of the victim or intervenor.
 - (ii) An individual who was in a dating relationship with the victim or intervenor at the time of the crime.
 - (iii) If the victim or intervenor is a guardian of or primary caregiver to an adult who is physically or mentally incapacitated, that adult who is physically or mentally incapacitated.
 - (iv) If the victim or intervenor is a guardian or primary caregiver to a minor, that minor.
 - (v) If the victim or intervenor is a minor or is an adult who is physically or mentally incapacitated and a dependent, the guardian of or primary caregiver to that victim or intervenor.
 - (vi) An individual who was a guardian of or primary caregiver to a victim or intervenor when the victim or intervenor was a minor.
- (c) An individual who legally assumes the obligation or voluntarily pays funeral or burial expenses of a victim who died as a result of a crime.
- (d) A health care provider seeking payment under section 5a.
- (e) Subject to subsection (4), an individual who, at the time the crime occurred, was a household member.
- (f) Subject to subsection (4), an individual who was a household member before the time the crime occurred for a period of not less than 2 years and who is related to the victim or intervenor by blood or affinity.
- (g) A dependent who suffers loss of support as a result of the death of a victim or intervenor who died as a result of the crime.
- (2) A person is not eligible to receive an award if the person is either of the following:
 - (a) Criminally responsible for the crime.
 - (b) An accomplice to the crime.
- (3) An award must not be made on a claim unless the claimant has incurred an out-of-pocket loss of not less than \$200.00, or has lost at least 5 days' earnings or support, but the commission may waive the limitations of this subsection if a claimant is retired by reason of age or disability. If the claimant is a victim of criminal sexual conduct in the first, second, or third degree, the commission may waive the limitations of this subsection. The commission shall waive this limitation for health care providers seeking payment under section 5a.
- (4) The commission may require an individual to provide verification or proof of permanent residence to demonstrate the individual is eligible for an award under subsection (1)(e) or (f), including, but not limited to, a lease agreement, utility bill, license registration, document showing the mailing address, pay stub, tax form, or notarized statement.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008;—Am. 2022, Act 77, Eff. Aug. 12, 2023.

18.355 Claim; filing; application; investigation of claim.

Sec. 5. (1) A claim may be filed by the person eligible to receive an award, a personal representative of the person eligible to receive an award, or, if a person is a minor, by his or her parent or guardian.

(2) Except as provided in subsection (3), a claim must be filed by the claimant not later than 5 years after the occurrence of the crime upon which the claim is based, except as follows:

(a) If either of the following applies, a claim based on the crime of criminal sexual conduct in the first, second, or third degree may be filed by a claimant not later than 5 years after the crime was reported:

(i) Police records show the victim of the crime was less than 18 years of age at the time of the occurrence and the victim reported the crime before attaining 28 years of age.

(ii) Police records show the victim of the crime was less than 18 years of age at the time of the occurrence, the victim reported the crime after attaining 28 years of age, and the claimant shows that there was good cause for the delay in reporting the crime.

(b) A claim may be filed within 5 years after the discovery by a law enforcement agency that injuries previously determined to be accidental, of unknown origin, or resulting from natural causes, were incurred as the result of a crime.

(3) Upon petition by the claimant and for good cause shown, the commission may extend the period in which a claim may be filed under subsection (2).

(4) An application for an award under this act must be made on a form approved by the commission. A claim must be filed in the commission's office in person or by mail, or be filed by electronic means authorized by the commission, if available. The commission shall accept for filing a claim that is submitted by a person who is eligible, alleges the jurisdictional requirements set forth in this act, and meets the requirements as to

form as approved by the commission. If the commission receives sufficient documentation to make a determination on whether to grant an award for at least 1 expense or loss submitted as part of a claim, the commission shall promptly make a determination on whether to grant an award for each expense or loss for which the commission has received sufficient documentation to make that determination. The commission may not require as a condition of making a determination or award that a claimant must submit sufficient documentation for all losses and expenses that will be submitted as part of a claim. On the receipt of sufficient documentation for any additional eligible expense or loss that is part of a claim, the commission shall make a determination regarding that expense or loss.

(5) The commission may inquire with the proper law enforcement authorities, including the prosecuting attorney of the county in which the crime is alleged to have occurred, as part of an investigation of a claim filed with the commission.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1988, Act 367, Eff. Mar. 30, 1989;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1993, Act 348, Imd. Eff. Jan. 10, 1994;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008;—Am. 2022, Act 78, Eff. Aug. 12, 2023.

18.355a Sexual assault medical forensic examination; payment to health care provider; conditions; definitions.

Sec. 5a. (1) A health care provider is eligible to be paid for a sexual assault medical forensic examination under this section only if that examination includes all of the following:

- (a) The collection of a medical history.
- (b) A general medical examination, including, but not limited to, the use of laboratory services and the dispensing of prescribed pharmaceutical items.
- (c) One or more of the following:
 - (i) A detailed oral examination.
 - (ii) A detailed anal examination.
 - (iii) A detailed genital examination.

(d) Administration of a sexual assault evidence kit under section 21527 of the public health code, 1978 PA 368, MCL 333.21527, and related medical procedures and laboratory and pharmacological services.

(2) A health care provider shall not submit a bill for any portion of the costs of a sexual assault medical forensic examination to the victim of the sexual assault, including any insurance deductible or co-pay, denial of claim by an insurer, or any other out-of-pocket expense.

(3) A health care provider seeking payment under this section for a sexual assault medical forensic examination shall do all of the following:

(a) Advise the victim, orally and in writing, that a claim shall not be submitted to his or her insurance carrier without his or her express written consent, and that he or she may decline to consent if he or she believes that submitting a claim to the insurance carrier would substantially interfere with his or her personal privacy or safety.

(b) If the victim gives his or her consent as provided under subdivision (a), submit a claim for the cost of a sexual assault medical forensic examination to the victim's insurance carrier, including, but not limited to, Medicaid and Medicare.

(4) A health care provider may seek payment from 1 or both of the following if reimbursement cannot be obtained from the victim's insurance or insurance is unavailable:

- (a) The commission under this section.
- (b) From another entity other than the victim.

(5) A health care provider that is reimbursed for a sexual assault medical forensic examination by a victim's insurance carrier shall not submit to the commission any portion of the claim reimbursable by the insurance carrier.

(6) A health care provider that is reimbursed for a sexual assault medical forensic examination by another entity shall not submit to the commission any portion of the claim reimbursable by the other entity.

(7) The commission shall pay a health care provider not more than \$1,200.00 for the cost of performing a sexual assault medical forensic examination, including, but not limited to, the cost of 1 or more of the following:

(a) Not more than \$700.00 for the use of an emergency room, clinic, or examination room, and the sexual assault medical forensic examination and related procedures other than services and items described in subdivisions (b) and (c).

- (b) Laboratory services related to the sexual assault.
- (c) Dispensing pharmaceutical items related to the sexual assault.

(8) A claim for compensation under subsection (7) shall be submitted to the commission in a form and in

the manner prescribed by the commission.

(9) Except with the victim's consent or as otherwise provided in this subsection, information collected by the commission under this section that identifies a victim of sexual assault is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, shall not be obtained by subpoena or in discovery, and is inadmissible as evidence in any civil, criminal, or administrative proceeding. Information collected by the commission under this section that identifies a victim of sexual assault is confidential and shall only be used for the purposes expressly provided in this act, including, but not limited to, investigating and prosecuting a civil or criminal action for fraud related to reimbursement provided by the commission under this section.

(10) A victim of sexual assault shall not be required to participate in the criminal justice system or cooperate with law enforcement as a condition of being administered a sexual assault medical forensic examination. For payments authorized under this section or for payments made to victims under section 6, administration to the victim of a sexual assault medical forensic examination satisfies the requirements for prompt law enforcement reporting and victim cooperation under sections 6 and 10.

(11) As used in this section:

(a) "Health care provider" means any of the following:

(i) A health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(iii) A local health department as that term is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Sexual assault" means a criminal violation of sections 520a to 520n of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520n.

(c) "Sexual assault medical forensic examination" means that term as described in subsection (1)(a) to (d).

History: Add. 2008, Act 391, Imd. Eff. Dec. 29, 2008;—Am. 2018, Act 525, Eff. Mar. 28, 2019.

18.356 Validity of claim; investigation and examination; claims arising from death of individual; total compensation; willful noncooperation; hearing; decision; report.

Sec. 6. (1) When a claim is accepted for filing, an investigation and examination shall be conducted to determine the validity of the claim. The investigation shall include an examination of papers filed in support of the claim, official records and reports concerning the crime, and an examination of medical and hospital reports relating to the injury upon which the claim is based. All claims which arise from the death of an individual as a direct result of a crime shall be considered together, and the total compensation awarded for all claims which arise from the death of an individual shall not exceed the maximum aggregate award.

(2) A claim shall be investigated and determined regardless of whether the alleged criminal was apprehended, prosecuted, convicted, acquitted, or found not guilty of the crime in question, unless the disposition is a direct result of willful noncooperation by the victim or other claimant with the law enforcement agency or the prosecuting attorney. In the event of determination of willful noncooperation by the victim or other claimant, the commission shall reject the claim.

(3) A claim may be decided on the basis of the papers filed in support of the claim and the report of the investigation of the claim. If the person authorized to decide a claim under section 3(2) is convinced that a decision should not be made without a hearing, that person may request the commission to conduct a hearing under section 7. At the hearing any relevant evidence, not legally privileged, is admissible.

(4) After an examination of the papers filed in support of a claim and the report of investigation, and if no hearing is requested under subsection (3), a decision granting or denying the award shall be made.

(5) A written report setting forth the decision and reasons for the decision shall be sent to the claimant.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

18.357 Application for consideration of decision by full commission; hearing; review; report; notice; copy of decision.

Sec. 7. (1) Within 30 days after receipt of the report of the decision, a claimant may apply in writing to the commission for consideration of the decision by the full commission. If a request for a hearing is made by a claimant or pursuant to section 6(3), a hearing shall be ordered.

(2) Within 30 days after the filing of the report, a commission member may apply in writing to the commission for consideration of the decision by the full commission. If a request for a hearing is made by a commission member under this subsection, a hearing shall be ordered.

(3) Upon receiving an application under subsection (1) or (2), the commission shall review the record, and affirm or modify the decision, or hold a hearing, if ordered. The commission's action under this section is final. The commission shall file a written report setting forth its decision and if the decision varies from the report of any original decision it shall set forth its reasons for the decision. If the commission does not receive an application pursuant to subsection (1) or (2), any original decision under section 6 shall become the commission's final decision.

(4) The commission shall within 15 days notify the claimant of the commission's final decision and furnish him or her with a copy of the decision.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

18.358 Appeal; service of notice.

Sec. 8. (1) Within 30 days after receiving the copy of the report containing the commission's final decision, the claimant may by leave to appeal commence a proceeding in the court of appeals to review the commission's decision.

(2) A proceeding pursuant to this section shall be commenced by the service of notice upon the commission in person or by mail.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

18.359 Emergency award.

Sec. 9. (1) If it appears that the claim is one with respect to which an award probably will be made and undue hardship will result to the claimant if immediate payment is not made, the commission may make an emergency award to the claimant pending a final decision in the case. The commission shall provide a procedure for a claimant to request an emergency award under this section.

(2) The amount of an emergency award under this section must not exceed \$4,000.00 and must be deducted from the final award made to the claimant. The excess of the amount of the emergency award over the amount of the final award, if any, must be repaid by the claimant to the commission.

(3) Promptly after receiving an application or request for an emergency award under subsection (1), the commission shall determine whether to grant an emergency award under this section. If the commission determines to grant an emergency award, the award must be promptly issued to the claimant.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2022, Act 77, Eff. Aug. 12, 2023.

18.360 Verification of facts as condition to award.

Sec. 10. The commission shall not grant an award unless the investigation of the claim verifies the following facts:

(a) A crime was committed.

(b) The crime directly resulted in injury to the victim or intervenor.

(c) Police records show that the crime was reported to the proper authorities.

(d) That the crime did not occur while the victim was confined in a federal, state, or local correctional facility.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1988, Act 367, Eff. Mar. 30, 1989;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008;—Am. 2022, Act 78, Eff. Aug. 12, 2023.

18.361 Amount of award; reduction or denial of award; "misconduct" defined; reimbursement.

Sec. 11. (1) Except for a claim under section 5a, an award made under this act must be an amount not more than an out-of-pocket loss, including indebtedness reasonably incurred for medical or other services necessary as a result of the personal injury upon which the claim is based, together with loss of earnings or support resulting from the crime. The aggregate award under this act must not exceed \$45,000.00 per claimant.

(2) Unless reduced under this act, an award made for an out-of-pocket loss must be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness related to the crime and reasonably incurred for any of the following:

(a) Medical care for the victim or intervenor.

(b) Subject to subsection (6), psychological or grief counseling for an individual listed in section 4(1)(a), (b), (c), (e), (f), or (g).

(c) Reasonable expenses for temporary or permanent relocation for an individual listed in section 4(1)(a) or (e), or if the victim is deceased, for an individual listed in section 4(1)(b), (e), or (f). An award for expenses

under this subdivision may be made only if the claimant is relocating to protect the claimant's physical safety or emotional or financial well-being as a result of the crime and, unless good cause is shown, is relocating within 1 year of the date the crime occurred, or of the date the claimant is threatened by a change in circumstance or by an indicator of danger. An award for expenses under this subdivision may not exceed \$3,800.00 per claimant. Eligible relocation expenses under this subdivision include, but are not limited to, all of the following expenses:

(i) The first month of rent, a security deposit, and the costs to start utilities in the dwelling unit to which the claimant relocates. The commission may require the claimant to provide a signed rental agreement to verify these expenses.

(ii) Moving expenses, including, but not limited to, costs to rent a truck, travel, and for moving services.

(iii) Costs for temporary lodging for not more than 30 days.

(d) Replacement services for homemaking tasks, child care, and other services previously performed by an individual listed in section 4(1)(a), (b), (e), or (f), that, because of the victim's injury, or the claimant's attendance at a victim services organization to receive services related to the crime, must temporarily or permanently be performed by another person.

(e) Transportation expenses for the purpose of an individual listed in section 4(1)(a), or if the victim or intervenor is deceased, for a person listed in section 4(1)(b), (e), or (f), to access services from a victim services organization, medical care, or mental health care, or to attend the funeral of a victim or intervenor. An award for expenses under this subdivision must not exceed the following aggregate amounts per claimant:

(i) If the expense is for travel of a distance of not more than 50 miles each way from the claimant's residence, \$1,000.00.

(ii) If the expense is for travel that meets 1 or more of the following, \$5,000.00:

(A) If the travel is a distance of not less than 50 miles from the claimant's residence each way and is to and from a health care provider, mental health professional as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b, or health facility or agency that renders a specific treatment or care that is not available within 50 miles of the claimant's residence.

(B) If the travel is a distance of not less than 50 miles from the claimant's residence each way and is to and from a funeral for a deceased victim or intervenor.

(f) Reasonable costs of not more than \$1,000.00 per residence for installing, increasing, or replacing residential security, which may include installing a home security device or system; replacing or repairing windows or locks; or increasing the number of locks, at either of the following residences:

(i) The residence of an individual listed in section 4(1)(a).

(ii) If the crime scene is located at the residence of an individual listed in section 4(1)(b), (e), or (f), at that residence.

(g) Accessibility or rehabilitative equipment or devices for either of the following:

(i) Equipment or devices that a victim or intervenor needs because of an injury of the victim or intervenor caused by the crime, including, but not limited to, modifications necessary to make a residence or vehicle accessible for a victim or intervenor.

(ii) Replacement equipment or devices that a victim or intervenor needs because the equipment or device of the victim or intervenor was damaged in the course of a crime.

(h) Nonmedical remedial treatment rendered to the victim or intervenor in accordance with a recognized religious method of healing.

(i) If the crime scene is located at the residence of, or a motor vehicle owned or leased by, an individual listed in section 4(1)(a), (b), (e), or (f), the crime scene cleanup services resulting from a crime for that residence or vehicle after crime scene cleanup is permitted by the investigating law enforcement agency, in an amount not to exceed \$5,000.00 per crime scene.

(j) Replacement costs of not more than \$250.00 for clothing or bedding of an individual listed in section 4(1)(a), (b), (e), or (f), that is held as evidence of a crime.

(k) Subject to subsection (5), funeral expenses.

(l) Other services necessary for the victim or intervenor.

(3) Unless reduced under this act, an award made for loss of support must be in an amount equal to the actual loss sustained. An award must not exceed \$1,000.00 for each week of lost support.

(4) Unless reduced under this act, an award made for loss of earnings must be in an amount equal to the actual loss sustained. An award must not exceed \$1,000.00 for each week of lost earnings. A claimant may be awarded for loss of earnings under this subsection for lost wages as a result of the crime, including, but not limited to, in the following circumstances:

(a) A victim or intervenor, the parent, guardian, or primary caregiver of a victim or intervenor, or if the victim or intervenor is deceased, a claimant who is listed in section 4(1)(b) or (e), for not attending work due

to any of the following:

- (i) Seeking medical attention for or recovery from an injury caused by the crime.
- (ii) Obtaining psychological counseling or obtaining services from a victim services organization.
- (iii) Providing care or assistance to a victim or claimant in recovering from injuries caused by the crime or in obtaining psychological counseling or services from a victim services organization.

(b) If the victim or intervenor is deceased and a claimant is listed in section 4(1)(b), (e), or (f), wage loss for bereavement leave to attend the funeral or alternative to a funeral of the deceased victim or intervenor, to make arrangements necessitated by the death of the deceased victim or intervenor, or for a period of grieving the death of the deceased victim or intervenor, not to exceed the following amounts:

- (i) If the claimant is listed in section 4(1)(b) or (e), \$2,000.00.
- (ii) If the claimant is listed in section 4(1)(f), \$1,000.00.

(5) Unless reduced under this act, an award made for funeral expenses must be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness incurred for burial expenses, transporting the victim's body, and other costs for the funeral service or alternative to funeral service, and must not exceed \$8,000.00 for each victim. An award under this subsection must not exceed an additional \$500.00 for a grave marker for each victim.

(6) An award for psychological or grief counseling must not exceed 35 hourly sessions per individual listed in section 4(1)(a), (b), (c), (e), (f), or (g) who requires psychological counseling as a result of the crime or grief counseling in connection with the death of the victim or intervenor. The award may include not more than 20 family sessions that include an individual who is not criminally responsible for or an accomplice to the crime, and who is related to the victim or intervenor by blood or affinity to the second degree, the guardian or primary caregiver of a minor victim, or an individual listed in section 4(1)(e). The maximum hourly reimbursement rate must not exceed \$80.00 per hourly session for a therapist or counselor licensed or registered to practice in this state, except that the maximum hourly reimbursement rate must not exceed \$125.00 per hourly session for a psychologist or physician licensed to practice in this state.

(7) An award must be reduced by the amount of 1 or more of the following payments received or to be received as a result of the injury:

- (a) From or on behalf of the person who committed the crime.
- (b) From insurance, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.
- (c) From public funds, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.
- (d) From an emergency award under section 9.

(8) In making a determination on a claim filed by an individual listed in section 4(1)(a), (b), (c), (e), (f), or (g), the commission shall determine whether the victim's misconduct contributed to his or her injury and shall reduce the amount of the award or reject the claim altogether, in accordance with the determination. The commission may disregard for this purpose the victim's responsibility for his or her own injury if the record shows that the injury was attributable to the victim's efforts to prevent a crime or an attempted crime from occurring in his or her presence or to apprehend a person who had committed a crime in his or her presence. As used in this subsection, "misconduct" includes but is not limited to provocation of or participation in a crime contemporaneous with or immediately preceding the injury.

(9) If the commission determines that the payment of an award will cause substantial unjust enrichment and economic benefit to a person criminally responsible for the crime, the commission shall deny the payment.

(10) If a claimant receives a payment described under subsection (7)(a) to (c) for an expense for which the claimant received an award under this section, the claimant shall reimburse the commission to the extent the total amount the claimant received exceeds the actual loss the claimant experienced for that expense.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1985, Act 157, Imd. Eff. Nov. 15, 1985;—Am. 1989, Act 247, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 316, Imd. Eff. Dec. 20, 1990;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 390, Imd. Eff. Dec. 29, 2008;—Am. 2010, Act 282, Imd. Eff. Dec. 16, 2010;—Am. 2022, Act 77, Eff. Aug. 12, 2023.

18.362 Payment of award; award not subject to execution or attachment; reimbursement.

Sec. 12. An award for each covered expense or loss must be paid in a lump sum, except that for payments to health care providers under section 5a or in the case of death or protracted disability, the commission may specify that the award shall provide for periodic payments to compensate for out-of-pocket expenses, or loss of earnings or support. An award made pursuant to this act shall not be subject to execution or attachment other than for expenses resulting from the personal injury that is the basis for the claim. Any court of record, in establishing sentence for a felon convicted of a crime resulting in awards paid under this section, may

impose a condition that the sentence include a method for reimbursement to the state, within the ability of the felon to comply, of the costs paid under this act to a victim of a crime for which the conviction was made. The reimbursement will be paid into the general fund of the state. The condition of reimbursement may include a provision relating suspension or probation to reimbursement or may be in lieu of other sentencing and shall be enforceable by the court to the degree that failure to meet the terms of reimbursement may be cause for reversion to an alternate sentence or to completion of an unfinished sentence.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2022, Act 78, Eff. Aug. 12, 2023.

18.363 Record of proceeding as public record; confidentiality.

Sec. 13. The record of a proceeding before the commission is a public record, except that a claimant's file and his or her testimony before the commission is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A record or report obtained by the commission, the confidentiality of which is protected by any other law or rule, shall remain confidential.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

18.364 Subrogation.

Sec. 14. Acceptance of an award made pursuant to this act shall subrogate the state, to the extent of the award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made.

History: 1976, Act 223, Eff. Mar. 31, 1977.

18.365 Information, emergency award, or final awards inadmissible in criminal proceeding.

Sec. 15. For purposes of this act, information relating to the filing of a claim by a claimant before the commission or proceedings before the commission, an emergency award made by the commission pursuant to section 9, or final awards made by the commission pursuant to section 11 are inadmissible in a criminal proceeding.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2022, Act 77, Eff. Aug. 12, 2023.

18.366 False presentation of facts and circumstances of crime; making public or disclosing confidential information; penalties; aggregation of total awards; prior convictions.

Sec. 16. (1) A person who, with intent to defraud or cheat by falsely presenting the facts and circumstances of a crime to the commission, causes an award of money to be made under this act to any person is guilty of a crime as follows:

(a) If the award is less than \$200.00, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for violating or attempting to violate subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award is \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for violating or attempting to violate subdivision (a) or (b)(ii).

(2) A person who makes public or discloses to an unauthorized person information that is confidential under this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of

not more than \$1,000.00, or both.

(3) Awards in violation of this section in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total awards.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1976, Act 223, Eff. Mar. 31, 1977;—Am. 1996, Act 519, Imd. Eff. Jan. 13, 1997;—Am. 2001, Act 149, Eff. Jan. 1, 2002.

18.366a Applicability.

Sec. 16a. The amendatory act that added this section applies to claims submitted on or after the effective date of the amendatory act.

History: Add. 2022, Act 77, Eff. Aug. 12, 2023;—Add. 2022, Act 78, Eff. Aug. 12, 2023.

Compiler's note: MCL 18.366a was added by 2022 PA 77 and 2022 PA 78. 2022 PA 78, being substantively the same as the 2022 PA 77 and enacted after 2022 PA 77, supersedes and becomes the only version on its effective date.

18.367 Repealed. 1996, Act 519, Imd. Eff. Jan. 13, 1997.

Compiler's note: The repealed section pertained to legislative review.

18.368 Crimes to which act applicable.

Sec. 18. This act shall apply to crimes committed on or after October 1, 1977.

History: 1976, Act 223, Eff. Mar. 31, 1977.

***** ACT 541 OF 1978 THIS ACT DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

CRIMINAL JUSTICE

Act 541 of 1978

AN ACT to create the commission on criminal justice, the committee on juvenile justice, and the office of criminal justice; to prescribe the respective powers and duties; and to authorize the appropriation of funds.

History: 1978, Act 541, Eff. Dec. 31, 1978;—Am. 1984, Act 171, Imd. Eff. June 29, 1984.

The People of the State of Michigan enact:

***** 18.401 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.401 Definitions.

Sec. 1. As used in this act:

- (a) "Application" means a formal request for the funding of an adult or juvenile justice project by a state or local entity or a combination of state and local entity, prepared pursuant to state or federal law.
- (b) "Commission" means the state commission on criminal justice created in section 2.
- (c) "Director" means the director of the office of criminal justice.
- (d) "Office" means the office of criminal justice created in section 3.
- (e) "Plan" means a comprehensive adult or juvenile justice plan developed under federal or state law requirements.

History: 1978, Act 541, Eff. Dec. 31, 1978.

***** 18.402 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.402 Commission on criminal justice; appointment, qualifications, and terms of members; cessation of membership; vacancy; removal; chairperson and vice-chairperson; frequency of meetings; conducting business at public meeting; notice; quorum; availability of writings to public; expenses; duties of commission; progress report; executive secretary; additional staff; commission as advisory body.

Sec. 2. (1) Beginning October 1, 1984 the commission on criminal justice shall be within the department of management and budget. Commission budget development, procurement, and related functions shall be performed by the department of management and budget. The commission shall consist of 21 members. The 21 members of the commission shall consist of the following:

- (a) Twelve persons appointed by the governor with the advice and consent of the senate as follows:
 - (i) Ten persons both governmental and nongovernmental who are representative of the state and local criminal justice community and the state and local criminal justice system including those involved in the enforcement of the criminal laws, the defense and advocacy of rights for accused and convicted individuals, the judiciary, community programs for convicted individuals, and educating the public on criminal justice issues.
 - (ii) Two persons who are representative of the general public and are not involved with criminal justice matters.
 - (b) Six persons to represent the legislative branch of state government, as follows:
 - (i) Two persons appointed by the senate majority leader, at least 1 of whom shall not be a legislator.
 - (ii) Two persons appointed by the speaker of the house of representatives, at least 1 of whom shall not be a legislator.
 - (iii) One person appointed by the senate minority leader.
 - (iv) One person appointed by the minority leader of the house of representatives.
 - (c) The attorney general of the state or his or her designee.
 - (d) The director of the department of state police or his or her designee.
 - (e) The director of the department of corrections or his or her designee.
- (2) A member of the commission who is a public official or the designee of a public official shall cease to be a member of the commission if the person ceases to be a member, officer, or employee of the representative agency. A member of the commission appointed by the governor under subsection (1)(a)(i) who no longer represents the state or local criminal justice community or criminal justice system shall cease to be a member of the commission.

(3) The members of the commission appointed by the governor under subsection (1)(a) shall be appointed

for terms of 3 years, except that of the members first appointed, 4 members shall serve for 1 year, 4 members shall serve for 2 years, and 4 members shall serve for 3 years, as designated by the governor. A vacancy caused by expiration of a term shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the balance of the unexpired term of the member to be succeeded in the same manner as the original appointment. The governor may remove a member for cause which shall be explained in writing to the commission.

(4) The governor shall designate a chairperson of the commission from any of its 21 members. The commission shall elect a member as vice-chairperson.

(5) The commission shall meet at least once every 3 months at the call of the chairperson and the business of the commission shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A quorum shall consist of 11 members. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A member of the commission shall not receive per diem for attendance at a meeting but shall receive expenses as shall be established annually by the legislature.

(6) The commission shall recommend goals, priorities, and standards for the reduction of crime and the improvement of the administration of justice in the state; conduct studies, propose legislation, and adopt resolutions and policy statements; consult with the judicial coordinating committee; and develop and approve a plan for adult criminal justice that shall include an analysis of existing criminal justice data, an assessment of statewide sentencing and release practices, an assessment of the utilization and adequacy of existing jail and prison capacities, community corrections programs, and programs directed toward crime control, and an assessment of public attitudes and public education regarding criminal justice issues.

(7) The commission, within 3 months of the expiration of the state's fiscal year, shall report to the governor and the legislature on the progress being made in the implementation of the commission's policies and priorities.

(8) The commission shall appoint an executive secretary. The additional staff necessary to fulfill the functions of the commission under this act shall be provided by the office.

(9) The commission shall act as an advisory body to the executive branch of state government regarding adult criminal justice matters. The commission may be requested by the legislative and judicial branches of state government to provide advice to them regarding adult criminal justice matters.

History: 1978, Act 541, Eff. Dec. 31, 1978;—Am. 1984, Act 171, Imd. Eff. June 29, 1984.

***** 18.403 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.403 Office of criminal justice; creation; management functions; director; contractual agreements; duties of office.

Sec. 3. (1) The office of criminal justice is created within the department of management and budget. Office budget development, procurement, and related management functions shall be performed by the department of management and budget. The director of the office shall be a classified employee under the state civil service system responsible to the director of the department of management and budget. The director shall be the official authorized to enter into a contractual agreement with a federal agency and state, local, and private parties pursuant to the omnibus crime control and safe streets act of 1968, 42 U.S.C. 3701 to 3796c, and the juvenile delinquency prevention act, 42 U.S.C. 3801 to 3891, and related federal laws.

(2) The office shall do all of the following:

(a) Prepare plans or applications, as required by federal or state law, based on an analysis of the state's adult and juvenile justice needs and problems in conformity with state and federal requirements.

(b) Encourage and assist state, local, and regional agencies in the development of plans or applications.

(c) Cooperate with the commission and the committee in providing technical assistance to state agencies, local units of government, or private agencies with regard to adult and juvenile justice.

(d) Apply for, contract for, receive, and expend an appropriation or grant from the state, a political subdivision of the state, the federal government, or any other source of public or private funds. The funds acquired by the office shall be expended as set forth in the appropriation or grant received.

(e) Request an audit by a federal, state, or local agency authorized to conduct a program or fiscal audit of the office or a contractor or subgrantee of the office.

(f) Enter into a contract with regional, local, and private agency officials for the performance of duties

required by grants awarded under federal or state law.

(g) At the direction of the committee created in section 5, develop, propose, and implement policies, plans, applications, and programs for improving the coordination, administration, and effectiveness of the juvenile justice systems in the state.

(h) Act as an advisory body to the governor and the department of management and budget regarding criminal justice matters.

(i) Request and receive from an agency of the state, a political subdivision of the state, or a public authority the assistance, information, and data to enable the office to properly carry out its functions, duties, and powers.

History: 1978, Act 541, Eff. Dec. 31, 1978;—Am. 1984, Act 171, Imd. Eff. June 29, 1984.

18.404 Repealed. 1984, Act 171, Imd. Eff. June 29, 1984.

Compiler's note: The repealed section pertained to review of and comment on criminal justice plan.

***** 18.405 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.405 Committee on juvenile justice; appointment, qualifications, and terms of members; chairperson; vacancy; quorum; duties of committee; conducting business at public meeting; notice; availability of writings to public.

Sec. 5. (1) The governor shall appoint, with the advice and consent of the senate, a committee on juvenile justice consisting of 21 members. The members of the committee shall be appointed for terms of 3 years, except that of the members first appointed, 7 members shall serve for 1 year, 7 members shall serve for 2 years, and 7 members shall serve for 3 years, as designated by the governor. The governor shall designate a chairperson of the committee. Not more than 14 members shall be of the same gender. Not more than 11 members shall be from the same political party. A vacancy on the committee shall be filled in the same manner as the original appointment. A quorum shall consist of 11 members.

(2) Members of the committee on juvenile justice appointed pursuant to subsection (1) shall include representatives of all of the following:

- (a) Local units of government.
- (b) Law enforcement.
- (c) Probate judges involved in juvenile justice matters.
- (d) Public agencies concerned with the prevention and treatment of juvenile delinquency.
- (e) Private organizations concerned with the prevention and treatment of juvenile delinquency.

(3) A majority of the committee members shall not be full-time employees of the federal, state, or local government. The chairperson of the committee shall not be a full-time employee of the federal, state, or local government. Not less than 4 of the members of the committee shall be less than 24 years of age at the time of being appointed to the committee. Not less than 3 members of the committee shall have been or shall be at the time of appointment under the jurisdiction of the juvenile justice system.

(4) The committee shall advise the office, the governor, and the legislature at least annually on matters relative to the juvenile justice system in this state. The committee shall establish goals, priorities, and standards for the juvenile justice system, conduct studies, adopt resolutions and policy statements, and approve plans regarding juvenile justice.

(5) The business of the committee shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, place, and date of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. A writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1978, Act 541, Eff. Dec. 31, 1978;—Am. 1984, Act 171, Imd. Eff. June 29, 1984.

***** 18.406 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.406 Act inapplicable after March 30, 1987.

Sec. 6. This act shall not apply after March 30, 1987.

History: 1978, Act 541, Eff. Dec. 31, 1978;—Am. 1982, Act 411, Eff. Dec. 31, 1982;—Am. 1984, Act 171, Imd. Eff. June 29, 1984.

***** 18.407 THIS SECTION DOES NOT APPLY AFTER MARCH 30, 1987: See 18.406 *****

18.407 Effective date.

Sec. 7. This act shall not take effect until December 31, 1978.

History: 1978, Act 541, Eff. Dec. 31, 1978.

MICHIGAN JUSTICE TRAINING COMMISSION
Act 302 of 1982

An act to create the Michigan justice training commission and the Michigan justice training fund; to provide the powers and duties of certain state agencies; to provide for the distribution and expenditure of funds; and to provide for the promulgation of rules.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 1992, Act 104, Imd. Eff. June 25, 1992.

The People of the State of Michigan enact:

18.421 Definitions.

Sec. 1. As used in this act:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Commission" means the Michigan commission on law enforcement standards created in section 3 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.603, or, by the express delegation of the Michigan commission on law enforcement standards, its executive director and staff.

(c) "Criminal justice in-service training" means a criminal justice program that includes education or training that is designed and intended to enhance the direct delivery of criminal justice services by participants who are authorized to receive education or training as provided in this act.

(d) "Eligible entity" means a governmental agency of the executive branch of this state or a subdivision of this state that is established and maintained in accordance with the laws of this state and that is authorized by the laws of this state to employ or appoint law enforcement officers licensed under sections 9 and 9a of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.609 and 28.609a.

(e) "Grant awards" means funds paid to grantees from the Michigan justice training fund as provided in this act.

(f) "Grantee" means an entity eligible to receive grant awards from the Michigan justice training fund, including any of the following or a combination of any of the following:

(i) An agency, department, division, bureau, board, commission, council, or authority of this state or of a city, village, township, or county.

(ii) A state-supported college or university.

(iii) A community college.

(iv) Any agency or entity of the judicial branch of government of this state.

(g) "Law enforcement agency" means an entity that is established and maintained in accordance with the laws of this state and that is authorized by the laws of this state to appoint or employ law enforcement officers.

(h) "Law enforcement distribution" means funds paid to eligible entities as provided in this act.

(i) "Law enforcement officer" means an individual licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.614.

(j) "MCOLES information and tracking network" means the commission's web-enabled information system for the licensing, reporting, and tracking of personnel and training records for Michigan law enforcement officers.

(k) "Michigan justice training fund" means the Michigan justice training fund created in this act.

(l) "Professional association" means a national, state, or local police union, or an association or fraternal organization of police officers, correctional officers, or prosecuting attorneys.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan Justice Training Commission and the Michigan Justice Training Fund from the Department of Management and Budget to the Department of State Police, see E.R.O. No. 1993-5, compiled at MCL 18.431 of the Michigan Compiled Laws.

For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.422 Michigan justice training fund; creation; limitation; deposit of investment earnings; use of fund; undistributed funds.

Sec. 2. (1) The Michigan justice training fund is created in the state treasury.

- (2) The Michigan justice training fund shall only be used as provided in this act.
- (3) Investment earnings derived from Michigan justice training fund assets shall be deposited into the Michigan justice training fund.
- (4) The commission shall use the Michigan justice training fund for the following purposes:
- (a) Making law enforcement distributions as provided in this act.
 - (b) Paying the reasonable expenses of providing staff services to the commission for administering and enforcing the statutory requirements of this act, and administering and enforcing the statutory requirements of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.
 - (c) Awarding grants as provided in this act.
- (5) Funds in the Michigan justice training fund that are not distributed in a fiscal year and that were to be distributed as law enforcement distributions shall remain in the Michigan justice training fund and may be used in future years for purposes of law enforcement distributions.
- (6) Funds in the Michigan justice training fund that are not distributed in a fiscal year and that were to be used for the reasonable expenses of providing staff services to the commission for administering and enforcing the statutory requirements of this act and administering and enforcing the statutory requirements of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, shall remain in the Michigan justice training fund and may be used in future fiscal years for those purposes.
- (7) Funds in the Michigan justice training fund that are not distributed in a fiscal year and that were to be distributed to fund current or future grant awards shall remain in the Michigan justice training fund and may be used in future fiscal years for that purpose.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.423 Annual registration of law enforcement agencies; verification of officers and hours compensated; law enforcement distributions; installments; determination; minimum amount.

Sec. 3. (1) The commission shall conduct an annual registration of law enforcement agencies to verify each agency's roster of full-time and part-time law enforcement officers, and the number of hours for which they were compensated for employment as law enforcement officers in the most recent elapsed calendar year. For purposes of the law enforcement distribution, the reported hours of compensation shall be capped at 2,080 hours for any individual officer.

(2) As part of the annual registration, each law enforcement agency shall indicate to the commission whether it elects to receive law enforcement distributions for the current year. An agency that elects not to receive law enforcement distributions shall not receive them for the current year but must comply with all applicable requirements of this act until all previously received law enforcement distribution funds have been expended or returned as required in this act.

(3) The commission shall annually distribute 60% of the Michigan justice training fund for law enforcement distributions, in 2 semiannual installments, on dates determined by the commission.

(4) The law enforcement distribution shall be made on a per full-time equated basis to eligible entities based on the number of full-time equated law enforcement officers employed. For purposes of this subsection, the number of full-time equated law enforcement officers shall be determined by dividing the total number of hours reported by the eligible entity during the annual registration for which the eligible entity's full-time and part-time law enforcement officers were compensated for employment as law enforcement officers in the most recent elapsed calendar year by 2,080 hours, rounded down to the nearest whole number greater than or equal to 1.

(5) If the Michigan justice training fund has sufficient funds, an eligible entity whose number of full-time equated law enforcement officers does not support a minimum annual distribution of \$500.00 shall receive a minimum annual distribution of \$500.00.

(6) For each year, the percentage of law enforcement officers who provide direct law enforcement service receiving training under this act shall be equal to or greater than the percentage of law enforcement officers who are in full-time administrative positions receiving training under this act.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1983, Act 184, Imd. Eff. Oct. 25, 1983;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training

commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

Administrative rules: R 18.451 et seq. of the Michigan Administrative Code.

18.424 Law enforcement distribution funds; deposit; separate account; expenditure; purposes; conditions; limitation; distribution as supplement; time period; entity no longer in operation; distribution in violation of act; return of unexpended funds within 5 years of receipt.

Sec. 4. (1) Funds received from a law enforcement distribution shall be deposited and maintained in an account separate from all other funds.

(2) An eligible entity shall expend funds from a law enforcement distribution only for the following purposes:

(a) Criminal justice in-service training that is designed and intended to enhance the direct delivery of criminal justice services by law enforcement officers.

(b) Direct costs, including all of the following:

(i) The actual cost of training materials necessary to, and used solely during, the direct delivery of criminal justice in-service training.

(ii) The reasonable rental cost or purchase price of equipment necessary to and used solely during the direct delivery of criminal justice in-service training. An eligible entity shall not make an equipment purchase that exceeds \$5,000.00 or 10% of its annual law enforcement distribution without prior written approval of the commission.

(iii) The rental of training facilities, only if adequate facilities owned or operated by the eligible entity are not available.

(iv) A flat rate, tuition, or subscription paid to a training provider, other than the eligible entity, for the delivery of criminal justice in-service training as provided under this act, only if the training is registered through the MCOLES information and tracking network before the dates on which the training is conducted.

(c) The costs incurred to participate in a criminal justice in-service training program, subject to the following restrictions:

(i) For tuition costs for in-state criminal justice in-service training, only if the training course is registered through the MCOLES information and tracking network before the dates on which the training is conducted.

(ii) For in-state criminal justice in-service training participant travel reimbursement, only if the criminal justice in-service training course is registered through the MCOLES information and tracking network before the dates on which the training is conducted. For purposes of this restriction, applicable reimbursement rates are those authorized for members of the state classified civil service.

(iii) For in-state instructor travel reimbursement. For purposes of this provision, applicable reimbursement rates are those authorized for members of the state classified civil service.

(iv) To pay the fees of a training consortium provider for the delivery of criminal justice in-service training to law enforcement officers of the eligible entity. For consortium fees paid as provided in this subparagraph, the eligible entity shall report the actual cost of each course attended. If a consortium fee is paid but the employees of the eligible entity were unable to attend the training, the eligible entity shall report this fact to the commission. The consortium training provider shall provide to the eligible entity an accounting of the training courses delivered to the eligible entity's law enforcement officers.

(d) To pay the following out-of-state criminal justice in-service training expenses, subject to the restrictions set forth in subsection (3):

(i) Tuition costs for out-of-state criminal justice in-service training, if the eligible entity submits an out-of-state special use request to the commission and the commission approves the expenditure prior to attendance.

(ii) Registration costs for out-of-state training conferences, if the eligible entity submits an out-of-state special use request to the commission, the commission approves the expenditure prior to attendance, and the training is conducted for not less than 6 hours within any 24-hour period.

(iii) Travel costs, if for the purpose of participating in a learning experience produced through reading, listening, observing, problem-solving, or interacting with others, the object of which is the introduction or enhancement of knowledge, skills, and judgment directly related to the performance of professional criminal justice tasks currently assigned or assignable.

(iv) Travel costs, if required to obtain or maintain skills or certification in a field of specialization related to the execution of the duties of law enforcement officers provided to the general public or related to the execution of administrative duties that enhance the ability of law enforcement officers to perform duties

provided to the general public.

(3) Funds shall not be distributed under subsection (2)(d) unless both of the following apply:

(a) The course is registered through the MCOLES information and tracking network prior to the dates on which the training is conducted.

(b) One or both of the following:

(i) The course provides certification in a field of specialization that is not available in this state.

(ii) The course provides instruction that is not available in this state.

(4) An eligible entity shall not expend funds from a law enforcement distribution for any of the following:

(a) Training individuals who are not law enforcement officers.

(b) Travel expenditures in excess of or in violation of the expenditure rates authorized for members of the state classified civil service.

(c) Alcoholic liquor.

(5) For eligible entities that were eligible to receive law enforcement distributions on October 12, 1982, law enforcement distributions made under this section shall serve as a supplement to, and not as a replacement for, the training funds budgeted October 12, 1982, for criminal justice in-service training of the law enforcement officers it employs.

(6) For eligible entities that did not elect to receive or were not eligible to receive law enforcement distributions on October 12, 1982, law enforcement distributions made under this section shall serve as a supplement to, and not as a replacement for, the training funds budgeted for the year immediately preceding the first year for which the eligible entity received law enforcement distributions, for criminal justice in-service training of the law enforcement officers it employs.

(7) An eligible entity receiving a law enforcement distribution shall expend the entire distribution within 2 years after the end of the calendar year in which it was received. If the eligible entity fails to expend the entire distribution within that period, it is not eligible to receive further law enforcement distributions until the entire distribution is expended for criminal justice in-service training, and reported as prescribed by the commission.

(8) If an eligible entity is no longer operating, the unit of government with which it is affiliated shall immediately return unexpended law enforcement distribution funds in a manner prescribed by the commission. Funds returned as provided in this subsection shall be segregated and shall be used only for law enforcement distributions.

(9) If the commission determines that an eligible entity has expended law enforcement distribution funds in violation of this act, the commission may do either of the following:

(a) Declare the eligible entity ineligible to receive further law enforcement distributions for a period determined by the commission and require it to immediately return the funds expended in violation of this act in a manner prescribed by the commission. Funds returned as provided in this subdivision shall be segregated and shall be used only for law enforcement distributions.

(b) Require the eligible entity to immediately return all unexpended law enforcement distribution funds, in addition to the funds expended in violation of this act. Funds returned as provided in this subdivision shall be segregated and shall be used only for law enforcement distributions.

(10) Beginning with the annual registration that follows the effective date of the amendatory act that added this subsection, funds received in a law enforcement distribution that have not been expended within 5 years after the year in which they were received shall immediately be returned in a manner prescribed by the commission. Funds returned as provided in this subsection shall be segregated and shall be used only for law enforcement distributions.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.424a Printed materials; statement.

Sec. 4a. Any material printed from funds distributed under this act shall contain a statement that Michigan justice training funds were used to print that material.

History: Add. 1989, Act 158, Imd. Eff. July 28, 1989.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.425 Law enforcement distribution funds; records of revenues and expenditures; report; final accounting.

Sec. 5. (1) An eligible entity receiving law enforcement distribution funds shall maintain records of law enforcement distribution revenues and expenditures separate from other funding sources.

(2) An eligible entity receiving law enforcement distribution funds shall report to the commission on expenditures of those funds in a manner and on intervals prescribed by the commission. Each criminal justice in-service training program financed in whole or in part by law enforcement distribution funds shall be separately identified.

(3) If an eligible entity is no longer operating, the unit of government with which it is affiliated shall immediately provide the commission with a final accounting of expenditures of law enforcement distribution funds for all years since the eligible entity last reported.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.426 Grants; policies and procedures.

Sec. 6. The following policies and procedures apply to issuing grants under this act:

(a) The commission shall not award grants to a professional association.

(b) The commission may award grants using written grant agreements to which the commission and grantee are parties.

(c) Grantees shall submit applications for grant awards to the commission in the manner prescribed by the commission. The commission shall publish grant application procedures.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.427 Expenditure of funds by grantee.

Sec. 7. (1) A grantee shall expend funds from a grant award only as follows:

(a) To provide criminal justice in-service training that is designed and intended to enhance the direct delivery of criminal justice services by employees of the grantee or by employees of other grantees.

(b) To provide criminal justice in-service training presented by a grantee or by a contractual service provider retained by a grantee.

(c) To pay the actual cost of criminal justice in-service training materials necessary to, and used during, the direct delivery of criminal justice in-service training.

(d) To pay the reasonable rental cost or purchase price of equipment necessary to, and used solely during, the direct delivery of criminal justice in-service training.

(e) To pay the reasonable hourly salaries of instructors and developers for actual time spent developing, preparing, and delivering criminal justice in-service training.

(2) A grantee shall not expend funds from a grant award for any of the following:

(a) Travel expenditures in excess of the expenditure rates authorized for members of the state classified civil service.

(b) Travel costs incurred to participate in a criminal justice in-service training program, unless the program is solely for criminal justice in-service training for which the expenditure of grant funds is authorized under this act.

(c) Alcoholic liquor.

(d) Expenditures related to criminal justice in-service training courses for which grant funding has not been approved.

(e) Expenditures for goods and activities not related to criminal justice in-service training.

(3) If the commission determines that a grantee has expended grant award funds in violation of this act, the commission may do either of the following:

(a) Declare the grantee ineligible to receive further grant awards for a period to be determined by the commission.

(b) Terminate 1 or more grant awards, and require the grantee to immediately return grant award funds

expended in violation of this act, in a manner prescribed by the commission. Funds returned as provided in this subdivision shall be segregated and shall be used only for the reasonable expenses of providing staff services to the commission for administering and enforcing the statutory requirements of this act and administering and enforcing the statutory requirements of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or for grant awards.

(4) If a grantee is no longer operating, the unit of government with which it is affiliated, or any other constituent or successor entity of the grantee, shall immediately provide the commission with a final accounting of all expenses incurred for criminal justice in-service training that was delivered, and the commission shall terminate all current grant awards.

History: Add. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: Former MCL 18.427, which provided for the repeal of Act 302 of 1982, was repealed by Act 364 of 1984, Eff. Mar. 29, 1985.

18.428 Grant award; records of revenues and expenditures; funds received from Michigan justice training fund.

Sec. 8.

(1) A grantee receiving a grant award as provided in this act shall maintain records of grant revenues and expenditures separate from other funding sources.

(2) A grantee receiving a grant award as provided in this act shall report to the commission all expenditures of funds received from the Michigan justice training fund, in a manner and at intervals prescribed by the commission. Each training program financed in whole or in part by a grant award from the Michigan justice training fund shall be separately identified in the report.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.428a Criminal justice in-service training courses; registration; report.

Sec. 8a. (1) Criminal justice in-service training courses shall be registered through the MCOLES information and tracking network. If a course is not registered through the MCOLES information and tracking network, law enforcement distribution funds and grant award funds shall not be expended for the costs of those courses.

(2) Eligible entities and grantees shall report to the commission the training participants who attended each training session for which funding was provided in whole or in part by this act, in a manner and at intervals prescribed by the commission.

History: Add. 2016, Act 290, Eff. Jan. 2, 2017.

18.429 Audit of books, records, and accounts.

Sec. 9. The books, records, and accounts pertaining to the Michigan justice training fund may be subject to audit by the auditor general every 2 years.

History: Add. 1989, Act 158, Imd. Eff. July 28, 1989;—Am. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.430 Rules.

Sec. 10. The commission may promulgate rules governing the administration and use of the Michigan justice training fund.

History: Add. 2016, Act 290, Eff. Jan. 2, 2017.

Compiler's note: Former MCL 18.430, which pertained to the repeal of the act effective July 29, 1993, was repealed by Act 104 of 1992, Imd. Eff. June 25, 1992.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1993-5

18.431 Transfer of powers and duties of the Michigan justice training commission and the Michigan justice training fund from the department of management and budget to the department of state police by a type II transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, The Michigan Justice Training Commission and the Michigan Justice Training Fund were created within the Department of Management and Budget by Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws; and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Justice Training Commission and the Michigan Justice Training Fund can be more effectively carried out under the supervision and direction of the head of the Department of State Police.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Justice Training Commission and the Michigan Justice Training Fund are hereby transferred to the Department of State Police, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Office of Contract Management of the Department of Management and Budget shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Department of State Police, and all prescribed functions of rule making, grant awards and annual distributions shall be transferred to the Department of State Police.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Justice Training Commission and the Michigan Justice Training Fund for the activities transferred are hereby transferred to the Department of State Police to the extent required to provide for the efficient and effective operation of the Michigan Justice Training Commission and Michigan Justice Training Fund.

4. The Director of the Office of Contract Management of the Department of Management and Budget and the Director of the Department of State Police shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or obligations to be resolved by the Michigan Justice Training Commission and the Michigan Justice Training Fund.

5. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

6. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1993 E.R.O. No. 1993-5, Eff. Aug. 14, 1993.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2009-39

18.441 Renaming department of management and budget to department of technology, management, and budget; transfer of powers and duties of department of information technology to department of technology, management, and budget by type III transfer; abolishment of department of information technology; designation of chief information officer; renaming of office of state budget director to state budget office; transfer of certain powers and duties of department of technology, management, and budget to state budget office; office of the state employer as autonomous entity within department of technology, management, and budget; transfer of certain powers and duties of principal departments relating to labor relations to office of the state employer; transfer of Michigan public safety communication system advisory board from department of information technology to department of technology, management, and budget; renaming to public safety communications interoperability board; abolishment of position of director of department of information technology.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Information Technology was created as a principal department of state government by Executive Order 2001-3, MCL 18.41;

WHEREAS, the Department of Information Technology is focused on promoting a unified approach to information technology management for departments and agencies in the executive branch of state government;

WHEREAS, the Department of Management and Budget was created as a principal department of state government under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121;

WHEREAS, the Department of Management and Budget is focused on providing centralized administration of services for state departments and agencies including audit services, budgeting, employee resources, financial services, fleet management, mail, printing, property management, purchasing services, records management, and retirement services;

WHEREAS, improvements in the organization of state government and reductions in the number of principal state departments are necessary to provide Michigan residents and job providers with improved delivery of state services using fewer resources;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power vested in the Governor by the Michigan Constitution of 1963 and Michigan law order the following:

I. DEFINITIONS

As used in this Order:

A. "Chief Information Officer for the State of Michigan" or "State CIO" means the individual within the Department of Technology, Management, and Budget designated by the Governor under Section III.B.1 as the Chief Information Officer for the State of Michigan.

B. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963 and includes the State Personnel Director.

C. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, MCL 18.41.

D. "Department of Management and Budget" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

E. "Department of Technology, Management, and Budget" or "Department" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and renamed the Department of Technology, Management, and Budget under this Order.

F. "Information technology services" means services involving all aspects of managing and processing information including, but not limited to, all of the following:

1. Application development and maintenance.

2. Desktop computer support and management.
3. Mainframe computer support and management.
4. Server support and management.
5. Local area network support and management, including, but not limited to, wireless networking.
6. Information technology project management.
7. Information technology planning and budget management.
8. Telecommunication services, security, infrastructure, and support.

G. "Office of the State Budget Director" means the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

H. "Office of the State Employer" means the autonomous office created within the Department of Management and Budget by Executive Order 1979-5, whose duties include, but are not limited to, those assigned by Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, 2004-31, 2007-30, and 2008-22.

I. "State Budget Director" means the individual appointed by the Governor under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

J. "State Personnel Director" means the administrative and principal executive officer of the Civil Service Commission provided for under Section 5 of Article XI of the Michigan Constitution of 1963 and Section 204 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.304.

K. "Type II transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

L. "Type III transfer" means that phrase as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. DEPARTMENT OF MANAGEMENT AND BUDGET

A. The Department of Management and Budget is renamed the Department of Technology, Management, and Budget.

B. Any and all statutory and other legal references to the Department of Management and Budget shall be deemed references to the Department of Technology, Management, and Budget.

III. DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET

A. Transfers to the Department of Technology, Management, and Budget

1. Except as otherwise provided in this Order, any and all of the authority, powers, duties, functions, responsibilities, records, rule-making authority, records, personnel, real property, personal property, equipment, unexpended balances of appropriations, allocations, or other funds of the Department of Information Technology are transferred by Type III transfer to the Department of Technology, Management, and Budget, including, but not limited to, authority, powers, duties, functions, responsibilities, rule-making authority, records, personnel, real property, personal property, equipment, unexpended balances of appropriations, allocations, or other funds under all of the following:

- a. Executive Order 2001-3, MCL 18.41.
- b. Executive Order 2005-2, MCL 18.42.
- c. Executive Order 2006-19, MCL 18.43.
- d. Executive Order 2002-14, MCL 18.62.
- e. Section 4 of the Records Reproduction Act, 1992 PA 116, MCL 24.404.
- f. Section 2 of the C.J.I.S. Policy Council Act, 1974 PA 163, MCL 28.212.
- g. Executive Order 2002-19, MCL 38.1173.
- h. Executive Order 2004-2, MCL 211.281.
- i. Section 59 of the Driver Education Provider and Instructor Act, 2006 PA 384, MCL 256.679.
- j. Section 134a of the Mental Health Code, 1974 PA 258, MCL 330.1134a.
- k. Section 2505 of the Public Health Code, 1978 PA 368, MCL 333.2505.
- l. Section 20173a of the Public Health Code, 1978 PA 368, MCL 333.20173a.
- m. Sections 1230d and 1230f of The Revised School Code of 1976, 1976 PA 451, MCL 380.1230d and 380.1230f.
- n. Sections 1535a and 1539b of The Revised School Code of 1976, 1976 PA 451, MCL 380.1535a and 380.1539b.
- o. Executive Order 2003-20, MCL 388.997.
- p. Executive Order 2009-36, MCL 399.752.
- q. Section 34b of the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.734b.
- r. Executive Order 2008-20, MCL 445.2025.
- s. Section 8 of The Children's Ombudsman Act, 1994 PA 204, MCL 722.928.
- t. Executive Order 2009-18.

2. The Information Privacy Protection Council created by Executive Order 2009-18 is transferred by Type

II transfer from the Department of Information Technology to the Department of Technology, Management, and Budget.

3. The position of the Director of the Department of Information Technology or his or her designee as a member of the Health Information Technology Commission created under Section 2503 of the Public Health Code, 1978 PA 368, MCL 333.2503, is transferred to the Director of the Department of Technology, Management, and Budget, or his or her designee from within the Department.

B. Chief Information Officer for the State of Michigan

1. The Governor shall designate an individual within the Department of Technology, Management, Budget, including, but not limited to, the Director of the Department, to serve as the Chief Information Officer for the State of Michigan. The Director of the Department may serve concurrently as the State CIO. The State CIO shall report to and advise the Governor on matters relating to information technology services and related technology. The individual designated as the State CIO also shall serve as a member of the Governor's Cabinet. Under direction and guidance of the State CIO, the Department shall continue to do all of the following related to information technology services:

a. Lead state efforts to reengineer the information technology infrastructure of this state to achieve the use of common technology across the executive branch of state government.

b. Coordinate a unified executive branch strategic information technology plan, identify best practices from executive branch agencies and other public and private sector entities, and develop and implement processes to replicate information technology best practices and standards throughout the executive branch of state government.

c. Oversee the expanded use and implementation of project management principles related to information technology services within the executive branch of state government. Funded projects within all executive branch departments and agencies shall continue to use project management methodologies specified by the Chief Information Officer for the State of Michigan.

d. Serve as a general contractor between information technology users within the executive branch and private-sector providers of information technology products and services while working to build stronger partnering relationships with providers.

e. Develop and periodically update service-level agreements with executive branch departments and agencies to ensure quality information technology services are delivered on schedule and within budget.

f. Develop standards for application development including, but not limited to, a standard methodology and cost-benefit analysis that all executive branch departments and agencies shall utilize for application development activities.

g. Determine and implement statewide efforts to standardize data elements, formats, and standards and determine data and information ownership or control issues among departments and agencies in the executive branch of state government with the full cooperation of executive branch departments and agencies.

h. Develop systems and methodologies to review, evaluate, and prioritize existing information technology services projects within the executive branch of state government.

i. Assist the Office of the State Budget Director with the development of information technology services budgets for the executive branch of state government. All information technology budget requests from the executive branch must continue to be submitted to the Office of the State Budget Director and the State CIO. The Office of the State Budget Director and the State CIO will continue to jointly review and recommend for funding consideration only those proposals that fit into the overall strategic information technology management plan of this state and that provide a reasonable return on investment, subject to available resources.

2. The State CIO shall continue to have the full cooperation of executive branch departments and agencies in developing and implementing the sharing of data and information throughout the executive branch. The State CIO shall continue to determine and implement statewide efforts to standardize data elements and shall continue to determine data ownership assignments among executive branch departments and agencies.

C. Office of the State Budget Director

1. The Office of the State Budget Director is renamed the State Budget Office. Any and all statutory and other legal references to the Office of the State Budget Director or the Office of the State Budget shall be deemed references to the State Budget Office.

2. The authority, powers, duties, functions, and responsibilities of the Department of Technology, Management, and Budget under any of the following are transferred to the State Budget Office:

a. Subdivisions (a), (d), and (e) of Section 141 of The Management and Budget Act, 1984 PA 431, MCL 18.1141.

b. Subsections (3), (5), and (7) of Section 242 of The Management and Budget Act, 1984 PA 431, MCL

18.1242.

- c. Sections 283 and 283a of The Management and Budget Act, 1984 PA 431, MCL 18.1283 and 18.1283a.
- d. Sections 350 to 350e of The Management and Budget Act, 1984 PA 431, MCL 18.1350 to 1350e.
- e. Subsection (1) of Section 384 of The Management and Budget Act, 1984 PA 431, MCL 18.1384.
- f. Section 395 of The Management and Budget Act, 1984 PA 431, MCL 18.1395.
- g. Article 4 of The Management and Budget Act, 1984 PA 431, MCL 18.1401 to 18.1499.

3. The authority, powers, duties, functions, and responsibilities of the Director of the Department of Technology, Management, and Budget, under any of the following are transferred to the State Budget Director:

- a. Section 246 of The Management and Budget Act, 1984 PA 431, MCL 18.1246.
- b. Section 363 of The Management and Budget Act, 1984 PA 431, MCL 18.1363.
- c. Section 371 of The Management and Budget Act, 1984 PA 431, MCL 18.1371.
- d. Section 391 of The Management and Budget Act, 1984 PA 431, MCL 18.1391.
- e. Article 4 of The Management and Budget Act, 1984 PA 431, MCL 18.1401 to 18.1499.

4. Unless the State Budget Director serves concurrently as the Director of the Department of Technology, Management, and Budget as provided under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321, the State Budget Office shall exercise its prescribed authority, powers, duties, functions, and responsibilities independently of the Director of the Department of Technology, Management, and Budget. The authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the State Budget Office, including, but not limited to, budgeting, procurement, personnel, and related management functions, shall be retained by the State Budget Office, and the State Budget Office shall be an autonomous entity within the Department in the same manner as the Michigan Employment Security Commission was designated an autonomous entity within the Department of Labor under Section 379 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.479.

5. The State Budget Director may establish administrative units within the State Budget Office.

6. The Director of the State Budget Office shall provide executive direction and supervision for the implementation of all transfers to the State Budget Office under this Section III.C.

7. The Director of the State Budget Office shall immediately initiate coordination with affected departments and agencies to facilitate the transfers to the State Budget Office under this Section III.C and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved prior to the transfers to the State Budget Office under this Section III.C.

8. The Director of the State Budget Office shall administer the assigned functions transferred under this Section III.C in such ways as to promote efficient administration and shall make internal organizational changes within the State Budget Office as may be administratively necessary to complete the realignment of responsibilities under this Section III.C.

9. State departments, agencies, and officers shall fully and actively cooperate with and assist the Director of the State Budget Office in the implementation of this Section III.C. The Director of the State Budget Office may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.

10. The Director of the State Budget Office may delegate within the State Budget Office a duty or power conferred on the Director of the State Budget Office, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the State Budget Office.

11. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Section III.C to the State Budget Office are transferred to the State Budget Office.

D. Office of the State Employer

1. The Office of the State Employer is continued as an autonomous entity within the Department of Technology, Management, and Budget. The Director of the Office of the State Employer shall continue to be the head of the Office of the State Employer.

2. Except as otherwise provided in this Section III.D, all of the authority, powers, duties, functions, responsibilities, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the principal departments of the executive branch of state government related to the performance of labor relations functions on behalf of the State of Michigan as an employer, including, but not limited to, Civil Service Commission staff, are transferred to the Office of the State Employer.

3. The duties of the Office of the State Employer, shall include, without limitation, all of the following:
- a. Performing the obligations and exercising the rights of the Office of the State Employer under the employee relations rules and regulations of the Civil Service Commission, including, but not limited to, all of the following:
 - i. Developing, directing, and coordinating the employee relations policy of the principal departments of the executive branch of state government as employer.
 - ii. Negotiating with exclusive representatives of employees of the principal departments of the executive branch of state government within the classified state civil service.
 - iii. Recommending to the Civil Service Commission, in consultation with the principal department heads and the Governor, a comprehensive plan for rates of compensation and other conditions of employment for non-exclusively represented employees of the principal departments of the executive branch of state government within the classified state civil service.
 - iv. Directing primary negotiations and coordinating secondary negotiations of collective bargaining agreements.
 - b. Formulating, executing, and administering on behalf of the principal departments of the executive branch of state government as employer, labor-management relations and employee and labor relations policies for employees of the principal departments of the executive branch of state government within the classified state civil service. The Office of the State Employer shall only represent the interests of the principal departments of the executive branch of state government as employer.
 - c. Representing the principal departments of the executive branch of state government before the Civil Service Coordinated Compensation Panel, or any successor entity established by the Civil Service Commission to address issues for non-exclusively represented employees.
 - d. Determining the policy of the principal departments of the executive branch of state government as employer with respect to matters subject to the collective bargaining negotiations.
 - e. Representing the principal departments of the executive branch of state government as employer in negotiations with exclusive representatives, with assistance to the Office of the State Employer provided by departmental bargaining team members nominated by the principal departments, subject to the approval of the Director of the Office of the State Employer.
 - f. Entering into collective bargaining agreements with exclusive representatives concerning negotiable matters.
 - g. Determining the issues that will be the subject of primary negotiations and those that will be the subject of secondary negotiations for the principal departments of the executive branch of state government as employer.
 - h. Participating in secondary negotiations at the departmental level and approving all secondary collective bargaining agreements.
 - i. Representing the principal departments of the executive branch of state government as employer in dispute resolution conferences and mediation.
 - j. Initiating requests for modifications in the employee relations policies, rules, and regulations of the Civil Service Commission.
 - k. Coordinating responses of the principal departments of the executive branch of state government as employer to personnel policy, rule, or regulation changes considered by the Civil Service Commission.
 - l. Initiating, or approving the initiation of, prohibited practice charges against employees or employee organizations and responding to and representing the principal departments of the executive branch of state government as employer with respect to prohibited practice charges filed by employees or employee organizations.
 - m. Exercising final authority for administration of collective bargaining agreements and grievance settlements on behalf of the principal departments of state government as employer and approving all collective bargaining agreement interpretation documents and letters of understanding.
 - n. Making management determinations on behalf of the principal departments of state government as employer regarding which grievance cases should go to arbitration or be afforded a hearing by the Civil Service Commission after consultation with the affected principal department; and approving the management advocate on behalf of the principal departments of state government as employer in the presentation of all arbitrations and grievance hearings under the rules or regulations of the Civil Service Commission.
 - o. Supervising the training of all management personnel involved in the labor relations process for the principal departments of the executive branch of state government as employer with the full cooperation and training of affected principal departments.
 - p. Performing duties vested in the Office of the State Employer under Executive Order 2004-31.
 - q. Serving as a member of the State Equal Opportunity and Diversity Council created by Executive Order

2008-22, or any successor entity.

r. Appointing and supervising clerical and professional staff as the Director of the Office of the State Employer deems necessary.

s. Entering into consulting contracts for personal and professional services related to the functions of the Office of State Employer as the Director of the Office of the State Employer deems necessary in accordance with the relevant statutes, and procedures, rules, and regulations of the Civil Service Commission and the Department.

t. Doing such other things as are necessary for the principal departments of the executive branch of state government as employer to meet responsibilities to recognized employee organizations and foster responsible labor-management relations.

4. The duties of the Office of the State Employer include employee and labor relations matters affecting state classified civil service employees of principal departments within the executive branch of state government covered by employee relations policies, rules, and regulations of the Civil Service Commission, as well as matters affecting Michigan State Police troopers and sergeants who exercise collective bargaining rights under Section 5 of Article XI of the Michigan Constitution of 1963.

5. Nothing in this Section III.D shall be construed to diminish or limit the power of the Civil Service Commission to exercise authority granted to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963. Consistent with Civil Service Commission Rule 6-3.7, the Office of the State Employer shall participate as an advocate on behalf of management in the collective bargaining process as the State Personnel Director and other employees of the Civil Service Commission are prohibited from participating as advocates on behalf of either management or employees in the collective bargaining process.

6. In performing duties relating to collective bargaining and labor relations functions under this Section III.D, the Office of the State Employer shall consult with the Governor and the elected heads of principal departments of the executive branch of state government.

7. The Director of the Office of the State Employer shall provide executive direction and supervision for the implementation of all transfers to the Office of the State Employer under this Section III.D.

8. The Director of the Office of the State Employer shall immediately initiate coordination with affected departments and agencies to facilitate the transfers to the Office of the State Employer under this Section III.D and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved prior to the transfers to the Office of the State Employer under this Section III.D.

9. The Director of the Office of the State Employer shall administer the assigned functions transferred under this Section III.D in such ways as to promote efficient administration and shall make internal organizational changes within the Office of the State Employer as may be administratively necessary to complete the realignment of responsibilities under this Section III.D.

10. State departments, agencies, and officers shall fully and actively cooperate with and assist the Director of the Office of the State Employer in the implementation of this Section III.D. The Director of the Office of the State Employer may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.

11. The Director of the Office of the State Employer may delegate within the Office of the State Employer a duty or power conferred on the Director of the Office of the State Employer, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Office of the State Employer.

12. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Section III.D to the Office of the State Employer are transferred to the Office of the State Employer.

E. Michigan Public Safety Communications System Advisory Board

1. The Michigan Public Safety Communications System Advisory Board created by Executive Order 2005-8 is transferred by Type II transfer from the Department of Information Technology to the Department of Technology, Management, and Budget.

2. The Michigan Public Safety Communications System Advisory Board is renamed the Public Safety Communications Interoperability Board.

3. The Public Safety Communications Interoperability Board shall consist of 16 members, including 9 members appointed by the Governor as provided under Section II.B.1 of Executive Order 2005-8 and the following voting *ex officio* members:

a. The employee within the Department of Technology, Management, and Budget with principal

administrative responsibilities for the Michigan Public Safety Communications System, as designated by the Director of the Department.

b. The officer or employee within the Department of State Police with principal responsibility for this state's emergency management operations, as designated by the Director of the Department of State Police.

c. The State Fire Marshal.

d. The Director of the Department of Community Health, or his or her designee from within the Department of Community Health.

e. The Adjutant General or his or her designee from within the Department of Military and Veterans Affairs.

f. The Director of the Department of Natural Resources and Environment, or his or her designee from within the Department of Natural Resources and Environment.

g. The Director of the Department of Transportation, or his or her designee from within the Department of Transportation.

4. The Public Safety Communications Interoperability Board may establish advisory workgroups or task forces composed of persons representing law enforcement or other governmental or tribal public safety agencies or organizations that operate or utilize public safety communications systems in this state, including, but not limited to, a task force on communications interoperability. The Interoperability Board also may invite the participation of federal homeland security, law enforcement, emergency management, or communications agency officials and personnel, including, but not limited to, federal officials or personnel serving as liaisons to the Interoperability Board. The Interoperability Board may adopt, reject, or modify any recommendations proposed by an advisory workgroup or task force.

5. The Public Safety Communications Interoperability Board may serve as the regional public safety frequency coordination committee to the extent required for this state's compliance with rules or regulations of the Federal Communications Commission or other federal agency.

6. The Public Safety Communications Interoperability Board also may recommend best practices and oversight mechanisms for the implementation of public safety communications systems interoperability and standards in this state.

IV. DEPARTMENT OF INFORMATION TECHNOLOGY

A. The position of the Director of the Department of Information Technology as a member of the advisory committee under Section II of Executive Order 2002-19, MCL 38.1173, is abolished.

B. The position of the Director of the Department of Information Technology, or his or her authorized representative, as a member of the Interagency Council on Spanish-Speaking Affairs under Section III.E.1 of Executive Order 2003-18, MCL 445.2011, and Executive Order 2009-45, is abolished.

C. The position of Director of Department of Information Technology is abolished.

D. The Department of Information Technology is abolished.

V. IMPLEMENTATION OF TRANSFERS TO DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET

A. Except as otherwise provided in this Order, the Director of the Department of Information Technology shall provide executive direction and supervision for the implementation of all transfers to the Department of Technology, Management, and Budget under this Order.

B. The Director of the Department of Information Technology shall immediately initiate coordination with the Department of Management and Budget to facilitate the transfers to the Department of Technology, Management, and Budget under this Order and shall develop and issue a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Information Technology prior to the transfers under this Order.

C. The Director of the Department of Technology, Management, and Budget may establish administrative units within the Department.

D. State departments, agencies, and state officers shall fully and actively cooperate with and assist the Director of the Department of Technology, Management, and Budget in the implementation of this Order. The Director of the Department may request the assistance of other state departments, agencies, and officers with respect to personnel, budgeting, procurement, telecommunications, information systems, legal services, and other management-related functions, and the departments, agencies, and officers shall provide such assistance.

E. The Director of the Department of Technology, Management, and Budget may hire or retain such contractors, sub-contractors, advisors, consultants and agents as the Director of the Department may deem advisable and necessary, in accordance with the relevant statutes and procedures, rules, and regulations of the Civil Service Commission and the Department and may make and enter into contracts necessary or incidental

to the exercise of the powers and performance of the duties of the Department and the Director of the Department. Under this provision, the Director of the Department specifically may hire or retain such contractors, sub-contractors, advisors, consultants, and agents as the Director of the Department may deem advisable and necessary to provide legal advice or legal services, to provide for research and development activity, or to provide strategic planning services.

F. The Department of Technology, Management, and Budget shall administer the assigned functions transferred to the Department under this Order in such ways as to promote efficient administration and the Director of the Department shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

G. The Director of the Department of Technology, Management, and Budget may delegate within the Department a duty or power conferred on the Director of the Department by this Order or by other law, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Department.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred under this Order to the Department of Technology, Management, and Budget are transferred to the Department of Technology, Management, and Budget.

VI. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, regulations, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. This Order shall not abate any criminal action commenced by this state prior to the effective date of this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of this Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective March 21, 2010 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-39, Eff. Mar. 21, 2010.

Compiler's note: For transfer of the office of good government, housed within the department of technology, management, and budget, to the office of performance and transformation, see E.R.O. No. 2016-2, compiled at MCL 18.446.

For transfer of powers and duties of office of state employer related to administration of state employee long-term disability plan and employee service program from office of state employer to Michigan civil service commission, see E.R.O. No. 2016-5, compiled at MCL 38.1175.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2010-10

18.442 Transfer of Michigan economic recovery office to state budget office.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Michigan Economic Recovery Office was created within the Executive Office of the Governor by Executive Order 2009-35;

WHEREAS, under the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, Michigan has received billions of dollars in federal assistance, which helps protect millions of residents impacted by the national recession and allows the state to move forward with its plans to grow the economy and create jobs;

WHEREAS, the majority of the American Recovery and Reinvestment Act funds have been allocated; however, there is a continuing need for the Office to assist with reporting responsibilities as required by law due to strict accountability, transparency and oversight requirements on all state and local recipients of funds;

WHEREAS, it is practicable and necessary in the interests of efficient administration and effectiveness of government to reorganize the executive branch of state government by transferring the Michigan Economic Recovery Office to the State Budget Office;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "ARRA" means the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5.

B. "Department of Technology, Management, and Budget" means the principal department of state government created as the Department of Management and Budget under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and renamed under Executive Order 2009-55, MCL 18.441.

C. "Michigan Economic Recovery Office" or "Office" means the office created within the Executive Office of the Governor under Executive Order 2009-35.

D. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321 and Executive Order 2009-55, MCL 18.441.

E. "State Budget Office" means the office created within the Department of Technology, Management, and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321, and renamed under Executive Order 2009-55, MCL 18.441.

II. TRANSFER

A. The "Michigan Economic Recovery Office" is transferred intact to the State Budget Office, together with all of the authority, powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Office, including, but not limited to, any authority, powers, duties, functions, and responsibilities of the Office under Executive Order 2009-35.

B. The authority, powers, duties, and functions of the Office, including, but not limited to, budgeting, procurement, and related management functions, shall be performed under the direction and supervision of the State Budget Director.

C. The Office includes a Director who shall continue to serve in the position and who shall report to the State Budget Director or his or her designee. In the event of a subsequent vacancy, the Director shall be appointed by the State Budget Director.

D. The Office may employ personnel as necessary to perform the duties and responsibilities of the Office, including, but not limited to, those duties and responsibilities required for compliance with the ARRA.

E. The Director of the State Budget Office shall give executive direction and supervision for the implementation of the transfer to the State Budget Office under this Order, and the Director of the State Budget Office shall make internal organizational changes as necessary to effectuate the transfer.

F. The authority, powers, duties, functions, and responsibilities transferred to the State Budget Office under this Order shall be administered in such ways as to promote efficient administration.

G. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities, powers, duties, functions, and

responsibilities transferred under this Order are transferred to the State Budget Office.

III. MISCELLANEOUS

A. The State Budget Director shall determine the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

B. All rules, orders, contracts, and agreements relating to the transfer under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

This Order is effective on December 27, 2010 at 12:01 a.m.

History: 2010, E.R.O. No. 2010-10, Eff. Dec. 27, 2010.

EXECUTIVE REORGANIZATION ORDER E.R.O. No. 2012-1

18.443 Rescinded. 2012, E.O. No. 2012-6, Eff. Apr. 23, 2012.

Compiler's note: Executive Reorganization Order No. 2012-1 was promulgated Feb. 24, 2012, as Executive Order No. 2012-2, Eff. Apr. 25, 2012. This Executive Reorganization Order was rescinded by Executive Order No. 2012-6, Eff. Apr. 23, 2012.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2012-2

18.444 Transfer of governor's council on educator effectiveness to Michigan department of technology, management, and budget; renaming as Michigan council for educator effectiveness.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, Public Act No. 102 of 2011 amended Section 1249 of the Revised School Code, being MCL 380.1249, to create the Governor's Council on Educator Effectiveness as a temporary commission described in Section 4 of Article V of the Michigan Constitution of 1963 in the Executive Office of the Governor; and

WHEREAS, all members of the Governor's Council on Educator Effectiveness were appointed on September 22, 2011; and

WHEREAS, the performance of Michigan's public schools is vital to our future; and

WHEREAS, the Council would be most effective if assigned to one of the principal departments;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. MICHIGAN COUNCIL FOR EDUCATOR EFFECTIVENESS

A. The Governor's Council on Educator Effectiveness, created by Public Act No. 102 of 2011, and all of its statutory authority, powers, duties, functions, records, personnel, and property is transferred to the Michigan Department of Technology, Management and Budget.

B. The Governor's Council on Educator Effectiveness is renamed the Michigan Council for Educator Effectiveness.

II. MISCELLANEOUS

A. The Department of Technology, Management and Budget shall provide staffing for the Michigan Council for Educator Effectiveness.

B. The Director of the Department of Technology, Management and Budget shall perform all budgeting, procurement, and related management functions of the Council.

C. The Senior Strategy Advisor to the Governor is designated to be the liaison between the Office of the Governor and the Michigan Council for Educator Effectiveness.

D. All rules, orders, contracts, and agreements relating to the functions transferred under this order lawfully adopted prior to the effective date of this order shall continue to be effective until revised, amended, repealed, or rescinded.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order shall be effective 60 days after the filing of this Order.

History: 2012, E.R.O. No. 2012-2, Eff. May 27, 2012.

Compiler's note: Executive Reorganization Order No. 2012-2 was promulgated March 27, 2012 as Executive Order No. 2012-3, Eff. May 27, 2012.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2015-2

18.445 Creation of state school reform/redesign office within department of technology, management, and budget; transfer of state school reform/redesign school district from department of education to state school reform/redesign office; transfer of state school reform/redesign officer from department of education to state school reform/redesign office; transfer of authority to hire officer from superintendent of public instruction to director of department of technology, management, and budget; transfer of powers and duties of department of education under MCL 380.1280c to state school reform/redesign office; transfer of certain powers and duties of superintendent of public instruction to state school reform/redesign office.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, Section 1 of Article VIII of the Michigan Constitution of 1963 provides in part that schools and the means of education shall forever be encouraged; and

WHEREAS, Section 2 of Article VIII of the Michigan Constitution of 1963 provides in part that the legislature shall maintain and support a system of free public elementary and secondary schools as defined by law; and

WHEREAS, Section 3 of Article VIII of the Michigan Constitution of 1963 vests leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, in the State Board of Education; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, the economic success of our state is dependent on having an educated and skilled citizenry that begins with every student having a quality education that prepares them for career and college readiness and success; and

WHEREAS, the State School Reform/Redesign Officer and State School Reform/Redesign School District were created to advance dramatic improvement in Michigan's lowest achieving public schools, as defined under state law; and

WHEREAS, by September 1st of each year, the Superintendent of Public Instruction is required to publish a list identifying the public schools in this state that the Michigan Department of Education has determined to be among the lowest achieving 5% of all public schools in this state, as defined under state law; and

WHEREAS, except public schools under the supervision of an emergency manager, the Superintendent of Public Instruction is required to issue an order placing each public school included on the list under the supervision of the State School Reform/Redesign Officer, and the governing board of each identified public school is required to submit a redesign plan to the State School Reform/Redesign Officer implementing a school intervention model, as defined under state law; and

WHEREAS, if the State School Reform/Redesign Officer does not approve the redesign plan or determines that the redesign plan is not achieving satisfactory results, the State School Reform/Redesign Officer shall issue an order placing the public school in the State School Reform/Redesign School District, imposing for the public school implementation of a school intervention model, as defined under state law; and

WHEREAS, since the creation of the State School Reform Officer in 2010, the State School Reform/Redesign Officer has approved redesign plans for 212 public schools; and

WHEREAS, 54 public schools have operated under a redesign plan for more than 3 years; and

WHEREAS, despite not achieving satisfactory outcomes, the current structure has neither implemented the rigorous supports and processes needed to create positive academic outcomes nor placed any of the identified low achieving schools in the State School Reform/Redesign School District; and

WHEREAS, many schools continue to perform at levels that hamper the ability of students to receive an education that prepares them for career and college readiness and success; and

WHEREAS, the state's lowest performing schools are in the greatest need of rigorous support structures and interventions in order to prevent further academic decline; and

WHEREAS, there is an immediate need to bring together the necessary school improvement resources within this state and utilize all the necessary school improvement models and strategies available for schools, to ensure that all students are given the opportunity to success in the classroom;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Department of Education" means the principal department of state government created under Section 300 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.400.

B. "Department of Technology, Management, and Budget" or "Department" means the principal department of state government created by Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121, and renamed the Department of Technology, Management, and Budget under Executive Order 2009-55, MCL 18.441.

C. "State" means the state of Michigan.

D. "State Board of Education" means the board created under Section 3, Article VIII, of the Michigan Constitution of 1963.

E. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321, and Executive Order 2009-55, MCL 18.441.

F. "State Budget Office" or "Office" means the office created under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

G. "State School Reform/Redesign School District" or "District" means the school district created under Section 1280c(6) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

H. "State School Reform/Redesign Office" means the office created within the Department of Technology, Management, and Budget under Section II of this Order.

I. "State School Reform/Redesign Officer" or "Officer" means the officer described in Section 1280c(9) of the Revised School Code, 1976 PA 451, MCL 380.1280c, and authorized to act as the superintendent of the State School Reform/Redesign District under Section 1280c(6)(b) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

J. "Superintendent of Public Instruction" means the principal executive officer of the Department of Education required under Section 3, Article VIII, of the Michigan Constitution of 1963.

II. CREATION OF STATE SCHOOL REFORM/REDESIGN OFFICE

A. The State School Reform/Redesign Office is created as an autonomous entity within the Department of Technology, Management, and Budget.

B. The Office shall exercise its statutory powers, duties, and functions, including but not limited to rule-making, licensing, and registration, including any prescription of rules, rates, regulations, and standards, and adjudication independently of the Director of the Department. All budgeting, procurement, and related management functions of the Office shall be performed under the direction and supervision of the Director of the Department.

C. The Director of the Department shall be the appointing authority for employees of the Office.

III. STATE SCHOOL REFORM/REDESIGN SCHOOL DISTRICT AND STATE SCHOOL REFORM/REDESIGN OFFICER

A. The State School Reform/Redesign School District is transferred from the Department of Education to the State School Reform/Redesign Office.

B. The State School Reform/Redesign Officer is transferred from the Department of Education to the State School Reform/Redesign Office. The Officer shall be the head of the Office and shall carry out the functions vested in the Officer in this Order and as otherwise prescribed by law, including, but not limited to, acting as the superintendent of the State School Reform/Redesign District and performing functions and responsibilities vested in the State School Reform/Redesign Officer under Section 15(5) of 1947 PA 336, MCL 423.215. The authority to hire the Officer is transferred from the Superintendent of Public Instruction to the Director of the Department of Technology, Management, and Budget, who shall be the appointing authority for the Officer. The Officer shall be chosen solely on the basis of his or her competence and experience in educational reform and redesign. The Officer shall be exempt from and not within the classified state civil service. The Department of Technology, Management, and Budget shall request the Civil Service Commission to establish the Officer's position as an exempt position of a policy-making nature within the Department.

C. All authority, powers, duties, functions, and responsibilities of the Department of Education under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c, are transferred to the State School Reform/Redesign Office, including, but not limited to, all of the following authority, powers, duties, functions, and responsibilities:

1. Determining under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c(1), which public schools in this state are among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

2. Posting on a website the federal work rules and formula for identifying the lowest achieving 5% of all public schools in this state for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, known as the "race to the top" grant program and a list of public schools in this state that have been identified for these purposes as being among the lowest achieving 5% of all public schools in this state, and updating the list as considered appropriate under Section 1280c(15) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

3. Except as prohibited by federal law, administration of any federal waivers granted by the United States Department of Education relating to the authority, powers, duties, functions, and responsibilities of the Department of Education, relating to the District, or the Officer under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c.

D. Except as provided in Section III.E, all authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c, and Section 15(6) of 1947 PA 336, MCL 423.215, are transferred to the State School Reform/Redesign Office, including, but not limited to, all of the following authority, powers, duties functions, and responsibilities::

1. Publication of a list identifying the public schools in this state that are determined to be among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

2. Issuance of orders placing each school that is included on the list under Section 1280c(1) of the Revised School Code, 1976 PA 451, MCL 380.1280c, under the supervision of the State School Reform/Redesign Officer.

3. Appointing a chief executive officer to take control over multiple public schools and directing the chief executive officer to exercise other powers or duties over the public schools under Section 1280c(7) of the Revised School Code, 1976 PA 451, MCL 380.1280c, and powers or duties under Section 15(5) of 1947 PA 336, MCL 423.215.

4. Releasing a public school from measures imposed under Section 1280c(6) or 1280c(7) of the Revised School Code, 1976 PA 451, MCL 380.1280c, under section 1280c(13) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

5. Except as prohibited by federal law, administration of any federal waivers granted by the United States Department of Education relating to the authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction relating to the District or the Officer under Section 1280c of the Revised School Code, 1976 PA 451, MCL 380.1280c.

E. The Superintendent of Public Instruction shall retain the authority, powers, duties, functions, and responsibilities to hear and decide appeals from a school board or a board of directors under Section 1280c(4) of the Revised School Code, 1976 PA 451, MCL 380.1280c.

F. All of the following authority, powers, duties, functions, and responsibilities of the Superintendent of Public Instruction are transferred to the State School Reform/Redesign Office:

1. Determining that a public school academy that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 507 of the Revised School Code, 1976 PA 451, MCL 380.507, and notifying the public school academy's authorizing body under Section 507(5) of the Revised School Code, 1976 PA 451, MCL 380.507, of that determination.

2. Determining that an urban high school academy that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive

grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 528 of the Revised School Code, 1976 PA 451, MCL 380.528, and notifying the urban high school academy's authorizing body under Section 528(5) of the Revised School Code, 1976 PA 451, MCL 380.528, of that determination.

3. Determining that a school of excellence serving a special student population that has been operating for at least 4 years is among the lowest achieving 5% of all public schools in this state, as defined for the purposes of the federal incentive grant program created under sections 14005 and 14006 of title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, is in year 2 of restructuring sanctions under the No Child Left Behind Act of 2001, Public Law 107-110, not to include the individualized education plan subgroup, and is not currently undergoing reconstitution under Section 561 of the Revised School Code, 1976 PA 451, MCL 380.561, and notifying the school of excellence's authorizing body under Section 561 of the Revised School Code, 1976 PA 451, MCL 380.561, of that determination.

IV. IMPLEMENTATION

A. Nothing in this Order should be construed to diminish the role of the State Board of Education under Section 3 of Article VIII of the State Constitution of 1963 in providing leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, to serve as the general planning and coordinating body for all public education, including higher education, or to advise the Legislature as to the financial requirements in connection therewith.

B. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the State School Reform/Redesign School Office for the authority, powers, duties, functions, and responsibilities transferred under this Order are transferred to Office.

C. The State School Reform/Redesign Officer shall administer functions and responsibilities assigned under this Order in such a way as to promote efficient administration. The Director of the Department of Technology, Management, and Budget and the State School Reform/Redesign Officer shall make internal organizational changes as may be administratively necessary to complete the realignment of functions and responsibilities by this Order pursuant to MCL 16.107.

D. The Director of the Department of Technology, Management, and Budget shall provide executive direction and supervision for the implementation of the transfers under this Order.

E. The Director of the Department of Technology, Management, and Budget and the Superintendent of Public Instruction shall immediately initiate coordination to facilitate the transfers under this Order and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Education.

F. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

G. All rules, orders, contracts, plans, and agreements relating to the functions and responsibilities transferred by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

H. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective on 60 days after the filing of this Order.

History: 2015, E.R.O. No. 2015-2, Eff. May 12, 2015.

Compiler's note: Executive Reorganization Order No. 2015-2 was promulgated March 12, 2015 as Executive Order No. 2015-9, Eff. May 12, 2015.

For transfer of powers and duties under MCL 380.1280c that were transferred from department of education to state school reform/redesign office by E.O. No. 2015-9 back to the department of education with the transfer of school reform/redesign office from department of technology, management and budget to the department of education, see E.R.O. No. 2017-2, compiled at MCL 388.1282.

For transfer of powers and duties under MCL 380.1283c and 423.215 that were transferred from superintendent of public instruction to state school reform/redesign office by E.O. No. 2015-9 back to superintendent of public instruction with transfer of state school reform/redesign office from department of technology, management, and budget to department of education, see E.R.O. No. 2017-2, compiled at MCL 388.1282.

Comment: Paragraph III.B of E.O. 2015-9 is rescinded.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2016-2

18.446 Creation of office of performance and transformation within state budget office, department of technology, management, and budget; transfer of powers and duties of office of regulatory reinvention to office of performance and transformation; transfer of powers and duties of director of licensing and regulatory affairs as executive director of office of regulatory reinvention and chief regulatory officer to executive director of office of performance and transformation; transfer of powers and duties of office of good government from administrative unit within department of technology, management, and budget to office of performance and transformation; operation of reinventing performance in Michigan center of excellence; abolishment of office of regulatory reinvention.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, there is a continued need to reorganize the functions among state departments for efficient administration; and

WHEREAS, state government must be innovative and efficient in order to deliver the services citizens deserve; and

WHEREAS, the people of the state of Michigan deserve a regulatory environment and regulatory processes that are fair, efficient, transparent, innovative, and conducive to business growth and job creation; and

WHEREAS, the core functions of regulatory reinvention, systematic process review, and strategic and performance excellence by state departments and agencies are inherently and inextricably linked; and

WHEREAS, the movement toward government excellence and transformation must be aligned with accountability and financial resources through a permanent linkage with the Office of Internal Audit and the State Budget Office;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. CREATION

A. The Office of Performance and Transformation ("OPT") is created within the State Budget Office, Department of Technology, Management and Budget.

B. The State Budget Director shall appoint an Executive Director of OPT. In addition to the powers, duties, and responsibilities vested in the Executive Director of OPT under this Order or by Michigan law as transferred by this Order, the Executive Director may also serve in other offices within the State Budget Office provided those offices are not incompatible under Michigan law.

C. OPT shall be responsible for continuous and systematic review and coordination of the state's regulatory, business, and customer service environments and processes as well as coordination and implementation of performance management metrics, service process optimization efforts, employee engagement programs and protocols, and change management and leadership education and training.

II. TRANSFER OF OFFICE OF REGULATORY REINVENTION

A. All authority, powers, duties, functions, responsibilities, and rulemaking authority vested in the Office of Regulatory Reinvention under Executive Order 2011-5 are transferred to OPT.

B. All authority, powers, duties, functions, and responsibilities vested in the Director of the Department of Licensing and Regulatory Affairs as Executive Director of the Office of Regulatory Reinvention and Chief Regulatory Officer of the state of Michigan are transferred to the Executive Director of OPT. The Executive Director of OPT is the Chief Regulatory Officer of the state of Michigan.

C. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Licensing and Regulatory Affairs for the activities, powers, duties, functions, and responsibilities transferred by Section II of this Order are transferred to OPT.

D. The Executive Director of OPT, after consultation with the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers.

The assigned functions shall be administered under the direction and supervision of the Executive Director of OPT.

III. TRANSFER OF OFFICE OF GOOD GOVERNMENT

A. All authority, powers, duties, functions, and responsibilities of the Office of Good Government, an administrative unit housed within the Department of Technology, Management and Budget, are transferred to OPT.

B. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Technology, Management and Budget for the activities, powers, duties, functions, and responsibilities transferred by Section III of this Order are transferred to OPT.

C. The Executive Director of OPT, after consultation with the Director of the Department of Technology, Management and Budget shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director of OPT.

D. The Executive Director of OPT and the Director of the Department of Technology, Management and Budget shall jointly identify the program positions and administrative function positions that will be transferred to OPT under this Order. All transfers to OPT shall be consistent with this Order and documented by a memorandum of understanding between the Director of the Department of Technology, Management and Budget and the Executive Director of OPT.

IV. CENTER FOR REINVENTING PERFORMANCE IN MICHIGAN

A. OPT shall develop, maintain, monitor, and facilitate Lean process initiatives to be implemented in each department and agency. OPT shall establish uniform protocols and procedures to be used for these Reinventing Performance in Michigan ("RPM") initiatives.

B. OPT shall operate a RPM Center of Excellence to provide coaching, mentoring, and oversight for all state and agency RPM initiatives.

C. The Executive Director of OPT and the Directors of the Department of Licensing and Regulatory Affairs and the Department of Technology, Management and Budget shall jointly identify the program positions and administrative function positions that will be transferred to OPT under this Order to operate the RPM Center of Excellence. All transfers to OPT shall be consistent with this Order and documented by a memorandum of understanding between the Director of the principal department affected by this Order and the Executive Director of OPT.

V. OTHER DUTIES AND RESPONSIBILITIES

A. OPT shall develop, maintain, and promote statewide programs for change management, employee engagement, performance management, and process improvement. Such programs may include the following:

1. Creation and maintenance of communication mechanisms, such as websites, to inform departments and agencies and the public on performance excellence matters.
2. Assignment of liaisons to each department or agency to lend support for performance excellence activities.
3. Coordination of periodic statewide employee surveys.
4. Creation and maintenance of information technology systems to store and report information regarding activities and plans for employee engagement, performance management, and process improvement.
5. Coordination of training programs for state employees to promote leadership and manager development, employee engagement, performance management, and process improvement.
6. Scheduling and hosting periodic employee events and employee recognition programs.

B. OPT shall periodically review and evaluate the existing and proposed performance excellence activities and plans of the departments and agencies.

C. OPT shall make an annual written report to the Governor with respect to its review and recommendations concerning statewide performance excellence activities. In forming its recommendations, OPT shall consider such factors and information it deems useful, including consultation with the Directors of Departments.

D. Within 30 days of the date of this Order, each Department and Agency Director shall designate a Performance Excellence Officer who shall be responsible for coordinating performance excellence responsibilities and who shall serve as the liaison to OPT.

E. No later than October 1, 2016, and by October 1 of each successive year, each Performance Excellence Officer shall submit to OPT a Performance Excellence Plan, which shall include, at minimum, each performance excellence initiative that the Performance Excellence Officer reasonably expects to begin processing during the following 12-month period. The Department and Agency Director shall personally

approve the Performance Excellence Plan. OPT shall determine such other contents of the Performance Excellence Plan that it deems necessary.

VI. IMPLEMENTATION

A. The Directors of the Departments impacted by this Order shall administer the functions transferred in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

B. All records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be available to entities transferred by this Order are hereby transferred to the Executive Director of OPT.

C. All rules, orders, contracts, plans, and agreements relating to the functions transferred by this Order lawfully adopted prior to the effective date of this Order by the responsible state department shall continue to be effective until revised, amended, or rescinded.

D. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

E. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

F. The Office of Regulatory Reinvention, created by Executive Order 2011-5, is abolished.

G. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

History: 2016, E.R.O. No. 2016-2, Eff. Apr. 3, 2016.

Compiler's note: Executive Reorganization Order No. 2016-2 was promulgated February 2, 2016, as Executive Order No. 2016-4, Eff. Apr. 3, 2016.

For a type III transfer of the office of good government, office of reinventing performance in Michigan, office of interagency initiatives, office of regulatory reinvention, and office of performance and transformation to department of technology, management, and budget, see E.R.O. 2019-1, compiled at MCL 324.99923.

THE MANAGEMENT AND BUDGET ACT Act 431 of 1984

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.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1994, Act 301, Imd. Eff. July 14, 1994.

Popular name: Act 431

Popular name: DMB

The People of the State of Michigan enact:

ARTICLE 1

18.1101 Short title.

Sec. 101. This act shall be known and may be cited as "the management and budget act".

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1111 Meanings of words and phrases.

Sec. 111. For purposes of this act, the words and phrases defined in sections 112 to 115 have the meanings ascribed to them in those sections. These definitions, unless the context requires otherwise, apply to use of the defined terms in this act. Other definitions applicable to specific articles or sections of this act are found in those articles or sections.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1112 Definitions; A, B.

Sec. 112. (1) "Appropriation" means the legislative authorization for expenditure or obligation of money from a state operating fund.

(2) "Appropriations committees" means the appropriations committee of the senate and the appropriations committee of the house of representatives.

(3) "Board" means the state administrative board.

(4) "Budget act" means an act containing appropriations which form a portion of the state's annual budget.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1113 Definitions; C to E.

Sec. 113. (1) "Capital outlay" means a project or facility financed either in whole or in part with state funds, including lease purchase agreements, to demolish, construct, renovate, or equip a building or facility for which total project costs exceed \$1,000,000.00. These projects may be on state owned property, property owned by an institution of higher education, property owned by community colleges, or property under the control of the state building authority.

(2) "Community college" means a community college or a junior college.

(3) "Department" means the department of technology, management, and budget.

(4) "Directives" means intergovernmental, interagency, or interdepartment administrative or procedural guidelines or instructions which do not affect the rights of, or procedures and practices available to, the public.

(5) "Director" means the director of the department of technology, management, and budget.

(6) "Energy conservation measure" means improvement of a building structurally or the installation of equipment or materials in a building for the purpose of reducing energy consumption or cost, increasing energy efficiency, or allowing the use of a renewable resource for fuel.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1987, Act 122, Eff. July 23, 1987;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1114 Definitions; F.

Sec. 114. (1) "Facility" means a building or structure along with the building's or structure's grounds, approaches, services, and appurtenances owned by, or leased through a building authority by, the state such as office buildings, research buildings, academic buildings, laboratories, hospitals, prisons, recreational structures, garages, warehouses, physical plant buildings, energy or power plants, and any other building or project included by the director if the director considers the building or project to be in the public interest. Facility does not include any of the following:

(a) A building or structure for an institution of higher education except as mutually agreed upon by the director and the governing board of the state institution of higher education.

(b) A road, bridge, or railroad under the jurisdiction of the state transportation department.

(c) An existing building or structure which is mutually agreed to be excluded from the definition of facility by the department and the state agency having jurisdiction over the building or structure.

(d) The capitol building and grounds. As used in this subdivision, "grounds" means the property upon which the state capitol building is situated, bordered on the north by Ottawa street; on the east by Capitol avenue; on the south by Allegan street; and on the west by Walnut street.

(e) A building or structure owned by, or under the jurisdiction of, the legislature.

(2) "Fiscal agencies" means the senate fiscal agency and the house fiscal agency.

(3) "FTE" means full-time equated position in the classified service of this state.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1987, Act 122, Eff. July 23, 1987;—Am. 1988, Act 306, Eff. Sept. 1, 1988;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 332, Imd. Eff. Dec. 21, 1990;—Am. 2001, Act 61, Eff. Oct. 1, 2001.

Popular name: Act 431

Popular name: DMB

18.1115 Definitions; I to U.

Sec. 115. (1) "Institution of higher education" or "university" means a state supported 4-year college or university.

(2) "Information technology services" means services involving all aspects of managing and processing information, including, but not limited to, all of the following:

(a) Application development and maintenance.

(b) Desktop computer support and management.

(c) Mainframe computer support and management.

(d) Server support and management.

(e) Local area network support and management, including, but not limited to, wireless networking.

(f) Information technology project management.

(g) Information technology planning and budget management.

(h) Telecommunication services, security, infrastructure, and support.

(3) "JCOS" means the joint capital outlay subcommittee of the appropriations committees.

(4) Except as used in sections 284 to 292, "record" means a public record as defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

(5) "State agency" means a department, board, commission, office, agency, authority, or other unit of state government. State agency does not include an institution of higher education or a community college or, for purposes of article 2 or 3, the legislative branch of government. For purposes of article 2 or 3, except for those sections pertaining to the authorization, planning, construction, and funding of a capital outlay project, including construction of a facility to house offices or functions necessary for operation of the judicial branch of government, state agency does not include the judicial branch of government.

(6) "Unit of local government" means a political subdivision of this state, including school districts,

community college districts, intermediate school districts, cities, villages, townships, counties, and authorities, if the political subdivision has as its primary purpose the providing of local governmental service for citizens in a geographically limited area of the state and has the power to act primarily on behalf of that area.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1121 Department of management and budget; creation.

Sec. 121. The department of management and budget is hereby created.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan Compiled Laws.

For transfer of powers and duties of office of regulatory reform from the executive office of the governor to the department of management and budget, see E.R.O. No. 2002-7, compiled at MCL 10.153 of the Michigan Compiled Laws.

Popular name: Act 431

Popular name: DMB

18.1122 Director as head of department.

Sec. 122. The head of the department of management and budget is the director of the department of management and budget.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1123 Director; appointment; term; chief information officer.

Sec. 123. (1) The director of the department of technology, management, and budget shall be appointed by the governor by and with the advice and consent of the senate. The director shall serve at the pleasure of the governor.

(2) The governor shall designate an individual within the department, including, but not limited to, the director of the department, to serve as the chief information officer for this state. The director may serve concurrently as the state chief information officer.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1124 Director; powers and duties generally; chief information officer; report; powers and duties; executive branch sharing of data and information.

Sec. 124. (1) The director may organize the department into organizational entities and may merge or transfer functions between organizational entities to promote efficiency and economy. The director shall exercise direction and supervision over the organization entities in the performance of the respective functions. The director may appoint deputies and other officers and employees as permitted by law to effectively accomplish the duties and responsibilities of the department. The director may designate a deputy or other employee to act on behalf of the director.

(2) The chief information officer shall report to and advise the governor on matters relating to information technology services and related technology. Under direction and guidance of the chief information officer, the department shall do all of the following related to information technology services:

(a) Lead state efforts to reengineer the information technology infrastructure of this state to achieve the use of common technology across the executive branch of state government.

(b) Coordinate a unified executive branch strategic information technology plan, identify best practices from executive branch agencies and other public and private sector entities, and develop and implement processes to replicate information technology best practices and standards throughout the executive branch of state government.

(c) Oversee the expanded use and implementation of project management principles related to information technology services within the executive branch of state government. Funded projects within all executive branch departments and agencies shall use project management methodologies specified by the chief information officer for this state.

(d) Serve as a general contractor between information technology users within the executive branch and private-sector providers of information technology products and services while working to build stronger partnering relationships with providers.

(e) Develop and periodically update service-level agreements with executive branch departments and agencies to ensure quality information technology services are delivered on schedule and within budget.

(f) Develop standards for application development, including, but not limited to, a standard methodology and cost-benefit analysis that all executive branch departments and agencies shall utilize for application development activities.

(g) Determine and implement statewide efforts to standardize data elements, formats, and standards and determine data and information ownership or control issues among departments and agencies in the executive branch of state government with the full cooperation of executive branch departments and agencies.

(h) Develop systems and methodologies to review, evaluate, and prioritize existing information technology services projects within the executive branch of state government.

(i) Assist the office of the state budget director with the development of information technology services budgets for the executive branch of state government. All information technology budget requests from the executive branch must continue to be submitted to the office of the state budget director and the chief information officer. The office of the state budget director and the chief information officer will continue to jointly review and recommend for funding consideration only those proposals that fit into the overall strategic information technology management plan of this state and that provide a reasonable return on investment, subject to available resources.

(3) All executive branch departments and agencies shall fully cooperate with the state chief information officer in developing and implementing the sharing of data and information throughout the executive branch. The state chief information officer shall determine and implement statewide efforts to standardize data elements and shall determine data ownership assignments among executive branch departments and agencies.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1125 Film production located in state; use of state property; information about potential film locations; definitions.

Sec. 125. (1) The director may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the department for the purpose of producing a film under terms and conditions established by the director. The economic and other benefits to this state of film production located in this state shall be considered to be the value received by this state in exchange for the use of property under this section.

(2) The director shall not authorize the use of property owned by or under the control of the department for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the department and the use of property owned by or under the control of the department.

(4) As used in this section:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) "Michigan film office" means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

History: Add. 2008, Act 76, Imd. Eff. Apr. 8, 2008.

Popular name: Act 431

Popular name: DMB

18.1131 Administrative and procedural directives; rules.

Sec. 131. (1) The director may issue, alter, or rescind administrative and procedural directives as determined to be necessary for the effective administration of this act. The directives are exempt from the definition of a rule pursuant to section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207. The directives shall be placed in the appropriate manual and distributed to each principal department, autonomous entity within state government, the senate and house appropriations committees, and the fiscal agencies. The directives shall take effect upon written approval of the director unless a later date is specified. Before a directive may become effective, the department shall give the affected principal departments reasonable time, as determined by the department of management and budget, to respond.

(2) The department may promulgate rules as necessary to implement this act. The rules shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

Administrative rules: R 18.201 et seq.; R 18.401 et seq.; and R 18.501 et seq. of the Michigan Administrative Code.

18.1141 Duties of department.

Sec. 141. The department shall do all of the following:

(a) Survey and examine the administrative organization and operations of state agencies to secure greater administrative and program efficiency and economy, to minimize the duplication of activities among state agencies and between state agencies and businesses, and to effect a better organization and consolidation of functions among state agencies. The findings of the surveys shall be incorporated and separately identified in the executive budget that is transmitted to the legislature. Through the executive budget process, the director may require state agencies to assist the department in making its surveys.

(b) Provide for expert and uniform conduct in state operations applicable to all state agencies.

(c) Provide centralized management of auxiliary services when advantageous to state government, after consultation with any affected state agency.

(d) Establish a comprehensive system of internal controls in the management of the state's financial affairs and record the transactions both in accordance with generally accepted accounting principles and as required by law.

(e) Plan, prepare, and execute a comprehensive state budget pursuant to the state constitution of 1963.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1145 Type I transfers to department.

Sec. 145. (1) As used in this section, "type I transfer" means a type I transfer as defined in section 3 of Act No. 380 of the Public Acts of 1965, being section 16.103 of the Michigan Compiled Laws.

(2) The state building authority created under Act No. 183 of the Public Acts of 1964, being sections 830.411 to 830.425 of the Michigan Compiled Laws, is transferred by a type I transfer to the department.

(3) The following boards and agencies are transferred by a type I transfer to the department:

(a) The judges' retirement system retirement board created under section 3 of Act No. 198 of the Public Acts of 1951, being section 38.803 of the Michigan Compiled Laws.

(b) The municipal employees' retirement system retirement board created under section 3 of Act No. 135 of the Public Acts of 1945, being section 38.603 of the Michigan Compiled Laws.

(c) The probate judges' retirement system retirement board created under section 3 of Act No. 165 of the Public Acts of 1954, being section 38.903 of the Michigan Compiled Laws.

(d) The Michigan public school employees' retirement board created under section 22 of chapter 1 of Act No. 300 of the Public Acts of 1980, being section 38.1322 of the Michigan Compiled Laws.

(e) The state employees' retirement system retirement board created under section 3 of Act No. 240 of the Public Acts of 1943, being section 38.3 of the Michigan Compiled Laws.

(f) The state police pension board of review created under section 5 of Act No. 251 of the Public Acts of 1935, being section 28.105 of the Michigan Compiled Laws.

(g) The Michigan veterans' trust fund board of trustees created under section 3 of Act No. 9 of the Public Acts of the First Extra Session of 1946, being section 35.603 of the Michigan Compiled Laws.

(4) The state administrative board created under Act No. 2 of the Public Acts of 1921, being sections 17.1 to 17.3 of the Michigan Compiled Laws, is transferred as an organizational entity, together with all of its records, staff, property, and funds, to the department. The provisions of any other act notwithstanding, the

membership of the state administrative board shall be the governor, who shall serve as chairperson, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and state treasurer. The provisions of any other act notwithstanding, the action of the board shall become final within 2 calendar days unless the governor, in writing, disapproves such action.

(5) All powers, duties, and functions of the secretary of state under Act No. 44 of the Public Acts of 1899, being sections 24.1 to 24.37 of the Michigan Compiled Laws, are transferred to the department.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

ARTICLE 2

18.1201 Equipment, furniture, and furnishings.

Sec. 201. The department may issue directives for each state agency to provide for all the following for equipment, furniture, and furnishings in its possession:

- (a) Custody and maintenance.
- (b) Periodic inventories.
- (c) Maintenance and retention of records of the equipment, furniture, and furnishings relative to ownership, cost, operation, maintenance, and warranties.
- (d) Destruction of, or the declaration as surplus of, equipment, furniture, and furnishings, after consultation with any affected state agency.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1203 State automated information processing installations and telecommunications projects and services.

Sec. 203. (1) The department shall issue directives, after consultation with any affected state agency, relative to state automated information processing installations and telecommunications projects and services including the planning, establishment, consolidation, or outsourcing of state information processing installations and telecommunications projects and services to assure the design, implementation, and maintenance of effective and efficient support systems for state agencies.

(2) Within 120 days after the end of each fiscal year, the department shall report to the appropriations committees and the fiscal agencies for the immediately past completed fiscal year. The report shall include all of the following:

(a) A departmental summary of expenditures and source of funding for all information technology projects undertaken by a principal department.

(b) Expenditures on information technology hardware, information technology software, information technology consulting services entered into with the private sector, and expenditures related to state employees whose primary work assignment involves information technology support.

(c) A distinction between information technology expenditures made directly by state departments and those expenditures made through contracts with the private sector.

(3) An expenditure shall not be made for automated information processing unless the expenditure is pursuant to an automated information processing plan that is approved by the department.

(4) The department shall develop and maintain a statewide plan for the effective and efficient utilization of information processing and telecommunication projects and services.

(5) The department may arrange for and effect a unified and integrated statewide information processing and telecommunication system and provide for the administration of the system.

(6) A state agency shall not purchase or operate a telecommunications facility or system or an automated data processing system or installation unless the facility, system, or installation is approved by the department.

(7) Each state agency shall report to the department and to the appropriate appropriations committees and fiscal agencies on each informational system sold or marketed by the state agency or a contractor hired by the state agency. The report shall include all costs of development of the system, the income derived from the marketing or sale, and the disposition of the income.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions,
Rendered Monday, July 7, 2025

and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan Compiled Laws.

Popular name: Act 431

Popular name: DMB

18.1204 Standardized risk management policies, practices, and procedures; development and implementation; review, approval, and administration of risk management related programs; insurance or related services; self-insurance options.

Sec. 204. (1) The department shall develop and implement standardized risk management policies, practices, and procedures for all state agencies.

(2) The department shall review and approve all risk management related programs of state agencies, including, but not limited to, worker's compensation, disability management, insurance, safety, loss control, claims handling, exposure analysis, accident investigation, and risk management information systems.

(3) After consultation with affected state agencies, the department may administer selected risk management related programs as described in subsection (2).

(4) The department shall review and approve all proposals for the acquisition of insurance or risk management related program services for state agencies and utilize self-insurance options if cost effective.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1205 Additional definitions.

Sec. 205. (1) As used in this section:

(a) "Form" means an application, questionnaire, permit, order, schedule, record, report, or document in regular and continuing use that is used to obtain information, response, compliance, or application that is required from the public or private sector by this state.

(b) "Forms management program" means a total system intended to improve the efficiency of state government through forms including, but not limited to, survey, analysis, design, specification, printing, buying, inventory storage, use, and distribution of forms.

(2) The department shall issue directives for the implementation and maintenance of a forms management program within each state agency. The department shall coordinate the development of forms at state agencies in order to facilitate the standardization of forms, recommend the elimination of redundant forms, and provide a central source of information regarding forms usage in state government.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1206 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to forms management program.

Popular name: Act 431

Popular name: DMB

18.1206a Designation of racial or ethnic classification in writing developed by state agency; transmission of information to federal agency; "writing" defined.

Sec. 206a. (1) A state agency shall do both of the following if that state agency lists racial or ethnic classifications in a writing developed or printed 90 or more days after the effective date of this section, and if that state agency requests that an individual select a classification to designate his or her race or ethnicity:

(a) Include in the writing the term "multiracial" as a classification, and a definition of that term that substantially provides that "multiracial" means having parents of different races.

(b) Exclude from the writing the term "other" as a classification.

(2) If a federal agency requires a state agency to transmit information obtained from an individual pursuant to a writing described in subsection (1), but rejects the classification "multiracial", the state agency shall redesignate the individuals identified as multiracial by allocating those individuals to racial or ethnic classifications approved by the federal agency in the same ratio that those classifications occur within the general population of the group from which the information was solicited.

(3) As used in this section, "writing" means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.

History: Add. 1995, Act 89, Imd. Eff. June 20, 1995.

Popular name: Act 431

Popular name: DMB

18.1207 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to designation of racial or ethnic classification in writing developed by state agency.

Popular name: Act 431

Popular name: DMB

18.1208-18.1211 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Compiler's note: The repealed sections pertained to public forms.

Popular name: Act 431

Popular name: DMB

18.1213 "Fund" and "motor vehicle" defined; directives relative to motor vehicles; motor vehicle repair centers and motor pools; creation of motor transport revolving fund; disposition of revenue; assets and liabilities; use of alternative fuels; "alternative fuel" defined.

Sec. 213. (1) As used in this section:

(a) "Fund" means the motor transport revolving fund created in subsection (4).

(b) "Motor vehicle" means a passenger vehicle, van, minibus, bus, truck, tractor, or other motorized vehicle.

(2) The department may issue directives relative to all the following for motor vehicles except for those motor vehicles under the jurisdiction of the state transportation department:

(a) The purchasing, leasing, maintaining, operating, replacing, and disposing of motor vehicles for all state agencies.

(b) The using of state owned motor vehicles for official business.

(c) The establishing of conditions for use of privately owned motor vehicles on official business.

(d) The acquiring of vehicle registration plates.

(e) The maintaining of motor vehicle titles and insurance inventories.

(f) The assigning of motor vehicles, permanently or temporarily, to state agencies and to institutions of higher education.

(g) The establishing of rates to be charged for use of a motor vehicle. The rates shall be reviewed periodically and shall be sufficient to cover the costs of administration and of the acquisition, operation, maintenance, repair, and replacement of motor vehicles.

(h) The displaying of distinctive vehicle registration plates and other external markings on the motor vehicles. The plates and markings shall clearly identify state ownership unless the motor vehicle is used by an elected official, or for an investigative use, or anonymity is essential to properly perform a necessary function of state government as determined by the director.

(3) The department shall establish motor vehicle repair centers and motor pools.

(4) The motor transport revolving fund is hereby created. The revenue received from rates charged pursuant to subsection (2)(g) and revenue which is received from any other source and designated to be credited to the motor transport revolving fund shall be credited to the motor transport revolving fund. The amounts in the fund are continuously appropriated only for administration and the acquisition, lease, operation, maintenance, repair, and replacement of state owned motor vehicles and related capital outlay and equipment.

(5) Assets and liabilities of the motor transport revolving fund shall be considered assets and liabilities of the motor transport revolving fund created by this section.

(6) Not later than January 1, 2007, the director shall install the necessary fueling infrastructure or contract with a supplier to supply alternative fuels at all state motor transport facilities so that all state owned vehicles capable of utilizing alternative fuels are able to use them. As used in this subsection, "alternative fuel" means E85 fuel and biodiesel fuel blends.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2006, Act 269, Imd. Eff. July 7, 2006.

Popular name: Act 431

Popular name: DMB

18.1215 Motor vehicle and person to whom motor vehicle assigned; restrictions.

Sec. 215. (1) As used in this section, "motor vehicle" means a motor vehicle which is defined in section

213(1) and is owned by any of the following:

- (a) The state transportation department.
- (b) The department of natural resources.

(2) A motor vehicle and the person to whom a motor vehicle is assigned is subject to the following restrictions:

(a) An unclassified employee who is a director of a principal department or of a state agency, as determined by the director of the department of management and budget, may be assigned a motor vehicle. A person who is assigned a motor vehicle pursuant to this subdivision may utilize the motor vehicle between the person's residence and official work station.

(b) A state employee who may not be assigned a motor vehicle pursuant to subdivision (a) may be assigned a motor vehicle which may be utilized between the person's residence and official work station only if both of the following conditions are satisfied:

(i) Adequate or safe work station parking is nonexistent; technical equipment on or in the motor vehicle requires a secure parking area which is not available at the person's work station; or it is in the best interest of the state to occasionally begin or end the assignment of the motor vehicle at the employee's residence.

(ii) The residence-to-official work station utilization is approved by the director of the employee's principal department or the authorized representative of the director of the employee's principal department.

(c) Except as provided in subdivisions (a) and (b), a person may utilize a motor vehicle for nonduty use only when the employee is on assignment away from the person's work station where other transportation is not available.

(d) The value of all mileage driven in a motor vehicle shall be recorded in accordance with regulations issued by the internal revenue service and directives issued by the department.

(e) A motor vehicle shall not be used for personal use.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1217 Directives relative to travel and expenses of officers and unclassified employees of state agencies; approval; meetings of state agencies; travel report.

Sec. 217. (1) The department shall issue and administer directives relative to the travel of officers and unclassified employees of state agencies when engaged in the performance of state business and for the reimbursement of expenses necessarily incurred when engaged in the performance of state business from whatever source the reimbursement may be financed. The directives issued pursuant to this section shall not take effect unless the directives are approved by the board.

(2) A meeting of a state agency shall be held in a facility owned, leased, being purchased, or operated by this state, the federal government, a unit of local government, or a state supported institution, college, or university, unless the chief executive officer of the state agency, in writing, authorizes a different location.

(3) On January 1 of each year, the director shall prepare a travel report in a format established jointly by the chairpersons of the appropriations committees and shall submit the report to the appropriations committees and the fiscal agencies. The report shall list each person who received compensation, fees, or remuneration under a budget act for travel outside the state during the preceding fiscal year. The listing shall include the name of the person who received the compensation, fees, or remuneration and the destination, reason for, and dates of the travel; and the transportation and related costs. The report shall also include a summary statement of the total in-state travel for the preceding fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1219 Directives for management, operation, maintenance, security, and repair of state-owned facilities; determination of space utilization standards; assignment of space in state capitol building and buildings under jurisdiction of legislature; prohibition; management and operation of state capitol building and grounds of Michigan state capitol historic site; definitions.

Sec. 219. (1) The department shall provide for and issue directives for the management, operation, maintenance, security, and repair of state-owned facilities. The director shall determine space utilization standards and may assign space within the state-owned facilities. The department shall manage and operate

state-owned facilities under the jurisdiction of the department.

(2) The department shall not assign space in the state capitol building and shall not assign space in buildings under the jurisdiction of the legislature unless the legislature requests the department to assign such space.

(3) The Michigan state capitol commission shall manage and operate the state capitol building and grounds of the Michigan state capitol historic site. Other than the Michigan state capitol historic site, buildings and grounds used by the senate shall be managed and operated by the senate and buildings and grounds used by the house of representatives shall be managed and operated by the house of representatives.

(4) As used in this section:

(a) "Michigan state capitol commission" means the Michigan state capitol commission established in section 5 of the Michigan state capitol historic site act.

(b) "Michigan state capitol historic site" means the Michigan capitol historic site established in section 4 of the Michigan state capitol historic site act.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1987, Act 122, Eff. July 23, 1987;—Am. 1988, Act 306, Eff. Sept. 1, 1988;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 332, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 72, Eff. July 11, 1991;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2001, Act 61, Eff. Oct. 1, 2001;—Am. 2013, Act 243, Eff. Mar. 14, 2014.

Popular name: Act 431

Popular name: DMB

18.1221 Rentals and leases; approval; notification; easements; determination of market rental values; building occupancy rates.

Sec. 221. (1) The director may provide for the rental and lease of land and facilities for the use of state agencies in the manner provided by law. The rentals and leases shall not be effective unless approved by the board.

(2) If the director proposes to lease space or a facility for which the annual base cost of the proposed lease is more than \$500,000.00, approval of the joint capital outlay subcommittee is required prior to board approval.

(3) The department shall provide notification to the JCOS and to the fiscal agencies within 5 business days of rental agreements entered into in which the base cost is more than \$500,000.00.

(4) For the purposes of this section, the renewal of an existing lease will require the approval of the joint capital outlay subcommittee if the renewal results in changes to the lease that would cause it to meet the requirements outlined in subsection (2).

(5) The department may grant easements, upon terms and conditions the board determines are just and reasonable, for highway and road purposes, and for constructing, operating, and maintaining pipelines or electric, telephone, telegraph, television, gas, sanitary sewer, storm sewer, or other utility lines including all supporting fixtures and other appurtenances over, through, under, upon, and across any land belonging to this state, except lands under the jurisdiction of the department of natural resources, the department of military and veterans affairs, or the state transportation department.

(6) The department shall determine annually the prevailing market rental values of all state owned office facilities and private facilities which provide housing for state employees. The rental values determined pursuant to this subsection shall not be effective unless approved by the board. The renting, leasing, or licensing of state-owned land and facilities to private and public entities shall be at prevailing market rental values or at actual costs as determined by the director.

(7) The department shall charge state agencies for building occupancy in state-owned facilities under the jurisdiction of the department. The rates to be charged for building occupancy shall be coordinated with the budget cycle. The rates shall reflect the actual cost for occupancy of the facilities.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1987, Act 122, Eff. July 23, 1987;—Am. 1988, Act 306, Eff. Sept. 1, 1988;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

***** 18.1221a THIS SECTION IS NOT EFFECTIVE AFTER MARCH 31, 2015: See (2) of 18.1221a *****

18.1221a Reports; section ineffective after March 31, 2015; "project" defined.

Sec. 221a. (1) The department shall provide the JCOS and the fiscal agencies with the following reports:

(a) By November 1 of each year, for state-owned space as of September 30 of that year, all of the following:

- (i) The department occupying or using the space.
 - (ii) The building location, including street address, city or township, and county.
 - (iii) The type of building, such as office, warehouse, garage, storage, or other use.
 - (iv) The square footage.
 - (v) The occupancy and usage of space compared to total space available.
 - (vi) The condition of facility and estimated future special maintenance costs.
- (b) By November 1 of each year, for privately owned state-leased space as of September 30 of that year, all of the following:
- (i) The department occupying or using the space.
 - (ii) The lease number.
 - (iii) The building location, including street address, city or township, and county.
 - (iv) The type of building, such as office, warehouse, garage, storage, or other use.
 - (v) The name and address of lessor.
 - (vi) The square footage and net square footage rate.
 - (vii) The occupancy and usage of space compared to total space available.
 - (viii) The monthly and annual cost.
 - (ix) The date the lease starts and expires.
 - (x) The options and services.
 - (xi) The total monthly and annual cost for all leases described in this subdivision.
- (c) At least 2 weeks prior to a state lease proposal being included on a JCOS meeting agenda for review and approval, all of the following:
- (i) The lease number.
 - (ii) The department.
 - (iii) The location.
 - (iv) The lessor.
 - (v) The total square footage and use of space.
 - (vi) Lease costs, to include annual costs of lease, monthly costs of lease, cost per square foot, and increases, if any, from prior lease to new lease.
 - (vii) The costs to renovate.
 - (viii) The costs for utilities.
 - (ix) The management fees.
 - (x) The amount paid for ad valorem property taxes.
 - (xi) The operating costs.
 - (xii) The lease terms.
 - (xiii) If an option to purchase is included, the terms of the offer to purchase and rationale for not funding construction through the state building authority.
 - (xiv) The existing space, including years in existing location, cost, terms of the lease, and disadvantages related to continuing in current location.
 - (xv) The bid process, including an overview including dates, number of proposals submitted, cost range of proposals, comparable market rates, and an explanation if lowest bid was not accepted.
 - (xvi) A cost comparison listing the total square footage, base cost per square foot, annual lease cost, cost for utilities, taxes, operating costs, and total annual cost for the proposed lease and the current lease, and show the difference in costs.
- (d) Not later than 45 days after the close of the fiscal year, the status of all active planning and construction projects approved by JCOS and financed through the state building authority or state general fund/general purpose revenues, including all of the following:
- (i) The name of each project.
 - (ii) The applicable appropriation acts.
 - (iii) The appropriation year and account numbers.
 - (iv) The total authorized cost for the project and state authorized share.
 - (v) The unencumbered balance remaining in each account.
 - (vi) The expiration date of authorization.
 - (vii) The current project status: planning, preconstruction, construction, or postconstruction.
 - (viii) The estimated completion date.
 - (ix) As applicable, the qualifying carryforward exemption under section 248(4) or (6).
- (2) This section is in effect until March 31, 2015.
- (3) As used in this section, "project" includes appropriation line items made for purchase of real estate.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1222 Property acquired through installment lease agreement as public property; exemption from property tax.

Sec. 222. Property acquired for the state or a state agency through an installment lease agreement is public property and shall be considered exempt for purposes of the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, if the state as lessee under the installment lease agreement is required to pay any taxes or reimburse the lessor for any payments the lessor has made.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1223 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to department of labor building in Detroit.

Popular name: Act 431

Popular name: DMB

18.1224 Access to public information; use of telephone system; limitation on charges.

Sec. 224. Beginning January 1, 2004, a state agency shall not use a 900 telephone number or other telephone system that charges the caller for access to public information held or maintained by a state agency.

History: Add. 2003, Act 12, Imd. Eff. May 29, 2003.

Popular name: Act 431

Popular name: DMB

18.1225 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to security measures for facilities.

Popular name: Act 431

Popular name: DMB

18.1227 Parking; disposition of fees, penalties, and fines; rules.

Sec. 227. The department shall establish, operate, and maintain parking for state buildings and facilities operated by the department. The department may establish and collect fees for parking on state operated parking facilities from state employees, state officials, and from the general public. The fees, penalties, and fines collected under this section shall be credited to the state general fund. The department shall promulgate rules pursuant to section 131(2) relative to the operation of the state operated parking facilities. The rules shall provide for the assessment of penalties and fines, for the removal of vehicles, and for a grievance process.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

Administrative rules: R 18.401 et seq. of the Michigan Administrative Code.

18.1237 Acquisition, construction, lease purchase, improvement, or demolition of facilities; studies, designs, plans, specifications, and contract documents; employment and duties of architects and professional engineers; quality control; independent testing services; final approval; review by attorney general.

Sec. 237. (1) For state agency capital outlay projects or facilities, the department is responsible for development, oversight, review, and approval of program statements, studies, designs, plans, management, specifications, contract documents, construction management, and construction, relative to the acquisition, construction, lease purchase, improvement, demolition, or other capital outlay projects for state agencies for which an appropriation or other authorization has been made.

(2) The department shall approve the award, selection, and employment of architects, professional engineers, construction managers, and other design or construction professional services contractors, subject to section 237b and rules of the department of civil service, to do all of the following:

(a) Prepare program statements, studies, designs, plans, and specifications for the construction of, repairing of, making additions to, remodeling or demolition of, lease purchase of, or acquisition of state facilities.

(b) Administer construction work, including resident inspectors, on-site management, and supervision of construction projects.

(3) The department may obtain independent testing services to provide quality control of work performed on facilities.

(4) Prior to state building authority financing, the department shall provide final approval of the capital outlay project to ensure compliance with the authorized program, plans, and specifications.

(5) The attorney general shall review all standard lease and lease purchase agreement formats and approve any exceptions to the standard formats and may assess a fee for legal services pursuant to an agreement with the department.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2002, Act 504, Imd. Eff. July 19, 2002.

Popular name: Act 431

Popular name: DMB

18.1237a Community college and university capital outlay projects.

Sec. 237a. (1) This section pertains to capital outlay projects for community colleges and universities.

(2) The department shall review documents associated with community college and university capital outlay projects for which an appropriation or other authorization has been made.

(3) The department shall provide architectural and professional engineering review of documents including designs, plans, and change orders at each stage of the project to ensure that the project or facility is in compliance with approved program, appropriation, and capital outlay requirements.

(4) The department shall review the award and selection of architects, professional engineers, construction managers, and other design or construction professional service contractors.

(5) The department shall do all of the following:

(a) Review the construction bid.

(b) Review monthly reports to ensure appropriate construction progress, evaluate change orders, and watch for potential problems.

(c) Respond to college and university requests for assistance on the capital outlay process, contractor issues, and other capital outlay related issues.

(d) Provide for field checks and audits throughout the project in order to meet the trustee requirements of the state building authority.

(6) The department may require that community colleges and universities self-managing construction of a capital outlay project enter into an agreement with the department in which the community college or university agrees to construct the project within the total authorized cost, design, and program scope established by the legislature. This agreement shall include, but is not limited to, certification from the community college or university that the operating costs resulting from the capital outlay project are the responsibility of the community college or university. The agreement may include other requirements as identified by the department that are necessary to complete the project and fulfill the project oversight requirements of this act.

(7) The department retains the authority and fiduciary responsibility normally associated with the prudent maintenance of the public's financial and policy interests relative to the state-financed construction projects managed by a community college or university. The director may take appropriate action to bring the capital outlay project to conclusion if the public's financial and policy interests are in jeopardy and there is a failure on the part of a community college or university to adhere to the requirements of this act. The director shall provide notice to the joint capital outlay subcommittee within 10 days of exercising authority under this subsection.

(8) The department may charge a fee for the services described in this section at a rate not to exceed actual costs.

(9) In the event that a college or university chooses to have the department provide for the complete administration of a capital outlay project, then the provisions of section 237 apply to the project.

(10) Prior to state building authority financing, the department shall provide final review of the capital outlay project to ensure compliance with the authorized program, plans, and specifications.

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1237b Architects, professional engineers, professional surveyors, and qualified firms; selection.

Sec. 237b. The selection of architects, professional engineers, professional surveyors, and qualified firms shall be made in accordance with competitive, qualifications-based selection processes and procedures for the type of professional service required by the department.

History: Add. 2002, Act 504, Imd. Eff. July 19, 2002.

Popular name: Act 431

Popular name: DMB

18.1237c Contract with architect, professional engineer, or contractor; liability; limitation; "contractor" defined.

Sec. 237c. (1) When entering into a contract with an architect, professional engineer, or contractor for any capital outlay project, capital improvement, or facility, the department shall not require the architect, professional engineer, or contractor to assume any liability or indemnify this state for any amount greater than the degree of fault of the architect, professional engineer, or contractor.

(2) As used in this section, "contractor" means a person who, pursuant to a contract with the owner or lessee of real property, provides an improvement to real property.

History: Add. 2004, Act 429, Imd. Eff. Dec. 20, 2004.

Popular name: Act 431

Popular name: DMB

18.1238 Universities and community colleges; report.

Sec. 238. (1) Universities and community colleges shall report on all contracts entered into for new construction of self-funded projects costing in excess of \$1,000,000.00. New construction includes land or property acquisition, remodeling and additions, maintenance projects, roads, landscaping, equipment, telecommunications, utilities, and parking lots and structures. Reports shall be submitted to the JCOS, the fiscal agencies, and the state budget office on or before June 30 and December 31 of each year. Each report shall include, but not be limited to, the following information on all self-funded capital projects commenced for the immediately preceding 6-month period:

(a) Description of the project, to include purpose, need, justification, and start and completion dates.

(b) Statement of gross estimated capital improvement or project costs including a breakdown of land costs, site development and demolition costs, construction costs, costs of furnishings and equipment, fees, and any other special costs.

(c) Listing of all sources of funding for project costs to include borrowed funds, university or college funds, gifts, grants, federal funds, private funds, state funds, student fees or tuition, any other funds, and any combination of funds.

(d) Statement of the impact of project financing on student tuition.

(2) If changes occur in any information provided in a previously submitted report, those changes shall be included in the next report issued. Failure to comply with this section will result in penalties as provided for in the higher education and community colleges appropriations bills. The university of Michigan hospital and health center is excluded from this reporting requirement.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Compiler's note: Former MCL 18.1238, which pertained to contracts for professional services contractors, was repealed by Act 8 of 1999, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1239 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to design of facilities.

Popular name: Act 431

Popular name: DMB

18.1240 Cost plus construction contract; conditions.

Sec. 240. A cost plus construction contract shall not be entered into unless all of the following occur:

(a) The contract cost is less than \$50,000.00.

(b) The contract is for emergency repair or construction caused by unforeseen circumstances.

(c) The repair or construction is necessary to protect life or property.

(d) The contract complies with the contract requirements of the department of civil rights.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1241 Contract for construction, repair, remodeling, or demolition of facility; bidding procedure; award; expenditure; director as agent; preference to qualified disabled veteran; responsive and responsible best value bidder; definition.

Sec. 241. (1) Except for the contracts permitted in section 240, a contract shall not be awarded for the construction, repair, remodeling, or demolition of a facility unless the contract is let pursuant to a bidding procedure that is approved by the board. The department shall issue directives prescribing procedures to be used to implement this section. The procedures shall require a competitive solicitation in the award of any contract for construction, repair, remodeling, or demolition of a facility.

(2) The department may award or approve the award, if the board approves, of construction contracts to construct a project for which the director is the agent and may expend, for the purposes and in the manner set forth, the amounts appropriated. The director is not the agent for a community college or institution of higher education, but may act in that capacity upon the specific request of a community college or institution of higher education.

(3) In awarding a contract under this section, the department shall give a preference of up to 10% of the amount of the contract to a qualified disabled veteran, as defined in section 261. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the department shall enter into a construction contract with the qualified disabled veteran under this act. If 2 or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the qualified disabled veteran with the lowest bid shall be awarded the contract under this act.

(4) Subject to subsection (3), for projects funded in whole or part with state funds, the construction contract award shall be made to the responsive and responsible best value bidder. As used in this subsection, "responsive and responsible best value bidder" means a bidder who meets all the following:

- (a) A bidder who complies with all bid specifications and requirements.
- (b) A bidder who has been determined by the department to be responsible by the following criteria:
 - (i) The bidder's financial resources.
 - (ii) The bidder's technical capabilities.
 - (iii) The bidder's professional experience.
 - (iv) The bidder's past performance.
 - (v) The bidder's insurance and bonding capacity.
 - (vi) The bidder's business integrity.
- (c) A bidder who has been selected by the department through a selection process that evaluates the bid on both price and qualitative components to determine what is the best value for this state. Qualitative components may include, but are not limited to, all of the following:

- (i) Technical design.
- (ii) Technical approach.
- (iii) Quality of proposed personnel.
- (iv) Management plans.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2010, Act 22, Imd. Eff. Mar. 25, 2010;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1241a Contract for construction, alteration, repair, or rebuilding of state building or other state property; mandatory clause; breach of clause; applicability of section.

Sec. 241a. The department shall require that each contract entered into for construction, alteration, repair, or rebuilding of a state building or other state property contain a clause requiring that of the persons working on a project and employed by the contractor or subcontractor of the contractor, not less than 50% shall have been residents of this state for not less than 1 year before beginning work, except that the percentage shall be reduced or the clause omitted to the extent that residents are not available or to the extent necessary to comply with a federal law or regulation concerning federal funds used for the project. A breach of the clause shall be considered a material breach of the contract. This section shall not apply to employers who are signatory to collective bargaining agreements and which agreements allow for the portability of the employees on an interstate basis.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

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Popular name: DMB

18.1241b Construction, alteration, repair, or rebuilding of state building or facility; energy efficiency of materials.

Sec. 241b. The department shall consider the energy efficiency of all materials used in the construction, alteration, repair, or rebuilding of a building or facility owned or operated by this state.

History: Add. 1995, Act 38, Imd. Eff. May 22, 1995.

Popular name: Act 431

Popular name: DMB

18.1241c Contract with person for construction, alteration, or repair of state building or property; representation that person not engaged in boycott; definitions.

Sec. 241c. (1) Beginning October 1, 2017, the department or a state agency may not enter into a contract with a person for the construction, alteration, or repair of a state building or other state property unless the contract includes a representation that the person is not currently engaged in, and an agreement that the person will not engage in, the boycott of a person based in or doing business with a strategic partner.

(2) As used in this section, "boycott", "person", and "strategic partner" mean those terms as defined in section 261.

History: Add. 2016, Act 527, Imd. Eff. Jan. 9, 2017.

Popular name: Act 431

Popular name: DMB

18.1242 Development of 5-year capital outlay plans; review; priorities; program statements and schematic planning documents; authorization of project for final design and construction; submission of bid results summary to JCOS; oversight; appropriation not considered as commitment.

Sec. 242. (1) State agencies, community colleges, and universities shall develop 5-year capital outlay plans, which shall identify capital outlay needs, including new construction, or the addition, renovation, adaptive reuse, and improvement of existing facilities. For state agencies, community colleges, and universities, the 5-year capital outlay plans shall also include the need for special maintenance. These plans shall be submitted in electronic format to the department, to members of the JCOS, and to the fiscal agencies not later than November 1 of each year.

(2) The department and the JCOS shall review state agency, community college, and university capital outlay plans. The department and the JCOS shall prioritize requests. The department shall include the department-recommended requests in the executive budget recommendation. If a state agency, community college, or university subsequently modifies a request, the revision shall be submitted to the department, members of the JCOS, and the fiscal agencies.

(3) The department and the chairperson and vice-chairperson of the JCOS shall review and evaluate by March 1 of each year capital outlay project requests received from community colleges, universities, and state agencies. All of the following shall be considered when reviewing and evaluating project requests:

- (a) Investment in existing facilities and infrastructure.
- (b) Life and safety deficiencies.
- (c) Occupancy and utilization of existing facilities.
- (d) Integration of sustainable design to enhance the efficiency and operations of the facility.
- (e) Estimated cost.
- (f) Institutional support.
- (g) Estimated operating costs.
- (h) Impact on tuition, if any.
- (i) Impact on job creation in this state.
- (j) History of prior appropriations received by the institution through the capital outlay process.

(4) The request for program development and schematic planning must be approved by the JCOS and the legislature through the appropriation process.

(5) Program statements and schematic planning documents shall be reviewed by the department and, when the review is completed, shall be submitted to the JCOS as either approved or not approved.

(6) Upon review and approval by the JCOS, the JCOS and the legislature may authorize the project for final design and construction with a line-item appropriation in an appropriation bill. The appropriations bill shall include appropriations for projected state building authority rental payments associated with the projects that are authorized for construction. The authorization shall include the legislative lease approval required for

state building authority financing.

(7) Preliminary plans shall be submitted to the department for review and approval. The department shall review and approve final plans to be prepared for bidding. A summary of bid results shall be submitted to the JCOS.

(8) The department shall provide for review and oversight of capital outlay projects financed either in total or in part by the state building authority pursuant to the provisions of sections 237 and 237a.

(9) Appropriations made for studies and initial plans shall not be considered a commitment on the part of the legislature to appropriate funds for the completion of plans or construction of any project based on the studies or planning documents.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1242a Annual review.

Sec. 242a. The JCOS and department shall annually review the outstanding obligations of the state building authority, as well as the state's lease obligations for previously constructed and state building authority financed projects that provide revenue to the state building authority to retire outstanding bonds.

History: Add. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1243 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to schematics, preliminary plans, and construction contracts.

Popular name: Act 431

Popular name: DMB

18.1244 Scope of construction appropriation; direct labor charges; resident inspector; indirect or administrative overhead costs; separate accounts; design and construction requirements; contract to complete construction of project; conditions.

Sec. 244. (1) Except as otherwise expressly provided or as provided in section 246, a construction appropriation includes, where applicable, costs for land; professional services, including engineering and inspection services; all construction trades work; utilities; site work; on site supervision; equipment; furniture; and furnishings for a completed facility ready for use. The appropriation for a project authorized in a budget act shall be charged with any direct labor performed on that project by employees of the state agency for which the appropriations are made. For each construction project for which the department is an agent, the department shall determine the need for a resident inspector to provide on site supervision. The department may employ and assign the resident inspector with the inspector's salary to be paid from the project account, or from the account designated by the department. If the department approves, a qualified employee of the state agency's regular staff may be the resident inspector with the inspector's salary to be paid from the state agency's operating funds. This subsection shall apply to all projects regardless of when the appropriations were made for the project. The direct labor charges and corresponding credits shall be made in accordance with the systems and procedures prescribed by the department. Charges shall not be made to projects for any indirect or administrative overhead costs, except professional services by a state agency if the professional services are approved by the department and if the department is the agent for the project and provides professional services or administers and supervises the project. The director may establish separate accounts within an appropriation to permit a state agency, community college, or institution of higher education to make expenditures for equipment, furniture, and furnishings. The director shall carry out this act and shall exercise the best professional judgment in the design and construction of all projects included within a budget act so that the design and construction meets the requirements of the projects in the most economical and efficient manner, with particular emphasis on future maintenance and operating cost.

(2) A contract to complete the construction of a project for which construction appropriations are made in a budget act shall be made upon the conditions that the total cost for the completion of each facility, ready for use, shall not exceed the total cost authorized for each respective project; that the obligations for payments for each project, during the fiscal years subject to this act, shall not exceed the amount appropriated for each specific facility by this and previous budget acts; and that the contract may be awarded before the beginning of the next fiscal year if the terms of the contract provide that payments shall not be made until after the first day of the following fiscal year, except in amounts previously appropriated.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1245 Sign at site of state project.

Sec. 245. A sign of appropriate dimensions shall be prominently displayed at the site of each state project costing in excess of \$500,000.00, or on sites where such a sign is required by other governmental units. The sign shall state the project title, the total project cost, the amount authorized to be appropriated by "the people of the state of Michigan", and the amount of federal or other grants, if any.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1246 Release of allocations; approval; total authorized cost or sufficient appropriation; establishment or revision.

Sec. 246. The release of allocations may be approved when the legislature has specified either a total authorized cost or has appropriated an amount sufficient to complete the designated project. The authorized cost and program scope of state agency, community college, and university projects shall only be established or revised by specific reference in a budget act.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1247 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to transfer of appropriations.

Popular name: Act 431

Popular name: DMB

18.1248 Applicability of section; capital outlay project; carrying forward prior authorized projects; continuation or lapse of balance; termination of project; continuation of project beyond limits in section; conditions; carrying forward grant or grant-in-aid.

Sec. 248. (1) This section applies to all state agency, community college, and university capital outlay projects appropriated in any budget act. Projects authorized prior to the amendatory act that added this sentence shall be carried forward consistent with the provisions of this section in effect prior to the date of the amendatory act that added this sentence.

(2) Appropriations made in any budget act for a planning project shall not lapse to the fund from which appropriated at the end of the fiscal year, but shall continue until the purposes for which the sums were appropriated are completed. However, planning authorization for each project which has not been authorized for final design and construction in an appropriation act shall be terminated 24 months after the last day of the fiscal year in which the authorization was originally made, unless the project is specifically reauthorized in a budget act. The termination of authorization in the immediately preceding sentence does not apply if program and schematic planning documents are submitted by community colleges and universities within the time frame specified in the immediately preceding sentence.

(3) Appropriations made in any budget act for final design and construction shall not lapse to the fund from which they are appropriated at the end of the fiscal year, but shall continue until the purposes for which the sums were appropriated are completed. However, final design and construction authorization for each project where construction has not commenced shall be terminated 36 months after the last day of the fiscal year in which the authorization was originally made, unless the project is specifically reauthorized in a budget act.

(4) A capital outlay project may be continued beyond the limitations contained in this section if 1 or more of the following conditions apply:

(a) A bid for the start of construction of the project is awarded or construction of the project has commenced.

(b) A capital outlay project for the purchase of property in which a contract is entered into, but the acquisition is not completed. Only the amount necessary to complete the purchase of property pursuant to the contract shall be carried forward.

(c) A federal grant award is pending release.

(d) The project is subject to legal action, the balance shall lapse 30 days after the legal action is settled, or

30 days after a final order is entered, whichever is later.

(e) The unobligated balance of the appropriations for the project may continue for 12 months after a project is substantially completed.

(f) Not later than 45 days after the conclusion of the fiscal year, the director shall notify the JCOS and the fiscal agencies of planning and construction authorizations that will continue beyond limitations specified under this section.

(5) An unexpended balance which is to lapse pursuant to this section shall lapse to the fund from which the appropriation is made.

(6) A grant or grant-in-aid appropriated for the demolition, acquisition, construction, repair, or maintenance of capital assets shall not be reduced, adjusted, delayed, impounded, lapsed, or otherwise altered by the director for any purpose without legislative approval and shall be carried forward until the work is completed or for 36 months after the last day of the fiscal year in which the construction appropriation was originally made, whichever comes first.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1249 Matching revenues.

Sec. 249. (1) If matching revenues for a capital outlay project are received in an amount less than the appropriations contained in a budget act, the state portion of the appropriation shall be reduced in proportion to the amount of matching revenue received.

(2) A state agency, community college, or university shall take the steps necessary to make available federal or other money that may be available and to use all or part of the appropriations to meet matching requirements that are considered to be in the best interest of this state. However, the purpose, scope, and total estimated cost of a project shall not be altered to meet the matching requirements. Any federal matching revenues received to support the construction of a project shall be applied to the total authorized project cost, with state, community college, or university financing shares proportionately adjusted.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1250 References to former law.

Sec. 250. Any reference in any act to former Act No. 242 of the Public Acts of 1976, shall be considered a reference to sections 237 to 252 of this act.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1251 Applicability of section to real property of state; development and maintenance of real property records and facility inventories; award of service contracts; employment of land surveyors; directives for disposition of surplus facilities and lands.

Sec. 251. (1) This section applies to all real property of the state except all of the following:

- (a) Property under the jurisdiction of the state transportation department.
- (b) Property under the jurisdiction of a state institution of higher education.
- (c) Property under the jurisdiction of the department of natural resources.
- (d) Property under the jurisdiction of the department of military affairs.

(2) The department shall provide for the development and maintenance of real property records and facility inventories. The department may award appropriate service contracts or employ land surveyors to survey, monument, map, describe, and record real property and facilities.

(3) The department shall issue directives to provide for the disposition process for facilities and lands that are considered surplus. The department shall require a public notice component in its directives regarding the disposition process under this subsection.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1252 Current data and directives as to facilities; technical assistance as to special maintenance projects.

Sec. 252. The department shall provide current data relative to the use, physical condition, and space availability of facilities. The department may issue directives for the appropriate maintenance, repair, renovation, and renewal of facilities. The department shall provide technical assistance to state agencies in planning and scheduling special maintenance projects.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1253 Energy conservation improvements.

Sec. 253. A state agency may enter into a multi-year contract for energy conservation improvements to state facilities which would be paid for from the avoided operating costs for utility service or fuel produced by the improvements.

History: Add. 1987, Act 122, Eff. July 23, 1987.

Popular name: Act 431

Popular name: DMB

18.1254 Certificate of energy cost savings; distribution of unencumbered balance of appropriation for fuel or utilities.

Sec. 254. (1) Upon the request of a state agency, the public service commission shall provide to the state agency a certificate of energy cost savings based upon actual energy use and cost data as provided to the commission by the state agency.

(2) At the close of each fiscal year, the amount of any unencumbered balance of a state appropriation for fuel or utilities to a state agency which resulted due to energy management actions as certified by the public service commission, as provided in subsection (1), shall be distributed as follows:

(a) 75% of the energy cost savings, as certified by the commission, shall be carried forward to the next fiscal year and allocated to a special energy conservation work order or work project account to be used for energy conservation measures in the facilities of the state agency to which the certificate was issued.

(b) The remaining unencumbered balance shall be credited to the fund from which appropriated.

History: Add. 1987, Act 122, Eff. July 23, 1987.

Compiler's note: For transfer of powers and duties of the public service commission pertaining to the certification of energy savings by state departments from the public service commission to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 431

Popular name: DMB

18.1261 Supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and other items; purchase; contract; preference; discretionary decisions by department; competitive solicitation; exceptions; delegation of procurement authority; lease or installment purchases; directives; cooperative purchasing agreement; preference to disabled veteran; representation in contract that person not engaged in boycott; exemption from freedom of information act; performance-related damages or targets; definitions.

Sec. 261. (1) The department shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third party financing, equipment, printing, and all other items as needed by state agencies for which the legislature has not otherwise expressly provided. If consistent with federal statutes, in all purchases made by the department, all other things being equal, preference shall be given to products manufactured or services offered by Michigan-based firms or by facilities with respect to which the operator is designated as a clean corporate citizen under part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429, or to biobased products whose content is sourced in this state. The department shall solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet the state's needs. The department shall first determine that competitive solicitation of bids in the private sector is not appropriate before using any other procurement method for an acquisition.

(2) The department shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of state contracts.

(3) The department shall utilize competitive solicitation for all purchases authorized under this act unless 1 or more of the following apply:

(a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the director or his or her designated representative.

(b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

(c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

(e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.

(f) Procurement of goods or services is within a state agency's purchasing authority delegated under subsection (4), and the state agency has established policies or procedures approved by the department to ensure that goods or services are purchased by the state agency at fair and reasonable prices.

(4) The department may delegate its procurement authority to other state agencies within dollar limitations and for designated types of procurements. The department may withdraw delegated authority upon a finding that a state agency did not comply with departmental procurement directives. If a state agency has the department's procurement authority delegated to it under this subsection and if it chooses to exercise an option under an existing procurement contract to continue that procurement contract, before exercising that option, the state agency shall first obtain written approval from the department that exercising the option is in the best interest of this state.

(5) The department may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law.

(6) The department shall issue directives for the procurement, receipt, inspection, and storage of supplies, materials, and equipment, and for printing and services needed by state agencies. The department shall provide standard specifications and standards of performance applicable to purchases.

(7) The department may enter into a cooperative purchasing agreement with 1 or more other states or public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for state programs.

(8) In awarding a contract under this section, the department shall give a preference of up to 10% of the amount of the contract to a qualified disabled veteran. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the department shall enter into a procurement contract with the qualified disabled veteran under this act. If 2 or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the qualified disabled veteran with the lowest bid shall be awarded the contract under this act.

(9) It is the goal of the department to award each year not less than 5% of its total expenditures for construction, goods, and services to qualified disabled veterans. The department may count toward its 5% yearly goal described in this subsection that portion of all procurement contracts in which the business entity that received the procurement contract subcontracts with a qualified disabled veteran. Each year, the department shall report to each house of the legislature on all of the following for the immediately preceding 12-month period:

(a) The number of qualified disabled veterans who submitted a bid for a state procurement contract.

(b) The number of qualified disabled veterans who entered into procurement contracts with this state and the total value of those procurement contracts.

(c) Whether the department achieved the goal described in this subsection.

(d) The recommendations described in subsection (10).

(10) Each year, the department shall review the progress of all state agencies in meeting the 5% goal with input from statewide veterans service organizations and from the business community, including businesses owned by qualified disabled veterans, and shall make recommendations to each house of the legislature regarding continuation, increases, or decreases in the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified disabled veterans and on the continued need to encourage and promote businesses owned by qualified disabled veterans.

(11) To assist the department in reaching the goal described in subsection (9), the governor shall recommend to the legislature changes in programs to assist businesses owned by qualified disabled veterans.

(12) Beginning October 1, 2017, the department and all state agencies may not enter into a contract with a person to acquire or dispose of supplies, services, or information technology unless the contract includes a

representation that the person is not currently engaged in, and an agreement that the person will not engage in, the boycott of a person based in or doing business with a strategic partner.

(13) The following records are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, as provided in this subsection:

(a) A bid, quote, or proposal submitted in connection with the authority granted under this section, and records created in the preparation for and evaluation of the bid, quote, or proposal until the time of final notification of award of the contract.

(b) Records containing a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902, or financial or proprietary information submitted in connection with the authority granted under this section.

(14) The department shall develop policies and procedures that require all procurement contracts entered into by the department or a state agency, including departments that have delegated procurement authority under this act, to include performance-related liquidated damages or performance targets with incentives in all procurement contracts. The department shall also develop policies and procedures that require the department or state agency to enforce these provisions. Departments or state agencies acting under delegated authority shall inform the department of relevant performance issues. Exceptions to the inclusion or enforcement of performance-related contract provisions may only be granted by the department as provided in a written or electronic record by the department.

(15) As used in this section:

(a) "Biobased product" means a product granted the United States Department of Agriculture certified biobased product label.

(b) "Boycott" means refusal to have dealings with, divest from, or otherwise engage with a person. Boycott does not include 1 or more of the following:

(i) A decision based on bona fide business or economic reasons.

(ii) A boycott against a public entity of a foreign state when the boycott is applied in a nondiscriminatory manner.

(iii) Conduct necessary to comply with applicable law in the person's home jurisdiction.

(c) "Financial or proprietary information" means information that has not been publicly disseminated or which is unavailable from other sources, the release of which might cause the submitter of the information competitive harm.

(d) "Person" means any of the following:

(i) An individual, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.

(ii) Any governmental entity or agency of a government.

(iii) Any successor, subunit, parent company, or subsidiary of, or company under common ownership or control with, any entity described in subparagraph (i) or (ii).

(e) "Qualified disabled veteran" means a business entity that is 51% or more owned by 1 or more veterans with a service-connected disability.

(f) "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16).

(g) "Strategic partner" means a strategic partner described in 22 USC 8601 to 8606.

(h) "Veteran" means an individual who meets both of the following:

(i) Is a veteran as defined in section 1 of 1965 PA 190, MCL 35.61.

(ii) Was released from his or her service with an honorable or general discharge.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1993, Act 46, Imd. Eff. May 27, 1993;—Am. 2005, Act 91, Imd. Eff. July 20, 2005;—Am. 2006, Act 622, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 133, Imd. Eff. May 21, 2008;—Am. 2012, Act 555, Imd. Eff. Jan. 2, 2013;—Am. 2016, Act 204, Eff. Sept. 20, 2016;—Am. 2016, Act 376, Eff. Mar. 22, 2017;—Am. 2016, Act 526, Imd. Eff. Jan. 9, 2017;—Am. 2017, Act 21, Imd. Eff. Mar. 31, 2017;—Am. 2020, Act 173, Imd. Eff. Oct. 1, 2020;—Am. 2020, Act 174, Eff. Dec. 30, 2020.

Popular name: Act 431

Popular name: DMB

18.1261a Recycled supplies, materials, and equipment; effect of noncompliance; exemption; cost considerations; report; "recycled materials" defined.

Sec. 261a. (1) In addition to the requirements of section 261, the following percentages of all supplies, materials, and equipment shall be made from recycled materials, if there is a readily identifiable source or market as determined by the director, and the cost does not exceed 110% of supplies, materials, and equipment not containing recycled materials: for 1989, 10%; for 1990, 15%; and for 1991 and each year

thereafter, 20%.

(2) If the department is unable to comply with the requirement of this section, the department shall do both of the following:

(a) With the assistance of any state agency that utilizes the supply, material, or equipment, seek a supply, material, or equipment that fulfills the requirements of subsection (1).

(b) Report to the legislature and the affected state agency that the department is unable to comply with subsection (1), the reason for the inability to comply, and the efforts made by the department to comply.

(3) If a state agency informs the department that it is unable to utilize a recycled supply, material, or equipment, the agency shall request and justify an exemption from subsection (1) in writing. The department may grant an exemption from the requirements of subsection (1) upon just cause.

(4) When the department fulfills its responsibilities under this act to purchase and contract for supplies, materials, equipment, and printing, it may consider the product longevity and the annual maintenance costs of the product as well as the unit price in determining whether the cost of the product with recycled materials exceeds the cost of a product not containing recycled materials by 110%.

(5) The department shall annually report to the governor and the legislature on the quantities and types of recycled products purchased by the department.

(6) As used in this section, "recycled materials" includes, but is not limited to, recycled paper products, structural materials made from recycled plastics, rerefined lubricating oils, reclaimed solvents, recycled asphalt and concrete, recycled glass products, retreaded tires, and ferrous and nonferrous metals containing recycled scrap metals, that contain 1 or more of the following in a percentage as determined by the department as provided by law:

(a) Waste materials generated by a business or a consumer.

(b) Materials that have served their intended purpose.

(c) Materials that have been separated from solid waste for purposes of collection, recycling, and disposition.

History: Add. 1988, Act 413, Eff. Mar. 30, 1989.

Popular name: Act 431

Popular name: DMB

18.1261b Purchase of recycled paper; phase-in period; directives; label; records; definitions.

Sec. 261b. (1) In addition to the requirements of section 261, to the extent available, all paper products purchased or contracted for by the department shall be made from recycled paper, if the cost is not greater than 110% of the cost of paper that does not contain recycled fibers. The purchase of recycled paper shall be phased in over a 3-year period pursuant to the following percentages:

<u>Year</u>	<u>Percentage of total paper purchased</u>	<u>Percentage of wastepaper contained in recycled paper</u>
1989	30%	25
1990	40%	35
1991 and each year thereafter	50%	50

(2) The directives of the department issued under section 261(2) that apply to the procurement of paper products shall require that all paper products, to the extent available, purchased or contracted for by the department shall be made from recycled paper to comply with the 3-year phase-in requirements provided for in this section.

(3) The department shall investigate whether it is feasible and desirable to require that recycled paper products purchased by the department be labeled as being made of recycled paper.

(4) The department shall maintain records to document by commodity type recycled paper purchased or contracted for by the department.

(5) As used in this section and section 273:

(a) "Recycled paper" means a paper product that contains not less than 25% wastepaper in 1989, 35% wastepaper in 1990, and 50% wastepaper in 1991 and each year thereafter.

(b) "Wastepaper" means discarded paper that is generated after the completion of the paper manufacturing process, and includes, but is not limited to, trimmings, printed paper, cutting and converting paper, and post-consumer paper. Wastepaper does not include mill broke or other in-plant residual wastes.

History: Add. 1988, Act 412, Eff. Mar. 30, 1989.

Popular name: Act 431

Popular name: DMB

18.1261c Wood or paper products from sustainably managed forests or procurement systems.

Sec. 261c. (1) Beginning October 1, 2006, in addition to the requirements of sections 261, 261a, and 261b, in purchasing wood or paper products the department shall give preference to wood or paper products that derive from sustainably managed forests or procurement systems.

(2) Paper product and forest product companies purchasing raw materials from or through third parties may reasonably rely upon the representations of landowners, vendors, or brokers as to whether the raw materials derive from sustainably managed forests or procurement systems.

(3) As used in this section, "sustainably managed forests or procurement systems" means forests or procurement systems that are certified by an independent third party using 1 or more of the following certification programs:

- (a) The sustainable forestry initiative/American forest and paper association.
- (b) The American tree farm systems/American forest foundation.
- (c) The Canadian standards associations sustainable forest management system standards.
- (d) The forest stewardship council.
- (e) The Pan-European forest certification.
- (f) The Finnish forest certification system.
- (g) The United Kingdom woodlands assurance scheme.
- (h) International standards organization (ISO) standard 14001.

History: Add. 2004, Act 249, Eff. Mar. 30, 2005.

Popular name: Act 431

Popular name: DMB

18.1261d Products containing mercury or mercury compounds; purchase; limitation.

Sec. 261d. In addition to the requirements of section 261, the department and all state agencies shall, whenever possible, avoid purchasing products containing mercury or mercury compounds if products that do not contain mercury or mercury compounds are available and those products are cost effective as determined by the department.

History: Add. 2008, Act 193, Imd. Eff. July 11, 2008.

Popular name: Act 431

Popular name: DMB

18.1261e Information technology projects; requirements.

Sec. 261e. Not later than October 1, 2021, the department of technology, management, and budget shall do all of the following for each information technology project exceeding \$250,000.00:

(a) Establish and document a process for accounting for and monitoring of project cost that aligns with industry best practices and includes all of the following:

- (i) Identification and monitoring of cost overruns.
- (ii) Change orders and accounting for projects that exceed 1 fiscal year.
- (b) Communicate process and defined roles to involved parties.

(c) Ensure information technology project spending within the information technology fund is accurately tracked and accounted for, including costs for contractors, state employees, hardware, software, and maintenance.

(d) Require each state agency to provide and report any additional technology project spending outside of the information technology fund is accurately tracked and accounted for, including costs for contractors, state employees, hardware, software, and maintenance.

(e) Require each state agency to report on system-related contracts or projects with specific appropriations to ensure funds are only spent on the development and maintenance of that system.

History: Add. 2020, Act 181, Imd. Eff. Oct. 8, 2020.

Popular name: Act 431

Popular name: DMB

18.1261f Information technology system development vendor contract or maintenance project; audit.

Sec. 261f. When the auditor general selects an information technology system development vendor contract or maintenance project described under section 261e for audit or investigation, the auditor general shall also validate the department's compliance with select processes and best practice standards and use the

audit criteria in section 261e when appropriate and applicable.

History: Add. 2020, Act 182, Imd. Eff. Oct. 8, 2020.

Popular name: Act 431

Popular name: DMB

18.1262 Limiting solicitation to prequalified vendors.

Sec. 262. The department may limit a solicitation to prequalified vendors to meet statutory or licensing requirements applying to the solicitation or when the time necessary to verify vendor qualifications would jeopardize timely award of contracts.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1263 Purchase of supplies and materials by state agency to maintain inventories; authorization; limitation; charging appropriation accounts; periodic inventories; obsolescence, damage, or spoilage; fee for purchasing services assistance; cooperative bulk purchasing program for schools and school districts.

Sec. 263. (1) The director may authorize a state agency to purchase supplies and materials for the purpose of maintaining inventories. The director shall place a dollar or quantity limitation to insure inventories are maintained at acceptable levels. Appropriation accounts shall be charged upon the basis of actual usage. Any state agency so authorized shall conduct periodic inventories as directed by the director of all supplies and materials under their control. Obsolete, damaged, or spoiled supplies and materials shall be charged to the proper appropriation account during the fiscal year it is determined that obsolescence, damage, or spoilage has occurred.

(2) The department shall provide assistance to any city, village, county, township, school district, intermediate school district, nonprofit hospital, institution of higher education, or community or junior college for purchasing services on a fee basis. Fees collected for the provision of that assistance are appropriated for the additional expenses incurred.

(3) The department shall create and operate a cooperative bulk purchasing program for school districts, public school academies, nonpublic schools, and intermediate school districts on a fee basis to reduce the costs of purchasing goods and services. Fees collected under this subsection shall not exceed the cost of purchasing goods and services and reasonable administrative expenses, and are appropriated for the expenses incurred.

History: 1984, Act 431, Eff. Mar. 29, 1985;—2004, Act 589, Imd. Eff. Jan. 4, 2005.

Popular name: Act 431

Popular name: DMB

18.1264 Debarring vendor from participation in bid process and from contract award; notice; finding.

Sec. 264. The department may debar a vendor from participation in the bid process and from contract award upon notice and a finding that the vendor is not able to perform responsibly, or that the vendor, or an officer or an owner of a 25% or greater share of the vendor, has demonstrated a lack of integrity that could jeopardize the state's interest if the state were to contract with the vendor.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1265 Federal surplus property; acquisition and distribution.

Sec. 265. The department shall perform the functions and necessary duties as the agency of the state in the acquisition and distribution of federal surplus property pursuant to federal law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1267 Personal property of state agencies; directives for disclosure, transfer, and disposal; sale at fair market value; payment of costs or assessment of handling fee; sale of surplus snow removal equipment or surplus road construction or maintenance

equipment; "local road agencies" defined.

Sec. 267. (1) The department shall issue directives to provide for the disclosure, transfer, and disposal of surplus personal property of state agencies. Except as otherwise provided in subsection (4), the department may dispose of surplus personal property by donating the surplus personal property to a nonprofit entity, or selling it to a unit of local government, or selling it at a public sale.

(2) The department may sell surplus personal property at fair market value. The department may also exchange surplus personal property for goods and services at fair market value with a private company that is contracted to provide state services, and the surplus personal property is essential to providing those services.

(3) The department may pay necessary costs incurred in the conduct of the transfers or sale of surplus personal property including the necessary warehousing and reconditioning costs from the proceeds of the sale or by assessing a handling fee for surplus personal property being donated.

(4) Beginning October 1, 2016, prior to donating, disposing of, or selling surplus snow removal equipment or surplus road construction or maintenance equipment that was owned by the state transportation department, the department shall make that equipment available for sale at fair market value to local road agencies in this state. The department shall issue directives to implement this subsection. As used in this subsection, "local road agencies" means a local road agency as that term is defined in section 9a of 1951 PA 51, MCL 247.659a.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 237, Imd. Eff. June 29, 2012;—Am. 2016, Act 245, Imd. Eff. June 24, 2016.

Popular name: Act 431

Popular name: DMB

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.

History: Add. 1988, Act 237, Eff. Oct. 1, 1988;—Am. 2007, Act 183, Imd. Eff. Dec. 21, 2007.

Popular name: Act 431

Popular name: DMB

18.1269 Centralized services; charges; rates; creation of office services revolving fund; inventory value of paper and stationery operation.

Sec. 269. (1) The department shall establish, administer, operate, or provide centralized services such as the following:

(a) Duplicating, microfilming, mailing, warehousing, and drug packaging.

(b) Telecommunications.

(c) Supplying and storing of forms, publications, paper, and stationery.

(d) Off-site storage of optical discs.

(e) Other services to state agencies that are advantageous to this state, after consultation with each affected state agency.

(2) The department shall charge a state agency for a service provided to the state agency pursuant to subsection (1). A payment shall be credited to the office services revolving fund created in subsection (3). The rate charged for a service shall be coordinated, to the extent possible, with the budget cycle. The rate shall reflect the actual cost for the service provided.

(3) The office services revolving fund is created. The amounts in the office services revolving fund are continuously appropriated only for implementing subsection (1).

(4) The inventory value of the paper and stationery operation of the centralized services shall not exceed at any given time 1/3 of the gross sales of the previous fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1992, Act 191, Imd. Eff. Oct. 5, 1992.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

Popular name: Act 431

Popular name: DMB

18.1270 Directives for use of certain apps, software, or other technology on electronic device by state departments and agencies.

Sec. 270. The department shall issue directives that all state departments and all state agencies must not use any app, software, or other technology that prevents it from maintaining or preserving a public record as required by law on an electronic device that is used to create a public record.

History: Add. 2021, Act 114, Imd. Eff. Nov. 22, 2021.

Popular name: Act 431

Popular name: DMB

18.1271 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to telecommunications systems or services.

Popular name: Act 431

Popular name: DMB

18.1273 Directives for printing of publications by state agency; approval of printing request; determining number and distribution of state reports and publications; style, form,

binding, typography, and quality of paper; central storage; publications to be printed on recycled paper; distribution and central storage only of certain publications.

Sec. 273. (1) The department shall issue directives for the printing of publications by any state agency. A publication that is authorized by law shall not be printed unless the request for the printing is approved by the department.

(2) Except as provided in subsection (3), the department shall provide for the determination of the precise number and distribution of all state reports and publications, shall prescribe the style, form, binding, typography, and quality of paper, and shall provide for the central storage of reports and publications in a manner provided by law. In addition, the department shall require that the publications of any state agency shall be printed on recycled paper, to the extent available, to comply with the 3-year phase-in requirements provided for in section 261b.

(3) With respect to the Michigan manual, the Public and Local Acts, the Michigan administrative code, and the Michigan register, the department shall provide for their distribution and central storage only.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 184, Eff. July 1, 1988;—Am. 1988, Act 412, Eff. Mar. 30, 1989.

Popular name: Act 431

Popular name: DMB

18.1275 Sale of office furnishings and equipment to former governors and legislators; fair market value; use of proceeds.

Sec. 275. The department may sell, at fair market value, to former governors and legislators, office furnishings and other equipment utilized by the governors and legislators. Personal property which was originally donated to the state by the person purchasing the property or real property or improvements to real property may be sold for its fair market value as determined by the purchasing division of the department using generally accepted valuation methods for all other property. The sale will be based on replacement value as determined by the purchasing division of the department. Proceeds from the sale may be used to replace furnishings and equipment.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1277 Expenditure for mailing letter, newsletter, report, or other publication; conditions.

Sec. 277. A state board or commission shall not make an expenditure for mailing a letter, newsletter, report, or other publication unless 1 or more of the following is applicable:

(a) The mailing is required by law.

(b) The mailing is paid for by the person to whom the mailing is addressed.

(c) The mailing is a direct response to a specific question of the person to whom the mailing is addressed.

(d) The mailing is specifically authorized by a majority vote of a state board or commission.

(e) The mailing is sent to an individual or entity and seeks information necessary for a state board or commission to render a decision. This subdivision does not include a questionnaire or general letter which attempts to assist in the taking of a survey.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1279 Consulting services.

Sec. 279. (1) The department shall review and approve or disapprove any proposal for the acquisition of consulting services by a state agency. The department shall issue directives for the obtaining of consulting services.

(2) The department shall provide internal consulting services to state agencies in place of outside consulting assistance whenever feasible. When internal consulting services are provided to a state agency, the state agency shall be interaccount billed for the cost of the services.

(3) The department shall provide consulting assistance to units of local government and institutions of higher education on a fee basis when requested.

(4) Amounts received for services shall constitute project amounts that may be carried over to a succeeding fiscal year as necessary to complete the consulting service projects.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1281 Contract for services; contract for personal services; reports.

Sec. 281. (1) Before the fifteenth of each month, the department of civil service shall report to the appropriations committees and the fiscal agencies the following for each contract for services approved by the department of civil service during the previous calendar month:

- (a) The state agency contracting for the service.
- (b) The name of the individual or entity with whom the state agency is contracting.
- (c) The dollar amount of and source of financing for the contract.
- (d) The name of any individual providing contractual services to the state, whether as a special personal service employee or as the employee of an independent contractor, as certified by the contracting state agency, and who has retired under section 19a of Act No. 240 of the Public Acts of 1943, being section 38.19a of the Michigan Compiled Laws.

(2) The department of civil service shall report to the appropriations committees and the fiscal agencies before January 30 of each year the following information for contracts for personal services approved by the department of civil service during the previous fiscal year:

- (a) The state agency contracting for the service.
- (b) The name of the individual or entity with whom the state agency is contracting.
- (c) The dollar amount and source of financing for the contract.
- (d) The name of an individual providing contractual services to the state, whether as a special personal service employee or as the employee of an independent contractor, who is certified by the contracting state agency, and who has retired under section 19a of Act No. 240 of the Public Acts of 1943, being section 38.19a of the Michigan Compiled Laws.
- (e) The total number of contracts submitted by the state agencies and the total number approved.
- (f) The total dollar amount of contracts submitted by the state agencies and the total dollar amount approved.
- (g) The duration of employment of special personal service employees paid on payroll.
- (h) The total dollar amount and total number of hours a state agency contracts with an independent contractual service vendor that is paid by voucher.
- (i) The number of contracts approved to have jobs performed contractually that had been performed by classified civil service employees including the total number of positions eliminated; what provisions were made for the reemployment of the displaced employees; and what, if any, cost savings to the state were realized as a result of the contracts.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1281a Personal service contracts; report.

Sec. 281a. (1) The department of management and budget and each principal executive department and agency shall provide to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies a monthly report on all personal service contracts in an amount greater than \$10,000.00 awarded without competitive bidding, pricing, or rate setting. The report shall include all of the following:

- (a) The total dollar amount of the contract.
- (b) The effective beginning and ending dates of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

(2) For new personal service contracts of \$100,000.00 or more, the department of management and budget shall provide a monthly report to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies including all of the following:

- (a) The total dollar amount of the contract.
- (b) The effective beginning and ending dates of the contract.
- (c) The name of the vendor.
- (d) The type of service to be provided.

(3) Each principal executive department and agency shall provide a monthly summary listing to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies of information that identifies any authorizations for personal service contracts that are provided to the department of civil service pursuant to delegated authority granted to each principal executive department and

agency related to personal services contracts.

(4) The civil service department shall also include a report of all mixed contracts that the civil service commission did not review for approval under the authority of civil service rule 4-6.3, standard (e).

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1282 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to unclassified director.

Popular name: Act 431

Popular name: DMB

18.1283 Central payroll system; state budget office as tax withholding agency; payroll deductions or withholding.

Sec. 283. (1) The state budget office shall issue directives necessary to establish and maintain the central payroll system for the periodic compensation of the officers and employees of all state agencies of all branches of state government.

(2) The state budget office shall perform such duties as required as the tax withholding agency for the state government payroll pursuant to any local, state, or federal law.

(3) The state budget office shall issue directives for the approval or disapproval of any proposal for payroll deductions or withholding other than those required by law.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1283a Payroll and payments by electronic funds transfer; implementation.

Sec. 283a. (1) Except as otherwise provided in this subsection, beginning October 1, 2005, all nonclassified state government employees payroll and payments and all elected and appointed state officials payroll and payments shall be paid by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(2) Except as otherwise provided in this subsection, beginning October 1, 2005, all contracts that this state enters into for the purchase of goods or services shall provide that payment shall be made by electronic funds transfer. The department of community health and the family independence agency shall implement this section October 1, 2006.

(3) The department is encouraged to implement this section before October 1, 2005.

History: Add. 2004, Act 533, Imd. Eff. Jan. 3, 2005.

Popular name: Act 431

Popular name: DMB

18.1284 Additional definitions.

Sec. 284. As used in this section and sections 285 to 292:

(a) "Archival value" means records which have been selected by the department of history, arts, and libraries as having enduring worth because they document the growth and development of this state from earlier times, including the territorial period; they evidence the creation, organization, development, operation, functions, or effects of state agencies; or because they contain significant information about persons, things, problems, or conditions dealt with by state agencies.

(b) "Record" or "records" means a document, paper, letter, or writing, including documents, papers, books, letters, or writings prepared by handwriting, typewriting, printing, photostating, or photocopying; or a photograph, film, map, magnetic or paper tape, microform, magnetic or punch card, disc, drum, sound or video recording, electronic data processing material, or other recording medium, and includes individual letters, words, pictures, sounds, impulses, or symbols, or combination thereof, regardless of physical form or characteristics. Record may also include a record series, if applicable.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2001, Act 71, Imd. Eff. July 24, 2001.

Popular name: Act 431

Popular name: DMB

18.1285 Records; maintenance by head of state agency; listing on retention and disposal

schedule; legal custody and physical possession.

Sec. 285. (1) The head of each state agency shall maintain records which are necessary for all of the following:

- (a) The continued effective operation of the state agency.
- (b) An adequate and proper recording of the activities of the state agency.
- (c) The protection of the legal rights of the state.

(2) The head of a state agency maintaining any record shall cause the records to be listed on a retention and disposal schedule.

(3) Legal custody and physical possession of a record shall be vested in the state agency that created, received, or maintains the record until such time as it is transferred to the state archives or is destroyed.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1287 Records management program; purpose; duties of department; directives.

Sec. 287. (1) The department shall maintain a records management program to provide for the development, implementation, and coordination of standards, procedures, and techniques for forms management, and for the creation, retention, maintenance, preservation, and disposition of the records of this state. All records of this state are and shall remain the property of this state and shall be preserved, stored, transferred, destroyed, disposed of, and otherwise managed pursuant to this act and other applicable provisions of law.

(2) In managing the records of this state, the department shall do all of the following:

(a) Establish, implement, and maintain standards, procedures, and techniques of records management throughout state agencies.

(b) Provide education, training, and information programs to state agencies regarding each phase of records management.

(c) Promote the establishment of a vital records program in each state agency by assisting in identifying and preserving records considered to be critically essential to the continued operation of state government or necessary to the protection of the rights and privileges of its citizens, or both. Preservation of designated vital records shall be accomplished by storing duplicate copies of the original records in a secure remote records center to assure retention of those records in the event of disaster and loss of original records.

(d) Operate a records center or centers for the purpose of providing maintenance, security, and preservation of state records.

(e) Provide centralized microfilming service and, after the effective date of rules promulgated under the records media act, 1992 PA 116, MCL 24.401 to 24.403, to govern optical storage, service for off-site storage of optical discs as an integral part of the records management program.

(f) Provide safeguards against unauthorized or unlawful disposal, removal, or loss of state records.

(g) Initiate action to recover a state record that may have been removed unlawfully or without authorization.

(h) Establish retention and disposal schedules for the official records of each state agency with consideration to their administrative, fiscal, legal, and archival value.

(3) The department shall issue directives that provide for all of the following:

(a) The security of records maintained by state agencies.

(b) The establishment of retention and disposal schedules for all records in view of their administrative, fiscal, legal, and archival value.

(c) The submission of proposed retention and disposal schedules to the department of history, arts, and libraries, the auditor general, the attorney general, and the board for review and approval.

(d) The transfer of records from a custodian state agency to a state records center or to the custody of the department of history, arts, and libraries.

(e) The disposal of records pursuant to retention and disposal schedules, or the transfer of records to the custody of the department of history, arts, and libraries.

(f) The establishment of a records management liaison officer in each department to assist in maintaining a records management program.

(g) The cooperation of other state departments in complying with this act.

(h) The storage of records in orderly filing systems designed to make records conveniently accessible for use.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1992, Act 191, Imd. Eff. Oct. 5,

1992;—Am. 2001, Act 71, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 431

Popular name: DMB

18.1288 Inspection or inventory of records.

Sec. 288. A state agency shall permit the department or the department of history, arts, and libraries, upon request, to inspect or inventory records in the custody of the agency.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2001, Act 71, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For the transfer of powers and duties related to the state archives program from the department of natural resources to the department of technology, management and budget, see E.R.O. 2023-2, compiled at MCL 388.1283.

Popular name: Act 431

Popular name: DMB

18.1289 Records of archival value; listings of records due for disposal; report; notice of destruction or transfer of record; action to recover records; temporary restraining order.

Sec. 289. (1) In reviewing a draft retention and disposal schedule, the department of history, arts, and libraries shall determine whether any records listed on the schedule possesses archival value and may disapprove or may require modification of a schedule which proposes the destruction of a record possessing archival value.

(2) In cooperation with the department of history, arts, and libraries, the department shall periodically provide the department of history, arts, and libraries with listings of all records in the custody of the records center that are due for disposal before releasing those records for destruction. Within 30 days after receiving these lists, the department of history, arts, and libraries shall report in writing to the records center regarding each list submitted, and may disapprove the destruction of any or all of the records listed. Any record that is considered to potentially have archival value by the department of history, arts, and libraries shall not be destroyed or otherwise disposed of but shall be transferred to the department of history, arts, and libraries.

(3) The department shall notify the state agency that created a record before its destruction or transfer to the state archives.

(4) The department of history, arts, and libraries may initiate legal action in circuit court to recover records possessing archival value when there is reason to believe that records have been improperly or unlawfully removed from state custody. Upon initiation of any action, the court may issue a temporary restraining order preventing the sale, transfer, or destruction of a record pending the decision of the court.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2001, Act 71, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For the transfer of powers and duties related to the state archives program from the department of natural resources to the department of technology, management and budget, see E.R.O. 2023-2, compiled at MCL 388.1283.

Popular name: Act 431

Popular name: DMB

18.1292 Responsibilities of department of history, arts, and libraries.

Sec. 292. This act shall not be construed to prevent the department of history, arts, and libraries from exercising its responsibilities to ensure that records possessing historical value are protected and preserved in the state archives.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2001, Act 71, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state records management program to department of management and budget, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 431

Popular name: DMB

18.1293 Definitions.

Sec. 293. As used in this section and sections 294 to 297:

(a) "Committee" means the committee on the purchase of goods and services from community rehabilitation organizations created in section 295.

(b) "Community rehabilitation organization" means a nonprofit charitable organization or institution incorporated in this state that is operated for the purpose of carrying out a recognized program of employment and training services for people with disabilities.

(c) "Fair market price" means the price established by the committee for goods or services to be purchased from community rehabilitation organizations based upon 1 or more of the following:

(i) Available information from reliable market sources.

(ii) A market survey conducted by a person designated by the committee.

(iii) Previous contract prices adjusted for market conditions.

(iv) The range of bids from the most recent solicitation, including a determination of the median price, average price, and any market conditions that have changed since the most recent solicitation.

(v) Cost analysis.

(vi) Other methods as determined by the committee.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010.

Popular name: Act 431

Popular name: DMB

18.1294 Purchase of goods and services from community rehabilitation organizations; preferred status.

Sec. 294. (1) To advance the employment of people with disabilities, community rehabilitation organizations shall have preferred status for the purposes of procurement in accord with the provisions of this section. The department's procurements of goods and services from community rehabilitation organizations are exempt from other competitive procurement requirements of this act and, to the extent possible, exempt from other competitive procurement statutes and executive orders. This subsection does not prohibit the department from applying competitive bid requirements to select among community rehabilitation organizations for the purchase of goods and services.

(2) The department shall purchase goods and services that are manufactured or provided by community rehabilitation organizations in this state pursuant to sections 293 to 297.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010.

Popular name: Act 431

Popular name: DMB

18.1295 Committee on purchase of goods and services from community rehabilitation organizations; creation; appointment, qualifications, and terms of members; compensation.

Sec. 295. The committee on the purchase of goods and services from community rehabilitation organizations is created within the department and shall consist of 6 members appointed by the governor. The members shall serve for a term of 2 years. The committee shall consist of 1 member from the purchasing division of the department, 1 member from Michigan rehabilitation services, 1 member from the commission on disability concerns, 1 member, who shall serve as the chairperson of the committee, from a statewide nonprofit corporation concerned with community rehabilitation organizations, and 2 members at large. Members of the committee shall serve without compensation.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010.

Popular name: Act 431

Popular name: DMB

18.1296 Duties of committee.

Sec. 296. The committee shall do all of the following:

(a) Meet as often as necessary, but at least quarterly, to carry out its duties.

(b) Coordinate and monitor the implementation of sections 293 to 297.

(c) Identify, review, and recommend approval or disapproval to the state administrative board of requests from community rehabilitation organizations to provide goods and services for purchase by the department.

(d) Establish eligibility criteria for participating community rehabilitation organizations, including criteria that demonstrate the ability to perform the requirements of the contract and establish that the majority of the direct labor hours required to fulfill the contract are performed by individuals with significant disabilities as

that phrase is defined in 29 USC 705(21)(A).

(e) At least annually, in cooperation with the department, establish and review fair market prices and methods for establishing fair market prices for goods and services to be purchased from community rehabilitation organizations.

(f) Establish procedures regarding the functions and operations of the committee.

(g) Prepare an annual report depicting the activities related to this section that includes, at a minimum, all of the following:

(i) A summary of products and services purchased by the department from community rehabilitation organizations.

(ii) The names of community rehabilitation organizations participating.

(iii) The impact of this section upon production, work stabilization, program development, and the number of persons with a disability served by community rehabilitation organizations.

(iv) An indication of the areas to which and the amounts for which the budget of the committee was allocated.

(h) At least annually conduct a review of the prices paid by the department for the goods and services provided by community rehabilitation organizations and make any adjustments necessary to establish new fair market prices.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010.

Popular name: Act 431

Popular name: DMB

18.1297 Priority of selection; specifications; sale of goods and services to other governmental agencies or private businesses.

Sec. 297. (1) For the purposes of identifying those goods or services or both to be provided by community rehabilitation organizations, first priority of selection shall be given to those goods or services or both currently purchased by the department from commercial businesses outside this state. Next selection priority shall be given to those goods or services or both purchased from commercial businesses within this state. If upon review of the current bids or fair market price of both priorities of goods or services or both, the committee finds that community rehabilitation organizations can provide equal goods or services to the department within current bids or fair market price, then those goods or services or both shall be set aside for exclusive provision by community rehabilitation organizations for purchase by the purchasing division of the department.

(2) All goods and services purchased by the department from community rehabilitation organizations shall meet the specifications regarding quality, function, and quantity established and published by the department.

(3) This section does not prevent community rehabilitation organizations from selling goods and services to other governmental agencies or private businesses of their choosing.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2010, Act 372, Imd. Eff. Dec. 22, 2010.

Popular name: Act 431

Popular name: DMB

18.1298 Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's note: The repealed section pertained to the creation and powers and duties of Michigan capitol park commission.

Popular name: Act 431

Popular name: DMB

18.1298a Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's note: The repealed section pertained to compliance with open meetings act and freedom of information act.

Popular name: Act 431

Popular name: DMB

18.1298b Michigan veterans' memorial park; designation; jurisdiction under Michigan veterans' memorial park commission; easement.

Sec. 298b. The following real property is designated the Michigan veterans' memorial park and is under the jurisdiction of the Michigan veterans' memorial park commission:

Commencing at the E 1/4 corner of Section 17, T4N, R2W, City of Lansing, Ingham County, Michigan; thence westerly approximately 470 feet, on the E-W 1/4 line of said Section 17 to the point of beginning; thence southerly approximately 295 feet, to the right-of-way line of the proposed Capitol Loop; thence

approximately 840 feet, on the arc of a curve to the right with a central angle of approximately 160 degrees and a radius of approximately 300 feet on said right-of-way; thence southerly approximately 295 feet, to the point of beginning, containing 2.5 acres, more or less. The described parcel is subject to any easement or right of record pertaining to that parcel.

History: Add. 1988, Act 306, Eff. Sept. 1, 1988;—Am. 1992, Act 132, Imd. Eff. July 9, 1992;—Am. 2013, Act 243, Eff. Mar. 14, 2014.

Popular name: Act 431

Popular name: DMB

18.1298c Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's note: The repealed section pertained to duties of Michigan capitol park commission.

Popular name: Act 431

Popular name: DMB

18.1298d Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's note: The repealed section pertained to powers of Michigan capitol park commission.

Popular name: Act 431

Popular name: DMB

18.1298e Repealed. 2013, Act 243, Eff. Mar. 14, 2014.

Compiler's note: The repealed section pertained to disposition of fees received by Michigan capitol park commission.

Popular name: Act 431

Popular name: DMB

18.1299 Office of state budget director; higher education institutional data inventory advisory committee; membership; review and audits; auditor general report.

Sec. 299. (1) The office of the state budget director shall do all of the following:

(a) Establish, maintain, and coordinate the state higher education database commonly known as the higher education institutional data inventory or "HEIDI".

(b) Collect data concerning public universities and public university programs in this state, including data required by law, and include it in the database.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop model data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. Privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state policymakers and public university officials to make informed policy decisions.

(f) Assist public universities in complying with audits under this section or federal law.

(g) Perform other functions assigned by the state budget director or required by law.

(2) There is created within the office of the state budget director in the department the higher education institutional data inventory advisory committee. The committee shall provide advice to the state budget director regarding the management of the state higher education database, including, but not limited to:

(a) Determining what data is necessary to collect and maintain.

(b) Defining the roles of all stakeholders in the data collection system.

(c) Recommending timelines for the implementation and ongoing collection of data.

(d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.

(e) Establishing and maintaining a process for ensuring the accuracy of the data.

(f) Establishing and maintaining policies related to data collection, including, but not limited to, privacy policies related to individual student data.

(g) Ensuring the data is made available to state policymakers and citizens of this state in the most useful format possible.

(h) Addressing other matters as determined by the state budget director or as required by law.

(3) The higher education institutional data inventory advisory committee created in subsection (2) shall consist of the following members:

(a) One representative from the house fiscal agency, appointed by the director of the house fiscal agency.

(b) One representative from the senate fiscal agency, appointed by the director of the senate fiscal agency.

(c) One representative from the office of the state budget director, appointed by the state budget director.

(d) Three representatives of the presidents council of state universities, appointed by the presidents council. The presidents council shall appoint 1 representative each from a master's university, a doctoral university, and a research university.

(4) The auditor general shall review higher education institutional data inventory enrollment data submitted by all public universities and shall perform audits of selected data submitted by public universities at least once every 4 years. The review and audits shall be based upon the definitions, requirements, and uniform reporting categories established by the state budget director in consultation with the higher education institutional data inventory advisory committee. The auditor general shall submit a report of findings to the house and senate appropriations committees and the state budget director by July 1 of each year in which an audit is performed.

History: Add. 2006, Act 95, Imd. Eff. Apr. 4, 2006;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

ARTICLE 3

18.1301 Meanings of words and phrases.

Sec. 301. For purposes of this article, the words and phrases defined in sections 302 to 305 have the meanings ascribed to them in those sections.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1302 Definitions; A.

Sec. 302. (1) "Adjusted personal income" means the total personal income of this state, less transfer payments, adjusted for inflation. The adjustment for inflation shall be determined by reducing the total personal income of this state less transfer payments for a calendar year by the average of the Detroit consumer price index for the same calendar year.

(2) "Allocation of state financial resources" means the decision process to place priorities on services by proposing and appropriating money by law for state government services.

(3) "Allotment schedule" means the estimated periodic expenditures and obligations of appropriations constituting a spending plan.

(4) "Annual growth rate" means the percentage change in adjusted personal income for the current calendar year as compared to adjusted personal income for the calendar year immediately preceding the current calendar year. The annual growth rate shall be rounded off to the nearest 0.1%.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Popular name: Act 431

Popular name: DMB

18.1303 Definitions; D to P.

Sec. 303. (1) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor.

(2) "Open-end appropriation" means an annual appropriation without a specific sum, for a state budget purpose.

(3) "Personal income" means as defined by the bureau of economic analysis of the United States department of commerce or its successor.

(4) "Program" means the activities and financial resources applied to a public policy intention as approved by the legislature.

(5) "Proportion" means the proportion of total state spending from state sources paid to all units of local government in a fiscal year, and shall be calculated by dividing a fiscal year's state spending from state sources paid to units of local government by total state spending from state sources for the same fiscal period.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1304 Definitions; S.

Sec. 304. (1) "State budget" means a financial program to deliver state government services.

(2) "State operating fund" means a state fund entity established by law to provide direct financial support for services delivered to the public pursuant to the state budget.

(3) "State spending paid to units of local government" means the sum of total state spending from state sources paid to a unit of local government. State spending paid to a unit of local government does not include a payment made pursuant to a contract or agreement entered into or made for the provision of a service for the state or to state property, and loans made by the state to a unit of local government.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1305 Definitions; T, U.

Sec. 305. (1) "Total state spending" means the sum of state operating fund expenditures, not including transfers between funds.

(2) "Total state spending from state sources" means the sum of state operating fund expenditures not including transfers between funds, federal aid, and restricted local and private sources of financing.

(3) "Transfer payments" means as defined by the bureau of economic analysis of the United States department of commerce or its successor.

(4) "Unit of local government" means unit of local government as defined in section 115(5).

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1321 Office of state budget director; creation; appointment of director; exemption from classified service; term; director as director of department.

Sec. 321. The office of state budget director is hereby created. The state budget director shall be appointed by the governor, be exempt from the classified state civil service, and shall serve at the pleasure of the governor. The state budget director may concurrently serve as the director of the department.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1323 Executive budget function; executive budget proposal; limitation on proposed appropriations.

Sec. 323. The governor shall establish and maintain an executive budget function through a state budget director. The governor shall develop and present to the legislature an executive budget proposal for the following fiscal period. The executive budget proposal shall include proposed appropriations for state program services and estimated or proposed revenue and resources for all state operating funds. Proposed appropriations shall not exceed the estimated financing in a state operating fund. The executive budget function shall include the management and execution of the state budget which is enacted into law to deliver intended services within actual levels of financing in the state operating funds.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1331 Information; assistance.

Sec. 331. The chief executive officer of a state agency, institution of higher education, or community college shall promptly furnish any information requested by the state budget director and shall provide necessary assistance in implementing this act.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1332 Comprehensive state information relative to programs, financing, priorities, management, and performance; investigations; examinations.

Sec. 332. The state budget director shall obtain from state agencies and develop comprehensive state information relative to programs, financing, priorities, management, and performance. The state budget director may investigate the activities or examine the records of state agencies to ascertain facts in the

administration of this act.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1333 Witnesses; oaths; examinations; compelling production of records; enforcement of orders and subpoenas.

Sec. 333. Pursuant to this act, the state budget director may compel attendance and testimony of witnesses, administer oaths, and examine persons as necessary and compel the production of records. Orders and subpoenas issued by the state budget director, in pursuance of the authority vested by this section, may be enforced upon the application to the circuit court for proceedings in contempt of that court as provided by law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1341 Executive state budget; evaluations; review.

Sec. 341. The state budget director shall plan and prepare a comprehensive executive state budget and execute, manage, and control the state budget which is enacted into law. The state budget director shall provide for the evaluation of state programs, planning and evaluation of allocation of state financial resources to programs and activities, and concurrently evaluate administrative management and performance in accordance with approved public policy. The state budget director shall review for cost, program impact, and departmental organization.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1342 Economic analysis, revenue estimating, and monitoring activity.

Sec. 342. The state budget director or state treasurer shall establish and maintain an economic analysis, revenue estimating, and monitoring activity. The activity shall include the preparation of current estimates of all revenue by source for state operating funds for the initial executive budget proposal to the legislature and thereafter through final closing of the state's accounts.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: For transfer of powers and duties relating to economic analysis and revenue estimating activities of the State Budget Director in the Office of Revenue and Tax Analysis, Department of Management and Budget, to the State Treasurer as head of the Department of Treasury, see E.R.O. No. 1991-1, compiled at MCL 12.151 of the Michigan Compiled Laws.

Popular name: Act 431

Popular name: DMB

18.1343 Statistical studies; population estimates and projections.

Sec. 343. The bureau of labor market and strategic initiatives shall conduct statistical studies and make estimates and projections of population relative to size and distribution.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1344 Annual proposals; review of auditor general's audits; state debt; costs of capital outlay projects.

Sec. 344. (1) The state budget director shall develop annual proposals for departmental program activities and the associated estimated costs and sources of financing. The proposals shall reflect current departmental program activities relative to impact on state policy goals, and new and augmented program activities in response to changing priorities. The proposals shall reflect the evaluations and analyses of state programs and activities prescribed in this act.

(2) The state budget director shall review the auditor general's audits of state agencies as a basis for making recommendations in departmental program expenditure proposals.

(3) The state budget director shall annually determine the amounts required for interest and principal of state debt and the estimated costs of capital outlay projects to provide facilities for state program services.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1345 State mandated programs; costs; recommendations.

Sec. 345. Recommendations for appropriations in a departmental budget proposal shall include costs incurred by units of local government to implement state mandated programs as provided by law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1347 Hearings; attendance.

Sec. 347. Before presenting final budget proposals to the governor, the state budget director may hold departmental hearings at which officials of the department may be heard on the proposals. The chief executive officer of a department, or member of a board or commission, or their representatives shall attend the hearings if requested by the state budget director. A governor-elect shall be invited to attend and participate in the departmental hearings.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1348 Executive budget submitted to legislature; recommendations for expenditures; additional and new sources of revenue; considerations in balancing budget of each state operating fund.

Sec. 348. The executive budget submitted to the legislature shall represent financing for all state agency programs provided by the resources of state operating funds. Recommendations for expenditures from each state operating fund shall not exceed the estimated beginning balance of such fund plus the fund's estimated revenue. Additional and new sources of revenue may be proposed in the executive budget to meet the proposed expenditures. In balancing the budget of each state operating fund, the state budget director shall consider proposed open-end appropriations and tax and spending limitations as provided by law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1349 Proportion of total state spending from state sources paid to units of local government; compliance of budgets with state constitution.

Sec. 349. In accordance with the provision of section 30 of article IX of the state constitution of 1963, the proportion of total state spending from state sources paid to all units of local government shall not be less than the proportion in effect in fiscal year 1978-1979. The executive budget submitted to the legislature and the budget enacted by the legislature shall be in compliance with section 30 of article IX of the state constitution of 1963.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1350 State spending paid to units of local government; refunds or other repayments.

Sec. 350. (1) If state government assumes the financing and administration of a function, after December 22, 1978, which was previously performed by a unit of local government, the state payments for the function shall be counted as state spending paid to units of local government.

(2) Refunds or other repayments of prior year revenues shall not be considered in the determination of total state spending.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1350a Additional definitions.

Sec. 350a. As used in sections 26 to 28 of article IX of the state constitution of 1963:

(a) "Personal income of Michigan" for a calendar year means total annual personal income as officially reported by the United States department of commerce, bureau of economic analysis, or its successor, in August of the year following the calendar year for which the report is made. Revision of the total annual personal income figure as reported by the bureau of economic analysis after August of the year following the calendar year for which the report is made shall not cause personal income of Michigan as defined to be revised.

(b) "Total state revenues" means the combined increases in net current assets of the general fund and special revenue funds, except for component units included within the special revenue group for reporting purposes only. For fiscal years beginning after September 30, 1986, total state revenues shall be computed on the basis of generally accepted accounting principles as defined in this act. However, total state revenues shall not include the following:

(i) Financing sources which have previously been counted as revenue, for the purposes of section 26 of article IX of the state constitution of 1963 such as, beginning fund balance, expenditure refunds, and residual-equity and operating transfers from within the group of funds.

(ii) Current assets generated from transactions involving fixed assets and long-term obligations in which total net assets do not increase.

(iii) Revenues which are not available for normal public functions of the general fund and special revenue funds.

(iv) Federal aid.

(v) Taxes imposed for the payment of principal and interest on voter-approved bonds and loans to school districts authorized under section 16 of article IX of the state constitution of 1963.

(vi) Tax credits based on actual tax liabilities or the imputed tax components of rental payments, but not including the amount of any credits not related to actual tax liabilities.

(vii) Refunds or payments of revenues recognized in a prior period.

(viii) The effects of restatements of beginning balances required by changes in generally accepted accounting principles.

(c) The calculation of total state revenues required by section 350b(3) shall not be adjusted after the filing of the report required by June 30, 1989, unless future changes in generally accepted accounting principles would substantially distort the comparability of the base year and the current and future years. In no event shall intervening years be recalculated.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1350b Prohibited taxes; revenue limit; report.

Sec. 350b. (1) Effective with the 1979-80 state fiscal year, and for each state fiscal year thereafter, the legislature shall not impose taxes of any kind which would result in total state revenues exceeding the revenue limit established in subsection (2).

(2) The revenue limit shall be equal to the product of the ratio of total state revenues in the 1978-79 state fiscal year divided by the personal income of Michigan in calendar year 1977 computed by rounding the quotient to 4 decimal places, multiplied by the personal income of Michigan in either the prior calendar year or the average of personal income of Michigan in the previous 3 calendar years, whichever is greater.

(3) The department shall submit to the legislature, the fiscal agencies, and the auditor general not later than June 30, 1989 a report which shall calculate in detail the base revenue limit as established in subsection (2). This report shall become effective 90 days after submission to the legislature unless disapproved by a concurrent resolution approved by a majority of the members elected and serving in each house by a record roll call vote. If this report takes effect, the calculation of the base revenue limit contained in the report shall be used for the purposes of subsection (2).

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1350c Prohibited expenditures; amount withdrawn from countercyclical budget and economic stabilization fund considered surplus.

Sec. 350c. (1) Expenditures of state government which exceed the sum of the following amounts shall not be incurred in any fiscal year:

(i) The revenue limit established in section 350b.

- (ii) A surplus from a previous year.
 - (iii) Federal aid.
 - (iv) Taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under section 15 of article IX of the state constitution of 1963 .
 - (v) Loans to school districts authorized under section 16 of article IX of the state constitution of 1963.
 - (vi) The dollar amount of an emergency established pursuant to section 27 of article IX of the state constitution of 1963.
 - (vii) Other amounts excluded from the calculation of the revenue limit under the definition established in section 350a.
- (2) For the purposes of this section, an amount withdrawn from the countercyclical budget and economic stabilization fund created pursuant to section 351 shall be considered a surplus.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

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.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2007, Act 183, Imd. Eff. Dec. 21, 2007.

Popular name: Act 431

Popular name: DMB

18.1350e Report.

Sec. 350e. The department shall annually prepare a report which summarizes in detail the state's compliance with the revenue limit established in section 350b. The report shall be submitted to the auditor general for review and comment not later than May 31 of each year, and shall be published by submission to the legislature not later than June 30 of each year.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1351 Countercyclical budget and economic stabilization fund; creation; purpose; definitions.

Sec. 351. (1) A countercyclical budget and economic stabilization fund is created to assist in stabilizing revenue and employment during periods of economic recession and high unemployment.

(2) As used in this section and sections 352 to 359, "fund" means the countercyclical budget and economic stabilization fund.

(3) As used in section 352, "current calendar year" means the year that ends December 31 in which the determination of the transfer into or out of the fund is being made.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1352 Transfer of funds based on annual growth rate; formula.

Sec. 352. (1) When the annual growth rate is more than 2%, the percentage excess over 2% shall be

multiplied by the total state general fund-general purpose revenue for the fiscal year ending in the current calendar year to determine the amount to be transferred to the fund from the state general fund in the fiscal year beginning in the current calendar year.

(2) Except as otherwise provided in section 358, the legislature shall not appropriate money from the fund for a fiscal year when the annual growth rate for the calendar year in which that fiscal year ends is estimated to be greater than 0% at the most recent consensus revenue estimating conference. When the annual growth rate is estimated to be less than 0% at the most recent consensus revenue estimating conference, the legislature may appropriate by law for the fiscal year ending in the current calendar year no more than 25% of the prior fiscal year ending balance in the fund as reported in the comprehensive annual financial report. However, if the annual growth rate is estimated to be less than 0% in consecutive calendar years, for each of the fiscal years ending in those calendar years, the legislature may appropriate by law no more than 25% of the available fund balance at the beginning of the first fiscal year ending in the first calendar year that had an annual growth rate less than 0%.

(3) The legislature shall provide for transfers into or out of the fund through an appropriations act.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1985, Act 96, Imd. Eff. July 18, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1991, Act 29, Eff. Mar. 30, 1992;—Am. 1991, Act 72, Imd. Eff. July 11, 1991;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1353 Repealed. 2018, Act 613, Eff. Mar. 29, 2019.

Compiler's note: The repealed section pertained to appropriations allowed from the budget and economic stabilization fund if unemployment rate was higher than 8.0%.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1353a, 18.1353b Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed sections pertained to appropriation from fund and appropriation for civilian conservation corps endowment fund.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1353c Repealed. 2007, Act 145, Imd. Eff. Dec. 1, 2007.

Compiler's note: The repealed section pertained to appropriation of amounts to pay certain court settlements and purchase certain mineral rights.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1353d Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to appropriation to state transportation department.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1353e, 18.1353f Repealed. 2007, Act 145, Imd. Eff. Dec. 1, 2007.

Compiler's note: The repealed sections pertained to appropriation and transfer of funds to state school aid fund and to state water pollution control revolving fund.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1354 Executive budget and appropriations bill; estimate of transfer into or out of fund; installments.

Sec. 354. (1) The executive budget for each fiscal year shall contain an estimate of the required transfer

into the fund or the amount of funds recommended to be appropriated out of the fund required under section 352. The executive budget for each fiscal year shall not contain an estimate for a transfer out of the fund unless the annual growth rate is estimated to be less than 0% in that fiscal year.

(2) The legislature shall include the final amount of the transfer into the fund or the amount of funds appropriated out of the fund required under section 352 in the appropriations bill which contains the revenue estimate required by section 31 of article IV of the state constitution of 1963.

(3) A transfer into the fund shall be made in equal monthly installments throughout the fiscal year. A transfer out of the fund may be made as needed during the fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1994, Act 107, Eff. Mar. 30, 1995;—Am. 1994, Act 108, Imd. Eff. Apr. 26, 1994;—Am. 1995, Act 159, Imd. Eff. Sept. 25, 1995;—Am. 1995, Act 286, Imd. Eff. Jan. 9, 1996;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Compiler's note: The last sentence of subsection (4), as amended by Act 159 of 1995, was vetoed by the governor on September 25, 1995.

In subsection (6), as amended by Act 159 of 1995, the line item "Highland Park Community College.....95,656," was vetoed by the governor on September 25, 1995.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1354a Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to appropriation and transfer of certain excess balances.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1355 Adjustment of transfer into or out of fund; condition; adjustment of appropriation from fund.

Sec. 355. (1) The transfer into or out of the fund as provided in section 352 for each fiscal year beginning after September 30, 1978, may be adjusted in light of revision in the annual growth rate for the calendar year upon which that transfer was made. If an adjustment is made, it shall be implemented by an appropriation bill enacted into law.

(2) For a transfer into the fund, the adjustment, if made, shall be directly proportional to an increase or decrease in the annual growth rate.

(3) The basis for an adjustment under this section shall be a change in the personal income level for that calendar year as determined by the bureau of economic analysis of the United States Department of Commerce or its successor in the last report it makes before April 30 of the fiscal year in which that calendar year ended. The adjustment, if made, shall be effective on June 1 of the fiscal year in which the transfer is made.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1991, Act 72, Imd. Eff. July 11, 1991;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1356 Balance in fund; rebate of excess.

Sec. 356. The balance in the fund shall not exceed 15% of the combined level of general fund-general purpose and school aid fund revenues. If the balance in the fund at the end of a fiscal year exceeds 15% of the actual state general fund-general purpose and school aid fund revenues for that fiscal year, the excess shall be rebated to taxpayers on the individual income tax returns filed following the close of that fiscal year according to a schedule to be established by law.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1357 Shortfall in state general fund - general purpose revenue.

Sec. 357. In each fiscal year in which a transfer to the fund takes place, if the state general fund-general purpose revenue falls short of the level upon which a balanced state general fund budget was adopted for that

year and the shortfall cannot be attributed to a statutory change in the tax rate, the tax base, fee schedules, or any other change in the revenue sources by which the general fund estimate was made, an amount not to exceed the amount deposited into the fund for that fiscal year may, by majority vote of the members elected to and serving in each house, be appropriated from the fund to raise state general fund-general purpose revenue to the level originally anticipated.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1358 Emergency appropriation from fund; conditions; additional transfer.

Sec. 358. (1) Except as otherwise provided in this section, the legislature may make an emergency appropriation from the fund subject to all of the following conditions:

(a) The maximum appropriation from the fund for budget stabilization as provided in section 352(2) has already been made for the current fiscal year.

(b) The legislature has approved the emergency appropriations bill by a 2/3 majority vote of the members elected to and serving in each house.

(c) The emergency appropriations bill becomes law.

(2) The additional transfer from the fund may be made only for the current fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2000, Act 189, Imd. Eff. June 20, 2000;—Am. 2002, Act 504, Imd. Eff. July 19, 2002;—Am. 2014, Act 188, Imd. Eff. June 20, 2014;—Am. 2018, Act 613, Eff. Mar. 29, 2019.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1359 Combining amounts in fund and in state treasury for purposes of cash management; investment earnings; separate accounting; crediting transfer to fund.

Sec. 359. Amounts in the fund may be combined by the state treasurer with other amounts in the state treasury for purposes of cash management. The earnings from investment of the fund shall accrue to the fund. The fund shall be accounted for separately from other funds of the state. A transfer to the fund shall be credited toward the fund balance at the start of the fiscal year in which the transfer takes place subject to later revision according to section 355 in the same fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1360 Michigan infrastructure fund; creation; deposit; investment; interest and earnings; money at close of fiscal year; administration of fund for auditing purposes; expenditure.

Sec. 360. (1) The Michigan infrastructure fund is created within the state treasury.

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

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

(4) The department shall be the administrator of the Michigan infrastructure fund for auditing purposes.

(5) Money shall be expended from the Michigan infrastructure fund, upon appropriation, only to offset future infrastructure expenses as provided by law.

History: Add. 2016, Act 223, Imd. Eff. June 23, 2016.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1360a Expenditure of money; limitation.

Sec. 360a. Money in the Michigan infrastructure fund shall be expended only as provided in an appropriation act.

History: Add. 2016, Act 223, Imd. Eff. June 23, 2016.

Popular name: Act 431

Popular name: DMB

Popular name: Rainy Day Fund

18.1361 Submission of tax credit, deduction, and expenditure report.

Sec. 361. The tax credit, deduction, and exemption report as provided by 1979 PA 72, MCL 21.271 to 21.296, shall be submitted with the annual budget message by the governor to the legislature pursuant to 1979 PA 72, MCL 21.271 to 21.296.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 2003, Act 68, Imd. Eff. July 22, 2003.

Popular name: Act 431

Popular name: DMB

18.1362, 18.1362a Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed sections pertained to refundable income tax credits.

Popular name: Act 431

Popular name: DMB

18.1363 Transmittal of budget to members of legislature and fiscal agencies; line-item appropriation detail; computer software application; 2-year budget report; required contents; strategic plan; 5 years; contents.

Sec. 363. (1) Within 30 days after the legislature convenes in regular session, except in a year in which a newly elected governor is inaugurated into office when 60 days shall be allowed, the governor shall transmit to each member of the legislature and the fiscal agencies the budget in detail as provided in this act, accompanied by such explanations and recommendations relative to the budget as the governor considers necessary. At the time the budget is transmitted to the legislature, the state budget director shall transmit line-item appropriation detail to the fiscal agencies using a computer software application that is compatible with the budget tracking computer systems used by the respective fiscal agencies.

(2) The budget transmitted by the governor to the legislature shall be for the upcoming fiscal year and the following fiscal year. At a minimum, the budgets shall consist of all of the following:

- (a) Estimates of anticipated revenues by state funds.
- (b) Line-item details of proposed expenditures unrolled to show specific programs.
- (c) Estimates of the year-end unrestricted fund balances for state funds.
- (d) Any additional budget detail required by this act.

(3) Beginning for the 2020-2021 fiscal year, by the deadline established in subsection (1) for the governor to submit a budget to the legislature, the governor shall also present a strategic plan for this state.

(4) The strategic plan shall be published on the state's website.

(5) The strategic plan shall start with the upcoming fiscal year and shall cover the next 5 fiscal years. The strategic plan can be a revised version of a previous strategic plan or a new strategic plan.

(6) The strategic plan shall include the mission, vision, goals, strategies, and performance measures for each state department, including measures of the department's inputs, outputs, and output measures. The department's balanced scorecard can serve as the department's output measures.

(7) At the governor's discretion, the strategic plan may include inputs, outputs, and output measures for state agencies, bureaus, and divisions within a state department.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1993, Act 2, Imd. Eff. Feb. 16, 1993;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1365 Appropriation bills; passed and presented on or before July 1.

Sec. 365. Beginning July 1, 2021, the legislature shall pass and present general appropriation bills for the upcoming fiscal year to the governor on or before July 1.

History: Add. 2019, Act 160, Imd. Eff. Dec. 20, 2019;—Am. 2020, Act 122, Imd. Eff. July 1, 2020.

Popular name: Act 431

Popular name: DMB

18.1366 Financing and maintenance of state agency subject to act.

Sec. 366. Each state agency is subject to this act and shall be financed and maintained by specific appropriations by the legislature from the operating funds of the state, as such funds may be dedicated by law, pursuant to the submission of the state budget.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1367 Transmittal of executive budget bills to members of legislature and fiscal agencies; contents of executive budget bill and enacted budget bill.

Sec. 367. (1) Concurrent with transmitting the state budget to the legislature, the governor shall submit to the legislature and the fiscal agencies for the upcoming fiscal year and the following fiscal year executive budget bills containing itemized statements of estimated state spending to be paid to local units of government; annual required employer contributions toward total unfunded retiree health care and pension legacy costs as determined by the state's consulting actuary for each department and the legislative branch and the judicial branch; individual line item amounts, including the number of FTE positions to be funded by each individual line item amount, for the proposed expenditures; and any necessary bills for additional revenue to provide financing for the proposed expenditures.

(2) One executive budget bill and 1 enacted budget bill shall contain all of the following:

(a) The estimated revenue for each state operating fund in sufficient detail to provide for comparison with actual revenue.

(b) Summary totals for each state operating fund to reflect that recommended expenditures for each fund are within proposed and estimated resources.

(c) A statement of estimated state spending to be paid to units of local government, total state spending from state sources of financing, and the state-local proportion derived from that data.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2016, Act 221, Eff. Mar. 29, 2017;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1367a “Conference” and “principal” defined.

Sec. 367a. As used in this section and sections 367b to 367f:

(a) "Conference" means the revenue estimating conference established by this act.

(b) "Principal" means a person designated in section 367b to be a principal of the conference.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991.

Compiler's note: Former MCL 18.1367a, which pertained to definitions, was repealed by Act 72 of 1991, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

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 third week in May of each year, and as otherwise provided in this act.

(2) The principals of the conference are 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) Corporate income 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 target foundation allowance provided for in the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1897I. In establishing this forecast in January and May of 2020, the conference shall take into account the change in terminology from "basic foundation allowance" to "target foundation allowance" that occurred in the amendments made to section 20 of the state school aid act of 1979,

1979 PA 94, MCL 388.1620, for the 2019-2020 fiscal year.

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

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

(4) The conference shall determine its official forecast of economic and revenue variables by consensus among the principals.

(5) The conference shall make forecasts under this section for the fiscal year in which the conference is being held and the next 2 ensuing fiscal years. The conference shall also forecast general fund/general purpose revenue trend line projections and school aid fund revenue trend line projections for the next 2 ensuing fiscal years.

(6) The May revenue estimating conference shall establish expenditure forecasts for Medicaid expenditures and for human services caseloads and expenditures for the fiscal year in which the conference is being held and the next 2 ensuing fiscal years.

(7) The conference shall make official conference forecasts of revenues and expenditures based upon the assumption that the current law and current administrative procedures will remain in effect for the forecast period.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2007, Act 183, Imd. Eff. Dec. 21, 2007;—Am. 2011, Act 47, Imd. Eff. May 27, 2011;—Am. 2018, Act 613, Eff. Mar. 29, 2019;—Am. 2020, Act 157, Imd. Eff. Sept. 17, 2020.

Compiler's note: Former MCL 18.1367b, which pertained to revenue estimating conference, principals, and forecasts, was repealed by Act 72 of 1991, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

18.1367c Requests by conference for assistance and data.

Sec. 367c. The conference may request and shall receive from all public officers, departments, agencies, and authorities of the state the assistance and data needed to enable it to fulfill its duties.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991.

Compiler's note: Former MCL 18.1367c, which pertained to revenue forecast as revenue estimate, was repealed by Act 72 of 1991, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

18.1367d Conference procedures.

Sec. 367d. (1) The procedures of the conference shall be decided by the principals, except that any final action establishing an official forecast shall be taken only with the unanimous decision of all of the principals, and a conference shall complete its work within a period of not more than 5 days unless extended by consensus of the principals.

(2) All sessions and meetings of a conference shall be open to the public.

(3) A principal may invite persons to make a presentation or offer testimony to the conference.

(4) A principal shall preside over conference sessions, convene conference sessions, and specify topics to be included on the conference agenda. The responsibility of presiding over sessions of the conference shall be rotated annually among the principals. The principals shall elect the initial chairperson and thereafter the position of chairperson shall rotate among the principals each year.

(5) The chairperson presiding over a conference is also responsible for setting the conference date and preparing and distributing the necessary workpapers before the conference. The workpapers shall include comparisons between alternative information where a comparison is warranted.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991.

Compiler's note: Former MCL 18.1367d, which pertained to request for assistance and data from state officers and agencies, was repealed by Act 72 of 1991, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

18.1367e Publication of economic and revenue forecasts.

Sec. 367e. The conference shall publish the economic and revenue forecasts established by the conference.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991.

Compiler's note: Former MCL 18.1367e, which pertained to conference procedures, was repealed by Act 72 of 1991, Imd. Eff. July

11, 1991.

Popular name: Act 431

Popular name: DMB

18.1367f Convening conference upon request of principal.

Sec. 367f. Upon the written request of a principal, a conference shall be convened by the chairperson.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: Former MCL 18.1367f, which pertained to publication of economic and revenue forecasts, was repealed by Act 72 of 1991, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

18.1367g Repealed. 1991, Act 72, Imd. Eff. July 11, 1991.

Compiler's note: The repealed section pertained to convening conference at request of principal.

Popular name: Act 431

Popular name: DMB

18.1368 Monitoring passage of budget bills; assisting governor in explanation of recommendations; revisions to recommendations and estimates; veto recommendations.

Sec. 368. The state budget director shall monitor passage of budget bills and assist the governor in the explanation to the legislature of recommendations contained in the state budget proposal. As it may be necessary, the state budget director shall prepare revisions to recommendations and estimates during consideration of the state budget by the legislature. The state budget director may develop recommendations to the governor for veto of items in a budget bill as passed by the legislature.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1369 Item or items vetoed by governor; funding from other source.

Sec. 369. A distinct item or items vetoed by the governor that are not subsequently overridden by the legislature shall not be funded from any other source without a new specific appropriation.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1371 Expenditure or obligation exceeding gross appropriation level prohibited; responsibility for exceeding appropriation; report of violation and statement of action taken; division of appropriation into allotments; spending plan; review of allotments; report; remedies to maintain level of program service.

Sec. 371. (1) An employee of a state agency shall not make or authorize an expenditure or incur an obligation that results in the agency exceeding the gross appropriation level of an appropriation line item made to that agency by the legislature. The chief executive officer and the chief financial officer of a state agency are responsible for any action taken by a state agency that results in exceeding an appropriation. The chief executive officer of a state agency shall report a violation of this subsection immediately to the director and the chairpersons of the senate and house appropriations committees, together with a statement of any action taken to remedy the occurrence.

(2) Within 15 days after a bill appropriating an amount is enacted into law, the amount appropriated shall be divided into allotments by department and by state agency based on periodic requirements to represent a spending plan. The state budget director shall review the allotments. Not later than June 1 of each year, the director shall submit to the chairpersons of the appropriations committees and the fiscal agencies a report that provides estimates as to which departments are spending at a rate that would exceed the level of the appropriation for the fiscal year. This report shall include recommendations as to actions that need to be taken to ensure that actual expenditures do not exceed the appropriation at the close of the fiscal year. When it appears that a spending plan, or sources of financing related to a spending plan, do not provide the level of program service assumed in the appropriation for the fiscal year, the state budget director shall immediately notify the chairpersons and minority chairpersons of the appropriations committees, the chairpersons and minority chairpersons of the appropriate appropriations subcommittees, and the fiscal agencies.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2007, Act 2, Imd. Eff. Mar. 19, 2007.

Popular name: Act 431

Popular name: DMB

18.1372 Adjustment of allotments; withholding payment; limitation on payments; open-end appropriations; reduction or adjustment of allotments; report of action taken; directives for allotment of appropriations.

Sec. 372. (1) Allotments may be adjusted by the state budget director as requested by a department, subject to the considerations in section 371(2).

(2) A payment which would exceed an allotment balance may be withheld by order of the state budget director. Payments shall not exceed the total periodic allotments for the fiscal year.

(3) For open-end appropriations, a continuing allotment may be approved by the state budget director or the state budget director may require the state agency to submit requests for periodic allotments.

(4) Allotments may be reduced or adjusted by the state budget director as a result of implementing measures of administrative efficiency, including the abolishment of positions by appointing authorities. An action taken under this section shall be reported to the appropriations committees and the fiscal agencies within 15 days after the action is taken.

(5) The state budget director may issue directives for the allotment of appropriations.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1373 Classification of line item in spending categories; spending plan; submission to state budget office; review; approval; resubmission of revised spending plan; submission to legislative committees; posting on public website; adjustments; definitions.

Sec. 373. (1) Beginning fiscal year 2013-2014, each reporting unit shall classify each line item in the enacted budget in 1 of the following spending categories: core services, support services, or work projects. Each reporting unit shall prepare a spending plan for each line item in the most recently enacted budget.

(2) A spending plan under this section shall do all of the following:

(a) Summarize the line items by appropriation unit.

(b) Not exceed the gross appropriation for the line item in the enacted budget. A spending plan may propose a lesser amount if the federal or state revenues are anticipated to be less than the amount appropriated.

(c) Identify the budget requirements for each core service, support service, and work project to, at a minimum, the following expense categories:

(i) State employee wages.

(ii) State employee benefits including insurances, retirement, and other postemployment benefits.

(iii) Facilities, including rent, building occupancy charges, and utilities.

(iv) Direct payments to clients.

(v) Medical payments on behalf of clients.

(vi) Educational expenses on behalf of clients or students.

(vii) Materials and equipment, other contracts, and all other costs.

(d) Identify revenue sources and amounts for each appropriation unit.

(3) Each reporting unit shall submit its spending plan to the state budget office each year within 60 days after enactment of the budget. The state budget office shall define expense categories, design a standardized spending plan reporting format, and make the reporting form available for use by each reporting unit.

(4) Within 30 days after the state budget office receives the spending plans from the reporting units, the director of the state budget office shall either review and approve each spending plan or, if the director requests changes, return the spending plan to the reporting unit with a description of requested changes. The reporting unit shall resubmit a revised spending plan that addresses the requested changes within 2 weeks. The state budget director shall submit each approved spending plan to the appropriate appropriations subcommittees and the senate and house fiscal agencies in a spreadsheet-compatible format, and post it on the department's public website.

(5) For the fiscal year 2014-2015 and each subsequent fiscal year, the legislature intends that the state budget director and the senate and house appropriations committees work to identify suitable adjustments to the annual state budget process to utilize the information contained in the spending plans produced under this

section.

(6) As used in this section:

(a) "Appropriation unit" means a numbered section in a budget bill that includes a related group of discrete line-item appropriations representing the structure of an organization or its major programs, the sum of which line-item appropriations equals the total appropriation for the appropriation unit and the sum of the appropriation unit total equals the total appropriation for the organization.

(b) "Core service" means an activity that provides measurable value to beneficiaries such as citizens, businesses, and units of local government.

(c) "Reporting unit" means a state agency, excluding a public body corporate and politic, to which an appropriation is made. However, a public body corporate and politic shall post annually on its website substantially the same spending and revenue data described in subsection (2)(c) and (d).

(d) "Schedule of programs" means a listing of the programs within a budget that are funded from a specific line item.

(e) "Support service" means an activity, such as information technology, accounting, human resources, legal, and other support functions that are required to support the ongoing delivery of core services.

(f) "Work project" means that term as defined in section 404 and that meets the criteria in section 451a(1).

History: Add. 2012, Act 536, Imd. Eff. Jan. 2, 2013;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

18.1381 New or expanded programs.

Sec. 381. A state agency shall not establish a new program or expand a current program, from any source of funds, above the level approved in the enacted budget. Proposals for new or expanded programs shall be documented as required and submitted by a state agency to the state budget director for recommendation to the legislature.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1382 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to recommendation for supplemental appropriation.

Popular name: Act 431

Popular name: DMB

18.1384 Application for federal financial assistance; notification; form; contents; notice of award, rejection, revision, or deferment of application; report of availability and proposed allocation of grant funds; condition to commitment of grant funds; report.

Sec. 384. (1) A state agency which applies for federal financial assistance shall notify the department within 10 days after the application is sent. The notification to apply for federal financial assistance shall be on a form prescribed by, and contain information requested by, the department. Within 10 days after the state agency receives notice that its application for federal financial assistance is awarded, rejected, revised, or deferred, the state agency shall provide notice of the award, rejection, revision, or deferment of the application to the department.

(2) Within 30 days after a state agency receives notice that a federal grant has been awarded to the state for which organizations or units of local government are eligible to apply, the state agency administering the federal grant program shall report to the legislature and the fiscal agencies the availability of the grant funds and the proposed plan for allocating the grant funds to the organizations or units of local government. A state agency shall not commit any federal grant funds before this notification to the legislature has occurred and a subsequent appropriation of the funds is made by the legislature.

(3) Before December 1 and June 1 of each year, each principal department shall report to the appropriations committees, the fiscal agencies, and the department estimates on the extent to which federal revenues appropriated have been realized and are expected for the remainder of the fiscal year. The report shall detail the estimate by program or grant, and catalog of federal domestic assistance account.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1385 Procurement, development, and maintenance of information technology services for department of health and human services; require.

Sec. 385. By October 1, 2022, the department shall assume responsibility for the procurement, development, and maintenance of all information technology services of the department of health and human services. The department of health and human services shall start phasing and transferring the procurement, development, and maintenance of all new information technology services to the department.

History: Add. 2020, Act 179, Imd. Eff. Oct. 8, 2020.

Popular name: Act 431

Popular name: DMB

18.1386 Monthly financial reports; preparation; transmittal; contents.

Sec. 386. (1) The state budget director shall prepare monthly financial reports.

(2) Within 30 days after the end of each month, the state budget director shall transmit copies of the monthly financial report to all the appropriations committee members and the fiscal agencies. The monthly financial report due by December 1 shall be the first monthly financial report to include statements concerning the fiscal year which began on October 1.

(3) Each monthly financial report shall contain the following information:

(a) A statement of actual monthly and year-to-date revenue collections for the general fund/general purpose revenues, school aid fund revenues, and the tax collections dedicated to the transportation funds; including a comparison with prior year amounts, statutory estimates, and the most recent estimates from the executive branch.

(b) A statement of estimated year-end appropriations lapses and overexpenditures for the state general fund by principal department.

(c) A statement projecting the ending state general fund and state school aid fund balances for the fiscal year in progress.

(d) A summary of current economic events relevant to the Michigan economy, and a discussion of any economic forecast or current knowledge of revenue collections or expenditure patterns that is the basis for a change in any revenue estimate or expenditure projection.

(e) A statement of estimated and actual total state revenues compared to the revenue limit provided for in section 26 of article IX of the state constitution of 1963.

(f) A statement of the estimated fiscal year-end balance of state payments to units of local government pursuant to section 30 of article IX of the state constitution of 1963.

(g) Any other information considered necessary by the state budget director or jointly requested by the chairpersons of the appropriations committees.

(h) A statement of year-to-date balances for the following funds:

(i) The countercyclical budget and economic stabilization fund or its successor.

(ii) The natural resources trust fund or its successor.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2011, Act 47, Imd. Eff. May 27, 2011.

Popular name: Act 431

Popular name: DMB

18.1388 Monitoring and projecting state spending paid to units of local government; remedial actions.

Sec. 388. State spending to units of local government shall be continually monitored and projected by the state budget director. If projections indicate that state spending to units of local government will not meet the proportion required by law, the state budget director shall recommend to the governor, and the governor shall propose remedial actions to the legislature.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1389 Withholding of payment to municipality; purpose; report; “municipality” defined.

Sec. 389. (1) The department or the department of treasury may withhold all or part of any payment that a municipality is entitled to receive under a budget act to the extent the withholdings are a component part of a plan, developed and implemented under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for financing an outstanding obligation upon which the municipality defaulted. Amounts withheld shall be used to pay, on behalf of the municipality, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the municipality defaulted.

(2) Within 30 days after any amount is withheld from any municipality pursuant to this section, the

department withholding the payment shall report in writing the name of the municipality and the amount that is being withheld from that municipality to the appropriations committees and the fiscal agencies.

(3) For purposes of this section, "municipality" means that term as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2002, Act 188, Imd. Eff. Apr. 24, 2002.

Popular name: Act 431

Popular name: DMB

18.1391 Actual revenues falling below revenue estimates; review of appropriations; recommending reduction of expenditures; review of recommendations; order containing reductions; notice; meeting; approval or disapproval of order; implementation of order; filing order and resolutions; special lapse accounts.

Sec. 391. (1) When it appears to the governor, based upon written information received by the governor from the budget director and the department of treasury, that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based, the estimates being as determined by the legislature in accordance with section 31 of article IV of the state constitution of 1963, the governor shall order the director to review all appropriations made by the legislature, except those made for the legislative and judicial branches of government or from funds constitutionally dedicated to specific purposes.

(2) Based upon needs, the director shall recommend to the governor a reduction of expenditures authorized by the appropriations, either direct or open-ended, for that fiscal year. The governor shall review the recommendations of the director and shall prepare an order containing reductions in expenditures authorized so that actual revenues for the fiscal period will be sufficient to equal the expenditures. The governor shall give not less than 5 days' written notice to the members of the appropriations committees specifying a time and place for a joint meeting of the governor and the appropriations committees, at which the governor shall present to the appropriations committees the governor's recommendations and copies of the governor's proposed order.

(3) Not later than 10 days after the submission of the order to the appropriations committees, each appropriation committee by vote of a majority of its members elected and serving shall approve or disapprove the order. Expenditures authorized by appropriations shall not be reduced unless approved by both appropriations committees. Upon approval by both appropriations committees, the director shall implement the order.

(4) If either appropriation committee disapproves the order, the order is without force and effect. Not later than 30 days after a proposed order is disapproved, the governor may give reasonable written notice of the time and place of a further joint meeting of the appropriations committees, at which time the governor shall submit another order reducing expenditures authorized by appropriations. Within 10 days after the receipt of that order by the appropriations committees, each appropriations committee, by a majority of its members elected and serving, shall approve or disapprove the order. Upon approval by both appropriations committees, the director shall implement the order.

(5) After the approval by both appropriations committees pursuant to subsection (3) or (4), a copy of the order of the governor and resolutions of both appropriations committees approving it shall be filed with the secretary of state and the order shall become effective.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1392 Reduction of line item appropriations in subsequent legislation.

Sec. 392. This act shall not be construed to prohibit the legislature from reducing line item appropriations in budget acts in subsequent legislation.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1393 Administrative transfers of appropriations within department; purpose; notice; prohibited adjustments; approval or disapproval.

Sec. 393. (1) Administrative transfers of appropriations within any department to adjust for current cost and price variations from the enacted budget items, or to adjust amounts between federal sources of financing

for a specific appropriation line item, or to adjust amounts between restricted sources of financing for a specific appropriation line item, or to pay court judgments, including court approved consent judgments, or to pay all settlements and claims may be made by the state budget director not less than 30 days after notifying each member of the senate and house appropriations committees. Administrative transfers shall not include adjustments that have policy implications or that have the effect of creating, expanding, or reducing programs within that department. Those transfers may be disapproved by either appropriations committee within the 30 days and, if disapproved within that time, shall not be effective.

(2) A transfer of appropriations within any department other than an administrative transfer pursuant to subsection (1) shall not be made by the state budget director unless approved by both the senate and house appropriations committees. If the state budget director does not approve transfers adopted by both the senate and house appropriations committees under this subsection, the state budget director shall notify each member of both the senate and house appropriations committees of his or her action within 15 days after the senate and house appropriations committees' final approval.

(3) A transfer approved by the appropriations committees shall not be effective unless it is identical in terms of funding sources and dollar amounts.

(4) A transfer approved pursuant to this section shall constitute authorization to transfer the amount recommended and approved. However, the amount shall be reduced by the state budget director to be within the current unobligated amount of the appropriation.

(5) Capital outlay appropriations may be transferred from a state agency, community college, or institution of higher education to provide necessary funds for the completion of an authorized capital outlay project. Operating appropriations shall not be transferred into an existing capital outlay account.

(6) Transfers shall not be authorized under any of the following circumstances:

(a) To create a new line-item appropriation or to create a new state program.

(b) To or from an operating appropriation line-item that did not appear in the fiscal year appropriation bills for which the transfer is being made.

(c) To or from a work project as designated under section 451a.

(d) Between state governmental funds.

(7) Transfers of appropriations for financing sources shall be made concurrently with related transfers of appropriations for line expenditure items.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 430, Imd. Eff. Dec. 21, 2012.

Popular name: Act 431

Popular name: DMB

18.1395 Financing from federal, state restricted, local, or private funding; financing by multiple fund sources; spending of state matching money; reductions; notice; adjustments; corrective action; prohibited transfer.

Sec. 395. (1) Appropriation line items in a budget act financed from federal, state restricted, local, or private funding authorize spending only for the amount of the funds actually earned up to the amount appropriated. When an appropriation line item that is financed from federal, state restricted, local, or private funding sources is earning funds less than the appropriated amount, the department shall reduce the overall level of expenditures from the appropriation line item to reflect the estimated funding shortfall. In an appropriation line item financed by multiple fund sources, any state general fund/general purpose appropriation shall be used only after the federal, state restricted, local, or private funds have been expended.

(2) Except as otherwise provided in this section, spending of state matching money in an appropriation shall be maintained in the proportion appropriated. When federal money is earned in an amount less than appropriated and the matching requirements have not been reduced, spending of any state matching appropriation shall be reduced accordingly.

(3) When federal matching formulas are adjusted to increase the federal share of the costs of a program, spending of any state matching appropriation shall be reduced accordingly. Within 15 days after receipt of a notice of such a change, the state agency shall notify the state budget director. The state budget director shall within 15 days make a recommendation to the senate and house appropriations committees and the fiscal agencies to adjust existing appropriations to implement the change in the federal matching rate.

(4) When federal matching formulas are adjusted to reduce the federal share of the costs of a program, the affected state agency shall notify the department. After receipt of the notice of such a change the state budget director shall take appropriate corrective action. For purposes of this subsection, a transfer to increase the state matching appropriations shall not be permitted under section 393(1).

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2007, Act 2, Imd. Eff. Mar. 19, 2007;—Am. 2007, Act 169, Imd. Eff. Dec. 21, 2007.

Popular name: Act 431

Popular name: DMB

18.1396 Paying or recording certain expenditures from appropriations; notice of certain settlements or consent judgments; report.

Sec. 396. (1) From the appropriations contained in a budget act, a state agency shall pay or record expenditures for the following:

- (a) Court judgments, including court approved consent judgments; all settlements, awards, and claims.
- (b) Writeoffs of accounts receivable recorded in a prior year.

(2) The attorney general shall notify the senate and house appropriations committees, the speaker of the house, the senate majority leader, and the fiscal agencies within 14 days after entering into a settlement or consent judgment which would result in a state obligation that exceeds \$200,000.00. The notice shall include a summary of the facts of the case and the reason or reasons that the settlement or consent judgment would be in the best interests of the state.

(3) Before December 1 of each year, each principal department shall transmit to the appropriations committees and fiscal agencies a written report which includes all of the following:

- (a) The total dollar amount of final judgments and settlements against the principal department for the most recent completed fiscal year.
- (b) Each source of funding and item appropriating money in a budget act, which source and item is used to pay the judgments and settlements pursuant to subdivision (a).
- (c) The total dollar amount of final judgments and settlements received in the most recent completed fiscal year pursuant to legal actions by the principal department.
- (d) Each revenue account in which money was credited pursuant to subdivision (c).
- (e) An estimate of the total dollar amount and a description of the facts involved in each court action currently pending against the department for the most recently completed fiscal year.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1397 Repealed. 2018, Act 613, Eff. Mar. 29, 2019.

Compiler's note: The repealed section pertained to supplemental appropriations for fiscal year 2001-2002.

Popular name: Act 431

Popular name: DMB

ARTICLE 4

18.1401 Meanings of words and phrases.

Sec. 401. For purposes of this article, the words and phrases defined in sections 402 to 404 have the meanings ascribed to them in those sections.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1402 Definitions; C to E.

Sec. 402. (1) "Comprehensive annual financial report" means the official annual financial report of the state published by the department in accordance with section 23 of article IX of the state constitution of 1963.

(2) "Disbursement" means payment.

(3) "Encumbrance" means a commitment related to unperformed contracts for goods and services which is recognized as a reservation of fund balance for financial reporting purposes.

(4) "Expenditure" means charges incurred for work performed, supplies and materials delivered, services rendered, and grants and debt service due, whether or not payment has been made.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1403 Definitions; I to R.

Sec. 403. (1) "Imprest cash" means an account with the state treasurer into which a fixed amount of money is placed for the purpose of minor or emergency disbursements.

(2) "Indirect cost" means an amount which is received from the federal government relative to administering an award, contract, or grant made by the federal government.

(3) "Operating fund" means a fund in which the revenues and expenditures are subject to appropriation control.

(4) "Petty cash" means a sum of money set aside on an imprest basis for the purpose of making change or paying small obligations.

(5) "Receipt" means payment received.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1404 Definitions; R to W.

Sec. 404. (1) "Revenues" means the increases in the net current assets of a fund other than from expenditure refunds and residual equity transfers.

(2) "Revolving fund" means a self-supporting fund which provides services or sells goods to state agencies, other governmental jurisdictions, or the public.

(3) "Unencumbered balance" means that portion of an appropriation not yet expended and encumbered.

(4) "Unexpended balance" means that portion of an appropriation not yet expended.

(5) "Unit of local government" means unit of local government as defined by section 115(5).

(6) "Work project" means a 1-time nonrecurring undertaking for the purpose of accomplishing an objective contained in specific line-item appropriation for that purpose or any other specific line-item appropriation designated as a work project by law under criteria established under section 451a(1).

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1411 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Compiler's note: The repealed section pertained to certain appropriations unpaid due to employees' retirement.

Popular name: Act 431

Popular name: DMB

18.1421 Internal control in management of state's financial transactions; powers of state budget director; accounting principles; implementation of executive reorganization orders.

Sec. 421. (1) In order to establish strong internal control in the management of the state's financial transactions, the state budget director may do any of the following:

(a) Issue directives for the accountability, custody, periodic inventory, and maintaining departmental records of the real and personal property and supplies and materials of the state.

(b) Issue directives relative to the formulation and control of a state central accounting system.

(c) Monitor, approve or disapprove, and assist in the development and enhancement of agency accounting systems. When assistance is provided, the state agency shall be interaccount billed for the cost of the services provided. The state budget director shall issue directives to implement this subdivision.

(d) Issue directives regarding internal control over payment processing as will enable the state budget director to certify to the state treasurer that the system of internal control is sufficient to ensure that the proposed payment is properly authorized and is not in excess of the unexpended or unencumbered balance of the appropriation. Except for investment transactions, lottery prize awards, and refund of taxes, a payment shall not be made from the state treasury except upon certification of the state budget director.

(e) Issue directives for the refund to payers of money which has been deposited in the state treasury through misunderstanding, inadvertence, or mistake and to which the state does not have a claim. The refunds shall be made pursuant to the directives except as otherwise provided in this act.

(f) Issue directives providing for and governing the establishment, the proper uses of, and accounting for imprest and petty cash funds by state agencies. An imprest or petty cash fund shall not exceed the monetary limit approved by the board.

(g) Prepare and publish a comprehensive annual financial report at the close of each fiscal year which clearly reflects the financial position of the state funds at the close of the fiscal year.

(2) If there is a conflict between generally accepted accounting principles, the principles adopted by the

governmental accounting standards board, or its successor, shall be used. Changes in generally accepted accounting principles which require budgetary revisions shall be incorporated not later than the next executive budget after the change is issued. The state budget director shall issue directives to incorporate any changes, additions, and rescissions made to the generally accepted accounting principles as they affect the accounting of state government. If an item is not covered by an existing generally accepted accounting principle, the state budget director shall issue a directive which shall not be effective until 30 days after the directive is reported to the appropriations committee and the auditor general.

(3) The state budget office shall not change an accounting principle, or the application of an accounting principle, from that which was followed in the preceding fiscal year if the change will materially affect the final year-end balance of an appropriated operating fund, unless the change in the accounting principle or the application of the accounting principle is reported to the senate and house appropriations committees not later than 120 days after the end of the fiscal year for which the change is to be implemented. However, the 120-day notice requirement shall not apply to a change in an accounting principle or the application of an accounting principle which is implemented to conform with requirements promulgated by the governmental accounting standards board, or its successor.

(4) The state budget director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary to implement executive reorganization orders as provided under section 2 of article V of the state constitution of 1963.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1421a Legislative and judicial access to state financial management system.

Sec. 421a. (1) The legislative and judicial branches of government shall have uninterrupted access to all capabilities of the state financial management system.

(2) A person who deliberately interrupts access violates this section and is subject to a civil penalty of \$1,000.00 per day for each separate violation of this section.

History: Add. 1994, Act 301, Imd. Eff. July 14, 1994.

Popular name: Act 431

Popular name: DMB

18.1422 Advances.

Sec. 422. The chief executive officer of a principal department may make advances to participants in state programs which require the expenditure of money before reimbursement by the state or receipt of federal money. An advance shall not be made unless the advance is approved by the director of the department of management and budget. The director after consultation with the state treasurer shall issue directives implementing this section which shall provide for repayment, dollar limitations, and renewal authority.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1423 Examination of books, accounts, documents, systems, and financial affairs.

Sec. 423. The director may examine, or cause to be examined, the books, accounts, documents, systems, and financial affairs of each state agency for the purpose of determining compliance with directives.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1424 Production of books, papers, and documents; examination; testimony; oaths.

Sec. 424. (1) Upon demand of the director or any person duly designated by the director, an officer or employee of the state government shall produce for examination, the books of account, papers, and documents of their respective department or agency and shall truthfully answer all questions relating thereto.

(2) In connection with an examination, the director, or any person duly designated, may take testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books, records, and papers.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1426 Books, records, and systems; adoption and use.

Sec. 426. The chief executive officer of each principal department or state agency shall adopt and use the books, records, methods, and systems of accounting and reporting prescribed by the director.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1430 Capped federal funds, special revenue funds, and healthy Michigan fund; report on amounts and sources.

Sec. 430. Within 10 working days after formal presentation of the executive budget, the state budget director shall report to the members of the senate and house appropriations committees and the senate and house fiscal agencies on the amounts and sources of all capped federal funds, special revenue funds as defined in the state of Michigan's comprehensive annual financial report, and the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953, and an accounting of the state departments or agencies in which the executive budget proposes to spend the funds.

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1431 Accounting for activities and programs; assignment; classification of funds.

Sec. 431. The director shall assign the accounting for activities and programs established by the legislature to funds and classify each fund into fund types in accordance with generally accepted accounting principles. The director may, in consultation with the chief executive officers of state agencies significantly involved in the operation of funds, change the classification of funds when the operation of the fund changes or when there is a change in the application of generally accepted accounting principles.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1432 Merging, combining, or segregating fund.

Sec. 432. The director, after consultation with the chief executive officer of the state agency significantly involved in the operation of the affected fund, may merge, combine, or segregate any fund which now is or may be provided by law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1434 Crediting certain revenues to revolving fund; financial plan; report.

Sec. 434. Revenues received from rates charged or goods sold and revenue which is received from any other source and designated to be credited to a revolving fund shall be credited to that fund. Within 60 days after the fiscal year begins, the director shall submit to the appropriations committees and fiscal agencies a financial plan for the ensuing fiscal year. The financial plan shall include the rate structure, a projected statement of revenues and expenses in sufficient detail to provide for comparison with actual revenues and expenses, a projected statement of receipts and disbursements, and any other information considered necessary by the director. Within 60 days after the end of the fiscal year, the director shall submit to the legislature, the appropriations committees, and the fiscal agencies a report on the status of all such revolving funds, including all information reported in the financial plan.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1435 Revolving funds; transferring net income to general fund.

Sec. 435. The net income earned each fiscal year in the following revolving funds shall be transferred to the state general fund at the end of that fiscal year. The funds to which this section applies are as follows:

- (a) Liquor purchase revolving fund.
- (b) Michigan state fair revolving fund.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1437 Advances to revolving fund; repayment; long term advances for acquisition of equipment; limitation.

Sec. 437. (1) The director may make advances to any revolving fund from time to time during a fiscal year, but all of the advances shall be repaid to the fund from which advanced before the end of the fiscal year.

(2) The director may, if approved by the board, make long term advances to the various revolving funds for the purpose of acquiring equipment. The amount of an advance made to any revolving fund shall not exceed the net book value of the assets acquired with the advance.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1441 Disposition of receipts; directives; subsection (1) inapplicable to state agency within legislative branch.

Sec. 441. (1) The receipts of the state government, from whatever source derived, shall be deposited pursuant to directives issued by the state treasurer and credited to the proper fund. The director shall issue directives to implement this section relative to the accounting of receipts.

(2) Subsection (1) does not apply to a state agency within the legislative branch of state government. A state agency within the legislative branch of state government may receive and expend amounts in addition to those authorized in a budget act.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1442 Expenditure or transfer of funds appropriated to entity within legislative branch.

Sec. 442. Funds appropriated to an entity within the legislative branch of state government shall be expended or be transferred to another account only with the written approval of the authorized agent of the legislative entity. When the authorized agent of the legislative entity notifies the department of its approval of an expenditure or transfer within the existing level of appropriations, the department shall immediately make the expenditure or transfer. The authorized legislative entity agents shall be designated by the speaker of the house for house entities, the senate majority leader for senate entities, and the legislative council for library of Michigan and legislative council entities.

History: Add. 1991, Act 72, Imd. Eff. July 11, 1991.

Popular name: Act 431

Popular name: DMB

18.1443 Money received by state agencies; forwarding to state treasurer; crediting to general fund; limitation on transfers.

Sec. 443. Except as otherwise provided by law, all money received by the various state agencies for whom appropriations are made by a budget act shall be forwarded to the state treasurer and credited to the state general fund. The state budget director may make federal revenue transfers between the recipient state department and the spending state department only when funds are appropriated in the spending department.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1444 Encumbrances and receivables; reporting and recording.

Sec. 444. The department shall issue directives which provide that at least once per month, each state agency shall report to the department all encumbrances against appropriation accounts and all revenue receivables against each source of financing. These encumbrances and receivables shall be recorded on the state's accounting system.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1447 Repealed. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Compiler's note: The repealed section pertained to an annual balanced scorecard required for each department.

Popular name: Act 431

Popular name: DMB

18.1448 Expenditure of state funds; availability of information on website homepages; "expenditure of state funds" defined.

Sec. 448. (1) The department shall issue directives requiring all state agencies to provide the department with, and to make available through a link on their website homepages, all of the following information regarding the expenditure of state funds:

- (a) The name of the entity receiving the funds.
- (b) The amount of state funds.
- (c) The funding state agency.
- (d) A descriptive purpose of the funding action or expenditure.
- (e) Any other information required by the department.

(2) Not later than January 1, 2013, the department shall develop and operate a searchable website accessible by the public at no cost to access the information provided in subsection (1).

(3) Nothing in this section shall require the disclosure of information that is considered confidential by state or federal law.

(4) As used in this section, "expenditure of state funds" means an expenditure of appropriated or nonappropriated funds processed through the state's central accounting system by an executive branch agency that includes, but is not limited to, all of the following:

- (a) State purchases.
- (b) Contracts and subcontracts.
- (c) Grants.

History: Add. 2012, Act 381, Imd. Eff. Dec. 19, 2012.

18.1451 Lapse of unencumbered balance of appropriation; unascertainable documents; charging encumbrance to next succeeding fiscal year.

Sec. 451. (1) At the close of the fiscal year, the unencumbered balance of each appropriation shall lapse to the state fund from which it was appropriated. A document which is not ascertainable before the cutoff date set by the director may be charged against a current year's appropriation if the chief accounting officer determines that the state agency was not willful in its failure to ascertain or record the document and if the amount of the payment would not have exceeded the unencumbered balance of the applicable appropriation in the prior fiscal year.

(2) An encumbrance entered into within 15 days before the end of the fiscal year and outstanding at the close of the fiscal year is not a charge against that fiscal year but is charged to the next succeeding fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1451a Work projects.

Sec. 451a. (1) Except as provided in section 248, a work project appropriation continues to be available until completion of the work or 48 months after the last day of the fiscal year in which the appropriation was originally made, whichever comes first, then the remaining balance lapses to the state fund from which it was appropriated. For work projects established before the effective date of the amendatory act that added this section, the 48-month time period described in this subsection begins on the last day of the fiscal year in the year the amendatory act that added this section takes effect. To be designated as a work project, a work project shall meet all of the following criteria:

- (a) The work project shall be for a specific purpose.
- (b) The work project shall contain a specific plan to accomplish its objective.
- (c) The work project shall have an estimated completion cost.
- (d) The work project shall have an estimated completion date.

(2) The director has the authority to issue directives to lapse existing work project accounts at any time. The director shall notify each member of the senate and house appropriations committees and the fiscal agencies of work projects that the director has ordered to lapse. These directives may be disapproved by either

the senate or house appropriations committee within 30 days after the date of notification and, if disapproved within that time, shall not be effective.

(3) Not later than 45 days after the conclusion of the fiscal year, the director shall notify the senate and house appropriations committees and the fiscal agencies of appropriations proposed to be designated as work projects in accordance with the definition contained in this act. These designations may be disapproved by either appropriations committee within 30 days after the date of notification and, if disapproved within that time, shall not be effective. The notification shall include an estimate of the dollar amount of the funds to be designated as work projects and a description of all work projects designated in an appropriations act.

(4) Not later than 120 days after the conclusion of the fiscal year, the director shall prepare and deliver to the senate and house appropriations committees and the fiscal agencies a report that summarizes current work project accounts. This report shall contain a listing of all work project accounts, the balance in each account, the amount of funds that lapsed from any previously designated work projects, and the funds that received these lapses.

History: Add. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1452 Payment and use of amounts appropriated in budget act.

Sec. 452. (1) The amounts appropriated in a budget act shall be paid out of the state treasury at a time and in a manner as provided by law.

(2) Each of the amounts appropriated shall be used solely for the respective purposes stated in the budget act except as otherwise provided by law.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1453 Appropriations from restricted revenues; limitation on expenditure.

Sec. 453. If appropriations are made in a budget act from restricted revenues including federal and matching revenues, the amount to be expended from the restricted revenue shall not exceed the amount appropriated in the budget act or the amount paid in, together with the balances carried forward from the previous fiscal year, whichever is the lesser.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1454 Appropriation of full-time equated positions; basis; report on status of FTE positions; report containing fiscal year summary of information required in subsection (2).

Sec. 454. (1) Each budget act shall appropriate full-time equated positions based on 2,088 hours for 1.0 FTE position.

(2) Before the end of each quarter, the department of civil service shall provide a report to the department, the appropriations committees, and the fiscal agencies regarding the status of FTE positions for the preceding quarter. The quarterly report shall include, but shall not be limited to, the following information:

(a) The number of FTE positions, by department, on the last payroll for the preceding quarter.

(b) The increase or decrease in FTE positions, by department, compared to the last quarterly report.

(c) The difference between the appropriated FTE positions, and the actual number of FTE positions, by department, for that quarter.

(d) Summary totals for the information listed in subdivisions (a), (b), and (c).

(3) The department of civil service shall provide a report to the appropriations committees and the fiscal agencies by December 1 of each year, which shall include a fiscal year summary of the information required in subsection (2) for the most recently completed fiscal year.

History: Add. 1988, Act 504, Imd. Eff. Dec. 29, 1988;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1455 Appropriations for unclassified positions; use; eligibility of incumbents of unclassified positions to participate in state contributory insurance and longevity programs; prior years' service as classified employee in determining amount of longevity

payment; use of appropriations for salaries and wages; payment of back salaries or wages.

Sec. 455. (1) The appropriations made under a budget act for unclassified positions as specified by a line item appropriation shall only be used for those positions.

(2) Incumbents of unclassified positions in the executive branch of state government, the legislative auditor general's office, and judicial officers whose total compensation is payable by the state and who are not eligible to receive additional compensation from a county, township, or municipal governmental unit of this state pursuant to the state constitution of 1963 or state law, are eligible to participate in the state contributory insurance and longevity programs on the same basis as classified employees. Prior years' service as a classified employee shall be included in determining the amount of the longevity payment.

(3) The appropriations for salaries and wages shall be used only with respect to classified positions established by the civil service commission and to special personal service employees hired with approval of the department of civil service. Money appropriated in a budget act shall not be used to pay back salaries or wages to an employee, except for the purpose of paying appropriately authorized retroactive gross pay adjustments to an employee with an effective date prior to October 1 of the fiscal year in which the approval was given.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1456 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to appropriations for contractual services, supplies, and materials.

Popular name: Act 431

Popular name: DMB

18.1458 Use of amounts authorized for equal employment opportunity services; filling positions; responsibility.

Sec. 458. The amounts authorized in a budget act for equal employment opportunity services shall only be used to comply with laws or orders relative to equal opportunity employment and affirmative action programs. These positions shall be filled by persons employed by the principal executive officer of the state agency and shall be responsible only to that principal executive officer.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1459 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Compiler's note: The repealed section pertained to payment of court judgments.

Popular name: Act 431

Popular name: DMB

18.1460 Indirect cost rate or percentage; determination; report; request for appropriations of federal funds not to include funds for indirect costs; charging indirect cost to award, contract, or grant; crediting indirect cost; availability of revenues.

Sec. 460. (1) A state agency shall determine what the indirect cost rate or percentage is for that state agency and shall report that indirect cost rate or percentage to the department, the appropriations committees, and the fiscal agencies. A state agency's request for appropriations of federal funds shall not include funds provided for indirect costs.

(2) A state agency which has received an award, contract, or grant shall charge the applicable indirect cost to that award, contract, or grant. The indirect cost shall be credited as revenue to the respective state funds to offset state expenditures for support services for which indirect costs were provided. These revenues shall be available to meet the required 1% payment to the civil service commission as set forth in section 5 of article XI of the state constitution of 1963, as it applies to salaries and wages funded from federal revenues.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1461 Audit pursuant to federal law; single audits; conduct; funding; encumbering

amounts to finance cost of audits; carrying over unexpended amounts; schedule of expenditures of federal awards.

Sec. 461. (1) Each audit performed pursuant to 31 USC 7501 to 7507 shall be conducted by an independent auditor in accordance with generally accepted government auditing standards. Single audits for this state shall be conducted in accordance with 31 USC 7501 to 7507 by the auditor general or an independent accounting firm selected by the auditor general. For fiscal years beginning October 1, 1985 and through September 30, 2011, biennial audits of state departments and agencies shall be performed for purposes of complying with the requirements of 31 USC 7501 to 7507 pertaining to audit evaluation of the internal controls of this state and the state's compliance with material features of laws and regulations related to major federal assistance programs. For fiscal years beginning October 1, 2011 and each fiscal year thereafter, an annual statewide single audit shall be performed for purposes of complying with the requirements of 31 USC 7501 to 7507 pertaining to audit evaluation of the internal controls of this state and the state's compliance with material features of laws and regulations related to major federal assistance programs.

(2) For fiscal years beginning October 1, 1985 and through September 30, 2011, the funding for single audits shall be from the respective federal grants audited, in accordance with 31 USC 7501 to 7507. For fiscal years beginning October 1, 2011 and each fiscal year thereafter, funding for the statewide single audit shall be allocated to federal programs based on a methodology determined by the director that is in accordance with federal compliance requirements. The chief executive officer of each principal department shall ensure that sufficient amounts are encumbered from the appropriate federal grants to finance the cost of the audits. Any unexpended amounts of encumbered funds may be carried over into succeeding years to cover the cost of the single audits.

(3) The director, in consultation with the auditor general, shall issue directives to all state agencies concerning the procedures and timelines for compiling the schedule of expenditures of federal awards and all other information required for the statewide single audit. The director shall submit the schedule of expenditures of federal awards to the auditor general and the fiscal agencies.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1986, Act 251, Imd. Eff. Dec. 4, 1986;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2012, Act 233, Imd. Eff. June 29, 2012.

Popular name: Act 431

Popular name: DMB

18.1462 Plan to comply with audit recommendations; corrective action plans.

Sec. 462. (1) Upon completion of an audit, the principal executive officer of a state agency which is audited shall submit a plan to comply with the audit recommendations to the state budget office. The plan shall be prepared in accordance with procedures prescribed by the state budget director. Copies of the plan shall be distributed in accordance with the administrative guide to state government. Copies shall also be distributed to relevant house and senate appropriations subcommittees, relevant house and senate standing committees, fiscal agencies, and the executive office.

(2) The state budget director shall develop procedures for principal departments to follow for the development of corrective action plans. The plan described under this section shall be prepared in accordance with procedures prescribed by the state budget director and in accordance with reinforcing procedures prescribed by the principal department.

(3) Principal departments shall periodically report progress on remediating material weaknesses on a schedule provided by the state budget director.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1463 Federal pass-through funds to local institutions and units of local government; appropriation; certain funds not to be expended unless appropriated.

Sec. 463. Federal pass-through funds to local institutions and units of local government which do not require additional state matching funds and for which the criteria for distribution is established by the federal government are appropriated for the purposes intended. Unless provided for in other statutes, funds received during a fiscal year and unexpended funds carried forward from previous fiscal years for which a principal department has discretion as to how the funds will be distributed shall not be expended unless appropriated.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1470 Procurement contract for services; audit of vendor to verify compliance; provision; availability; exemption; "auditor general" defined.

Sec. 470. (1) Beginning January 1, 2013, if a state agency enters into a procurement contract for services, the contract shall provide that the department or its designee may audit the vendor to verify compliance with the contract. The financial and accounting records associated with the contract shall be made available to the department or its designee and the auditor general, upon request, during the term of the contract and any extension of the contract and for 3 years after the later of the expiration date or final payment under the contract. The department and its designee shall not audit any matters outside the scope of the individual contract unless there is a separate constitutional or statutory basis for that audit.

(2) Beginning January 1, 2013, if a person receives a grant of state funds, the person shall agree to allow the department or its designee to audit the person to verify compliance with the terms of the grant. The person shall also agree that the financial and accounting records associated with the grant shall be made available to the department or its designee and the auditor general, upon request, during the term of the grant and any extension of the grant and for 3 years after the later of the expiration date or final payment under the grant. The department and its designee shall not audit any matters outside the scope of the individual grant unless there is a separate constitutional or statutory basis for that audit.

(3) Proprietary financial and accounting data and records associated with the contract or grant shall be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) Nothing in this section shall limit the constitutional or statutory authority of the auditor general.

(5) As used in this section, "auditor general" means the auditor general or a certified public accounting firm selected by the auditor general to conduct the audit.

History: Add. 2012, Act 230, Imd. Eff. June 29, 2012.

Popular name: Act 431

Popular name: DMB

18.1483 Definitions used in MCL 18.1483 to 18.1489.

Sec. 483. As used in this section and sections 484 to 489:

(a) "Department head" means the head of a principal department.

(b) "Internal control system" means a process, effected by the director of the principal department, management, and other personnel, designed to provide reasonable assurance regarding the accomplishment of department objectives relating to operations, reporting, and compliance.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1484 System of reporting and general framework to be used in evaluations of internal control systems; development; modification; notice.

Sec. 484. (1) The state budget director, in consultation with the auditor general, shall develop a system of reporting and a general framework which shall be used by the principal departments in performing evaluations on their respective internal control systems.

(2) The state budget director, in consultation with the auditor general, may modify the format for the report or the framework for conducting the evaluations after giving 30 days' notice to each principal department head and the senate and house appropriations committees.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1485 Internal control system; establishment and maintenance; elements; duties of head of principal department; reports.

Sec. 485. (1) The department head of each principal department shall establish and maintain an internal control system within that principal department using the generally accepted accounting principles as developed by the accounting profession and in conformance with directives issued pursuant to section 141(d).

(2) Each internal control system shall include, but not be limited to, all of the following elements:

(a) A plan of organization that provides separation of duties and responsibilities among employees.

(b) A plan that limits access to that principal department's resources to authorized personnel whose use is

required within the scope of their assigned duties.

(c) A system of authorization and record-keeping procedures to control assets, liabilities, revenues, and expenditures.

(d) A system of practices to be followed in the performance of duties and functions in each principal department.

(e) Qualified personnel that maintain a level of competence.

(f) Internal control techniques that are effective and efficient.

(3) Each head of a principal department shall document the system, communicate system requirements to employees of that principal department, assure that the system is functioning as prescribed, and modify as appropriate for changes in condition of the system.

(4) The head of each principal department shall provide a biennial report on or before May 1 of each odd numbered year to the governor, the auditor general, the senate and house appropriations committees, the fiscal agencies, and the state budget director. The department director shall attach a letter from the internal auditor certifying the department's conformance to the evaluation and reporting requirements in the general framework referenced in section 484. For the period reviewed, the report shall include, but not be limited to, both of the following:

(a) A description of any material inadequacy or weakness discovered in connection with the evaluation of the department's internal control system as of October 1 of the preceding year and the plans and a time schedule for correcting the internal control system, described in detail.

(b) A listing of each audit or investigation performed by the internal auditor pursuant to sections 486(4) and 487.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1486 Internal auditor; appointment; member of state classified executive service; supervision; protection; duties; professional and auditing standards; report.

Sec. 486. (1) The state budget director shall appoint internal auditors as needed to audit principal departments. Each internal auditor shall be a member of the state classified executive service.

(2) Except as otherwise provided by law, each internal auditor shall report to and be under the general supervision of the state budget director.

(3) A person may not prevent or prohibit the internal auditor from initiating, carrying out, or completing any audit or investigation. The internal auditor shall be protected pursuant to the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) An internal auditor appointed by the state budget director shall:

(a) Receive and investigate any allegations that false or misleading information was received in evaluating the principal department's internal control system or in connection with the preparation of the biennial report on the system.

(b) Conduct and supervise audits relating to financial activities of the principal department's operations.

(c) Review existing activities and recommend policies designed to promote efficiency in the administration of that principal department's programs and operations as assigned by the department head.

(d) Recommend policies for activities to protect the state's assets under the control of that principal department, and to prevent and detect fraud and abuse in the principal department's programs and operations.

(e) Review and recommend activities designed to ensure that principal department's internal financial control and accounting policies are in conformance with the state budget office directives issued pursuant to sections 421 and 444.

(f) Provide a means to keep the department head fully and currently informed about problems and deficiencies relating to the administration of that principal department's programs and operations and the necessity for and progress of corrective action.

(g) Conduct other audit and investigative activities as assigned by the state budget director.

(h) Prepare biennial reports for principal departments required under section 485.

(5) Each internal auditor shall adhere to appropriate professional and auditing standards in carrying out any financial or program audits or investigations.

(6) Each internal auditor appointed by the state budget director shall report immediately to the state budget director and the principal department head if the internal auditor becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of a principal department or agencies within the department.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1487 Internal auditor; reports; plan to correct problems, abuses, or deficiencies; public disclosure of information.

Sec. 487. (1) Each internal auditor and department management shall report immediately to the department head if the internal auditor or management becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations of that principal department or its state agencies. If criminal activity is suspected, the department head shall immediately submit a report to the governor, attorney general, and the auditor general in accordance with reporting requirements established pursuant to section 484. Departments shall establish incident reporting protocols, reviewed and approved by the principal department director, to fulfill the reporting of all suspected serious problems by either internal audit or department management. Incidences warranting reporting under these provisions shall include those perpetrated by state employees or external entities with whom departments come into contact.

(2) Within 60 days after the receipt of a report filed pursuant to subsection (1), the department head shall submit a plan to correct the problems, abuses, or deficiencies to the state budget director. Within 30 days after the receipt of the plan to correct, the state budget director shall submit copies of the plan to correct to the auditor general and the senate and house appropriations committees.

(3) This section shall not be construed to authorize the public disclosure of information which is part of an ongoing criminal investigation or which is specifically prohibited from public disclosure by any other provision of law.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Popular name: Act 431

Popular name: DMB

18.1488 Repealed. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Compiler's note: The repealed section pertained to budget recommendations.

Popular name: Act 431

Popular name: DMB

18.1489 Evaluation and report by auditor general.

Sec. 489. The auditor general shall evaluate the implementation of the requirements of sections 483 to 488 and shall report to the legislature in the financial audit of each department.

History: Add. 1986, Act 272, Imd. Eff. Dec. 19, 1986;—Am. 1992, Act 58, Imd. Eff. May 20, 1992.

Popular name: Act 431

Popular name: DMB

18.1490 Enterprise portfolio management office; report to legislature on information technology services; requirements.

Sec. 490. (1) The enterprise portfolio management office located in the department must provide a report on a quarterly basis providing key information on all executive branch department and enterprisewide projects involving information technology services. The report must be submitted to the senate and house appropriations subcommittees on general government, the senate and house fiscal agencies, and the state budget director as well as be posted online.

(2) The report must contain the following information, as applicable, for each active project involving information technology services and each completed project involving information technology services closed within the 2-year period immediately preceding the quarterly due date of the report:

(a) The client department, agency, or organization for which the project is being undertaken.

(b) The active or completed status.

(c) For active projects, the number of days the current approved completion date differs from the initial planned completion date.

(d) For active projects, the dollar amount the current approved budget differs from the initial planned budget.

(e) For completed projects, the number of days the actual completion date differed from the initial planned completion date.

(f) For completed projects, the dollar amount the actual cost differed from the initial planned budget.

- (g) The project name.
 - (h) The purpose of the project described in terms of the needs of end users of the project and an explanation of the project's origination, including whether the project originated from state mandate, federal mandate, court order, or department initiative.
 - (i) Whether the project is managed by the enterprise portfolio management office.
 - (j) The initial planned budget.
 - (k) The revised budget if there is any increase or decrease to the project's initial budget.
 - (l) The actual cost to date.
 - (m) The planned start date.
 - (n) The actual start date.
 - (o) The initial planned completion date.
 - (p) The revised planned completion date if there is a change from the initial planned completion date.
 - (q) The actual completion date.
 - (r) A brief description of the benefit or justification of changes by project change request that impact a project's schedule or budget and whether the change request is the result of state mandate, federal mandate, court order, or department initiative.
 - (s) Whether quality assurance services are assigned to the project.
 - (t) The project success score after project closure.
 - (u) The customer satisfaction rating after project closure.
- (3) The report must include the total number of completed projects for which costs exceeded the initial budget, the total number of completed projects for which the completion date occurred after the initial planned completion date, the total number of completed projects that exceeded both the initial planned budget and schedule, and the corresponding percentages of each of these numbers of all completed projects.

History: Add. 2020, Act 180, Imd. Eff. Oct. 8, 2020.

Popular name: Act 431

Popular name: DMB

18.1491 Fiscal year.

Sec. 491. The fiscal year of the state shall commence October 1 and continue through September 30.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1492 Including financial statements in comprehensive annual financial report; responsibility; statement format; audit; submission of statements.

Sec. 492. The financial statements of all state agencies, as defined by generally accepted accounting principles as falling within the reporting responsibility of the state, shall be included in the comprehensive annual financial report of the state. The director shall designate and notify each state agency of this responsibility as well as describe the statement format that shall be followed by each agency so notified. The statements provided shall be followed by each state agency so notified. The statements provided shall be audited as provided by law or by the auditor general or independent auditors selected by the auditor general before submission to the department of management and budget and shall be submitted not later than 90 days following the close of the state's fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1493 Preliminary, unaudited financial statements including notes of general fund and state school aid fund; submission to legislature and fiscal agency.

Sec. 493. The director shall submit preliminary, unaudited financial statements including notes of the general fund and the state school aid fund to the legislature and the fiscal agencies within 120 days after the end of the fiscal year.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1999, Act 8, Imd. Eff. Mar. 22, 1999.

Popular name: Act 431

Popular name: DMB

18.1494 Comprehensive annual financial report; publication; preparation of financial

statements; certificates of examination; disclosure of budgetary basis; deviation from generally accepted accounting principles; establishment and use of capital outlay reserve.

Sec. 494. (1) Within 6 months after the end of the fiscal year, the director shall publish a comprehensive annual financial report which shall conform as nearly as practicable to established governmental reporting standards. The financial statements shall be prepared in accordance with generally accepted accounting principles and shall contain certificates of examination by the auditor general and any other independent auditor the auditor general may assign. The comprehensive annual financial report and the 120-day report shall contain disclosures of the budgetary basis if different from statements prepared under generally accepted accounting principles.

(2) A deviation from generally accepted accounting principles shall not be made unless authorized by statute. A deviation which is being employed at the time this act takes effect may continue until the deviation is corrected and accounted for on the basis of generally accepted accounting principles.

(3) When the state budget director determines that sufficient revenues exist, a capital outlay reserve shall be established. After a capital outlay reserve is established, the capital outlay reserve shall not be used to balance any deficit.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1495 Report on state's current financial situation; publish; contents required.

Sec. 495. (1) Within 9 months after the end of the fiscal year, the state budget director shall publish on the internet a report that communicates the state's current financial situation in an easy-to-understand report.

(2) At a minimum, the report will contain information on no less than the most recent 5 years of data for each of the following:

- (a) Total state revenues and expenditures.
- (b) Total general fund/general purpose revenues and expenditures.
- (c) Total school aid fund revenues and expenditures.
- (d) The unrestricted fund balance for the general fund and school aid fund.
- (e) Total outstanding state debt by major type.
- (f) Total unfunded pension and other postemployment benefit obligations for each of the following retirement systems:
 - (i) The state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.
 - (ii) The public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.
 - (iii) The judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.
 - (iv) The state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.
 - (v) The Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080.
- (g) Total revenues by major source, including taxes and federal grants.
- (h) Total expenditures by major spending category.
- (i) The number of state employees by department.
- (j) Basic economic information for this state, including per-capita income, nonfarm payroll employment, and the unemployment rate.

History: Add. 2018, Act 389, Imd. Eff. Dec. 19, 2018.

Compiler's note: Former MCL 18.1495, which pertained to state accounting and fiscal responsibility account, was repealed by Act 504 of 1988, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1496 Repealed. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Compiler's note: The repealed section pertained to working capital reserve account.

Popular name: Act 431

Popular name: DMB

18.1497 Itemized statement of state spending paid to units of local government and total state spending from state sources; transmittal; calculation of spending proportion; publication of report; reporting amount of additional payments; payment of amount; making up shortfall in payments.

Sec. 497. (1) The director shall transmit to the auditor general for review and comment, not later than May

31 of each year, an itemized statement of the state spending paid to units of local government and total state spending from state sources for the fiscal year in which this act takes effect, and each fiscal year thereafter, including a calculation of the proportion of state spending paid to units of local government to total state spending from state sources. The report shall be published by submission to the legislature not later than June 30 of each year.

(2) If the proportion calculated pursuant to subsection (1) is less than required by section 349, the statements required by this section shall report the amount of additional payments to units of local government which would have been necessary to meet the requirements of section 349. This amount shall be payable to units of local government not later than in the fiscal year following the fiscal year in which the deficiency in payments to units of local government was ascertained and reported to the legislature.

(3) Any appropriations to the fund which are intended to make up a shortfall in payments to units of local government for a prior fiscal year shall not be considered as state spending from state resources or as state payments to units of local government in the fiscal year in which the amounts are appropriated.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

18.1498 Local government payment fund; creation; reservation of money appropriated to fund; amounts considered state payments to units of local government.

Sec. 498. (1) The local government payment fund is hereby created. Money appropriated to the fund by the legislature shall be reserved for use in a fiscal year when additional state payments to units of local government are necessary to meet the requirements of section 349.

(2) The amounts recommended by the governor or appropriated by the legislature into the fund described in subsection (1) shall be considered, for purposes of fulfilling the requirements of section 349, as state spending to be paid to units of local government.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1499 Closing schedule; procedural directives; appropriation transfer; monthly statement of estimated revenues; latest published estimate.

Sec. 499. (1) At least 60 days before the end of the fiscal year, the director shall issue to all state agencies a closing schedule which shall list the dates by which financial information must be submitted to the department. The director may issue, from time to time, directives concerning the procedures to be followed by state agencies during the fiscal year end closing process.

(2) An appropriation transfer made for the purpose of increasing general fund revenues appropriated to offset an actual shortfall in appropriated federal or state restricted revenues shall not be effective unless the transfer is approved within 60 days after the end of the fiscal year. An appropriation transfer made for the purpose of increasing the gross appropriation level of an appropriation line item shall not be effective unless the transfer is approved within 60 days after the end of the fiscal year.

(3) For purposes of the closing, the monthly statement of estimated revenues for the month ending November 30, and submitted pursuant to section 386, shall be used, along with the latest published estimate available at that date for funds not included in the monthly financial report.

History: 1984, Act 431, Eff. Mar. 29, 1985;—Am. 1988, Act 504, Imd. Eff. Dec. 29, 1988.

Popular name: Act 431

Popular name: DMB

ARTICLE 5

18.1501 Severability.

Sec. 501. If any portion of this act or the application of this act to any person or circumstances shall be found to be invalid by a court, the invalidity shall not affect the remaining portions or applications of this act which can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this act is declared to be severable.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1551 Inquiry into administration of act; removal or suspension of appointed or elective public officer for violation; public officers to which section inapplicable; reporting reasons for suspension or removal.

Sec. 551. (1) The governor shall inquire into the administration of this act.

(2) The governor may remove or suspend any appointive public officer for violations of this act.

(3) The governor may remove or suspend any elective public officer for violation of this act which constitutes gross neglect of duty, corrupt conduct in office, misfeasance, or malfeasance.

(4) This section does not apply to any public officer of the legislature or judicial branch of government.

(5) The governor shall report the reasons for any removal or suspension to the legislature.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1591 Repeal of acts and parts of acts.

Sec. 591. The following acts and parts of acts are repealed:

YEAR OF ACT	PUBLIC ACT NUMBER	SECTION NUMBERS	COMPILED LAW NUMBERS
1869	132		13.41
1877	23		13.51 to 13.53
1887	116		21.91 to 21.92
1903	228		21.61 to 21.67
1915	71		35.281 to 35.282
1917	309		13.31
1919	71	14	21.54
1919	98		21.1 to 21.16
1919	120		24.41 to 24.42
1919	282		17.21 to 17.28
1921	2	6 and 11	17.6, 17.11
1921	35		17.41 to 17.42
1929	98	1 to 3 5 to 6	17.71 to 17.73 17.75 to 17.76
1929	265		35.291 to 35.292
1931	128		17.101 to 17.103
1935	231		17.121 to 17.122
1937	120		5.1 to 5.5
1941	258	1 to 9 11 and 12	21.101 to 21.109 21.111 to 21.112
1941	259		21.121 to 21.130
1947	9		17.301 to 17.302
1947	260		21.301 to 21.311
1948	51	First Extra Session	18.1 to 18.14a
1952	53		18.101 to 18.104
1956	112		17.501
1958	154		18.201 to 18.202
1964	277		4.760 to 4.765
1965	95		21.251 to 21.255
1965	380	12 100 to 109	16.112 16.200 to 16.209
1969	78		18.211 to 18.212
1974	161		18.51 to 18.53

1976	242	830.501 to 830.505
1977	76	21.401 to 21.412
1979	57	21.261 to 21.267
1981	18	21.501 to 21.533
1982	153	21.451 to 21.454
1983	14	21.421 to 21.425

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1592 Repeal of MCL 13.17 to 13.26.

Sec. 592. Sections 17 to 26 of chapter 12 of the Revised Statutes of 1846, being sections 13.17 to 13.26 of the Michigan Compiled Laws, are repealed.

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

18.1594 Repeal of executive reorganization orders.

Sec. 594. The following executive reorganization orders are rescinded and the assigned compiled law numbers shall be considered as repealed:

Executive Reorganization Order Numbers	Compiled Law Numbers
1970-2	10.111 and 18.22
1971-2	18.21
1972-3	10.112
1973-4	18.22

History: 1984, Act 431, Eff. Mar. 29, 1985.

Popular name: Act 431

Popular name: DMB

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2000-7

18.1681 Transfer of Michigan capitol park commission to director of department of management and budget by type III transfer.

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Capitol Park Commission was created in the Department of Management and Budget in Section 298 of Act No. 431 of the Public Acts of 1984, added by Section 1 of Act No. 306 of the Public Acts of 1988, as amended, being Section 18.1298 et seq. of the Michigan Compiled Laws; and

WHEREAS, the Michigan Capitol Park Commission is responsible, in part, for management of the development and operation of the Michigan Capitol Park, as well as an annual report to the Governor and Legislature regarding the activities of the Michigan Capitol Park; and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Capitol Park Commission can be more effectively organized and carried out by the Director of the Department of Management and Budget; and

WHEREAS, it is necessary in the interest of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

1. Except as provided in paragraph 2 below, all of the statutory authority, powers, duties, functions and responsibilities of the Michigan Capitol Park Commission set forth in Section 298 of Act No. 431 of the Public Acts of 1984, added by Section 1 of Act No. 306 of the Public Acts of 1988, as amended, being Section 18.1298 et seq. of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Management and Budget by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The real property described as the Michigan Veteran's Memorial Park, created and transferred to the Michigan Veteran's Memorial Park Commission by Executive Orders 1992-11 and 1992-12, and Act No. 132 of the Public Acts of 1992, being Section 18.1298b(4) of the Michigan Compiled Laws, is not affected by this Executive Order and shall remain within the jurisdiction of the Michigan Veteran's Memorial Park Commission.

3. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Management and Budget.

4. The Director of the Department of Management and Budget shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. The Chairperson of the Michigan Capitol Park Commission and the Director of the Department of Management and Budget shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Capitol Park Commission.

6. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the year.

7. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Capitol Park Commission for the activities transferred to the Director of the Department of Management and Budget by this Order are hereby transferred to the Director of the Department of Management and Budget.

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

9. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

10. The Michigan Capitol Park Commission is hereby abolished.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after the filing of this Order.

History: 2000, E.R.O. No. 2000-7, Eff. Nov. 13, 2000.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1995-9

18.1691 Department of management and budget; planning and effecting a unified and integrated structure for information processing systems and related services for all executive branch agencies.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government; and

WHEREAS, Section 141 of Act No. 431 of the Public Acts of 1984 ("Act 431"), as amended, being Section 18.1141 of the Michigan Compiled Laws, directs the Department of Management and Budget to survey and examine the administrative organization and operations of state agencies to secure greater administrative and program efficiency and economy; and

WHEREAS, attaining this goal requires the application of modern and effective management practices, and sound planning for and the development of responsive information processing systems; and

WHEREAS, Act 431 requires that the Department of Management and Budget minimize the duplication of activities among state agencies and between state agencies and businesses, and to effect a better organization and consolidation of functions among state agencies; and

WHEREAS, Section 269 of Act No. 431 of the Public Acts of 1984, as amended, being Section 18.1269 of the Michigan Compiled Laws, requires the Department of Management and Budget to establish, administer, operate or provide centralized services when advantageous to the state; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization and distribution of information processing resources in Executive Branch agencies.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The Department of Management and Budget shall plan for and effect a unified and integrated structure for information processing systems and related services for all Executive Branch agencies.

2. The Department of Management and Budget shall continuously maintain and update statewide plans for such integrated and unified structures to assure the effective and efficient use and administration of information processing resources.

3. The Department of Management and Budget shall perform continuing analyses and evaluations of information processing functions and activities throughout Executive Branch agencies and effect changes and modifications which improve administrative and operational effectiveness and efficiency.

4. The Department of Management and Budget shall be responsible for defining those resources which comprise information processing and related services and for the approval of all information processing equipment, software, systems and services to be acquired by Executive Branch agencies.

5. The Department of Management and Budget shall, as deemed appropriate, draw upon staff of other Executive Branch agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies.

6. The Department of Management and Budget shall, as necessary, consolidate available information processing resources within Executive Branch agencies, in support of its mission to minimize duplication of activities, consolidate functions, and effect better organization among state agencies.

7. The Department of Management and Budget shall plan, provision, operate, maintain, and manage information processing services and systems to be used by all Executive Branch agencies.

8. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of any transfers of equipment, human resources, and fiscal resources from any Executive Branch agency to consolidated or centralized information processing operations.

9. The Director of the Department of Management and Budget and the Directors of Executive Branch agencies shall enter into separate memoranda of record to execute transfers of resources and any attendant responsibilities and related records, such as vendor contracts and encumbrance documents, to the Department of Management and Budget pursuant to this order.

In fulfillment of the requirements of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective July 17, 1995.

History: 1995, E.R.O. No. 1995-9, Eff. July 17, 1995.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1995-12

18.1695 Establishment of Michigan information network office and Michigan information network advisory board; transfer of powers and duties of department of education regarding regional educational media centers and district library media centers to department of management and budget by type II transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Section 1291 of Public Act No. 335 of 1993, as amended by Public Act No. 416 of 1994, required the Michigan Department of Management and Budget to prepare a plan to enable creation of the Michigan Information Network; and

WHEREAS, this Administration has advocated creation of the Michigan Information Network (MIN); and

WHEREAS, the MIN is the link to the "information superhighway" for the people of Michigan. It is a virtual network developed through a collaborative effort of private sector telecommunications companies, the State of Michigan, and users to share voice, video and data for the public good; and

WHEREAS, the Michigan Information Network Plan is a series of initiatives geared at accelerating the adoption rate and use of such a network; and

WHEREAS, both the Secchia Commission Report and the MIN Plan call for making more state government information easily available to the public; and

WHEREAS, establishment of Regional Educational Media Centers by Intermediate School Districts was authorized by Act No. 55 of the Public Acts of 1970, being Section 380.671 of the Michigan Compiled Laws, subject to criteria established by rule by the State Board of Education; and

WHEREAS, Act No. 121 of the Public Acts of 1988, being Section 380.1264a of the Michigan Compiled Laws, authorized local school districts to establish district library media centers; established the Library Media Program Advisory Committee to establish criteria for such programs; and authorized the Michigan Department of Education to advise local school districts on such programs; and

WHEREAS, the Office of Grants and Technology was created within the Michigan Department of Education by the State Board of Education and assigned to fulfill statutory responsibilities of the State Board of Education regarding Regional Educational Media Centers and the Library Media Program Advisory Committee, and such other responsibilities assigned by the State Superintendent of Public Instruction; and

WHEREAS, the Michigan Government Television Network was created within the Department of Management and Budget by Executive Order No. 1993-22; and

WHEREAS, the Michigan Information and Technology Network (MITN) was created by appropriation of \$5,875,000 by Public Act No. 305 of 1988 to the Michigan Strategic Fund for such purpose, and that money, along with other monies, was transferred to MITN by the Michigan Strategic Fund pursuant to a grant agreement dated April 1, 1990; administrative responsibilities to determine MITN's compliance with certain representations and covenants in the grant agreement and the power to modify or waive any requirements remains with the Michigan Strategic Fund; and

WHEREAS, the Michigan Strategic Fund was transferred to the Michigan Jobs Commission by Executive Orders 1994-26 and 1995-5; and

WHEREAS, the functions, duties and responsibilities assigned to the Office of Grants and Technology, for Regional Educational Media Centers and District Library Media Centers, can be more effectively carried out under the supervision and direction of the Chief Information Officer for the State of Michigan; and

WHEREAS, the development of the MIN will be enhanced by consolidating state operations and programs related to the Network and placing them under the supervision and direction of the Chief Information Officer for the State of Michigan.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The Michigan Information Network Office is established within the Michigan Department of Management and Budget under the supervision and direction of the Chief Information Officer for the State of Michigan. The Michigan Information Network Office shall coordinate, assist in the development of, and review materials intended for dissemination by the Executive Branch of Michigan state government through the Michigan Information Network. The Michigan Information Network Office shall coordinate Executive Branch efforts with those of the Legislative and Judicial Branches to avoid duplication.

2. The Michigan Information Network Office shall advise and assist in negotiations, or develop legislation, to establish a nonprofit health data corporation consistent with the Michigan Information Network; and shall develop programs for the Department of Corrections to use on the Michigan Information Network for remote arraignments, telemedicine and distance learning.

3. The Michigan Information Network Advisory Board is established within the Michigan Department of Management and Budget. It shall be composed of 15 members, appointed by the Governor. The members of the Board shall be appointed for terms of three (3) years, except that of members first appointed, five (5) members shall be appointed for one year, five (5) members shall be appointed for two years, and five (5) members shall be appointed for three years, as designated by the Governor. The Governor shall designate a Chairperson of the Board. The Board shall advise the Chief Information Officer for the State of Michigan regarding the operation of the Michigan Information Network, the development of the Michigan Information Network User Empowerment Authority, whether as a private nonprofit corporation or within state government, and in deciding which functions of state government that relate to the Michigan Information Network may be consolidated with the Michigan Information Network Office. The Michigan Information Network Office shall provide staff support to this advisory board. Members shall receive no compensation for their services and may be reimbursed only for those actual expenses incurred which are reimbursable under the laws, rules and practices of the state.

4. The Michigan Information Network Office, under the direction of the Michigan Information Network Advisory Board and the Chief Information Officer for the State of Michigan, shall initiate planning for creating the Michigan Information Network User Empowerment Authority, which should provide a forum and authority for users to share information and resources, and may include the consolidation of nongovernment functions such as Michigan Government Television and Michigan Information and Technology Network.

5. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Department of Education regarding Regional Educational Media Centers, including rule-making, are hereby transferred to the Michigan Department of Management and Budget, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

6. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Department of Education regarding District Library Media Centers are hereby transferred to the Michigan Department of Management and Budget, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws. The Library Media Program Advisory Committee, with all of its statutory authority, powers, duties, functions and responsibilities, is hereby transferred to the Michigan Department of Management and Budget, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

7. Any remaining state responsibilities under the grant agreement between the Michigan Strategic Fund and the Michigan Information and Technology Network are hereby transferred to the Michigan Department of Management and Budget, by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

8. The Director of the Department of Management and Budget shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Chief Information Officer of the State of Michigan.

9. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Office of Grants and Technology for the activities transferred are hereby transferred to the Michigan Department of Management and Budget to the extent required to provide for the efficient and effective operation of the Office of Grants and Technology of the Michigan Department of Education.

10. The Michigan Department of Management and Budget shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this order.

11. The Director of the Department of Management and Budget and the State Superintendent of Public Instruction shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or obligations to be resolved by the Office of Grants and Technology of the Michigan Department of Education.

12. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this order shall continue to be effective until revised, amended or repealed.

13. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this order shall not abate by reason of the taking effect of this order. Any suit, action or other proceeding may

be maintained by, against or before the appropriate successor of any entity affected by this order.

In fulfillment of the requirements of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective October 1, 1995.

History: 1995 E.R.O. No. 1995-12, Eff. Oct. 1, 1995.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of certain units, teams, divisions, and offices within the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan information network advisory board from the department of management and budget to the department of information technology by type III transfer, see E.R.O. No. 2001-1, compiled at MCL 18.41 of the Michigan compiled laws.

PURCHASE OF FISH BY STATE AGENCIES AND LOCAL UNITS OF GOVERNMENT
Act 183 of 1987

AN ACT to regulate the purchase of or contracting for the purchase of certain fish products by state agencies and certain local units of government.

History: 1987, Act 183, Imd. Eff. Nov. 30, 1987.

The People of the State of Michigan enact:

18.1701 Definitions.

Sec. 1. As used in this act:

- (a) "Local unit of government" means a county, city, village, or township.
- (b) "Processed fish" means fish that have been treated, preserved, or processed in some manner beyond mere cleaning.
- (c) "State agency" means a state department, board, commission, office, agency, institution, or other unit of state government.

History: 1987, Act 183, Imd. Eff. Nov. 30, 1987.

18.1702 Purchasing or contracting for purchase of fish by state agency or local unit of government; processing.

Sec. 2. (1) In purchasing or contracting for the purchase of fish to meet the requirements or needs for food purposes of a state agency or a local unit of government, that agency or unit of government shall purchase or contract for, whenever possible, fish harvested in the waters of this state, if such fish are comparable and available at prices equal to or less than other bids. A reasonable percentage of fish harvested in the waters of this state and purchased pursuant to this act shall be fish that are processed.

(2) Fish that are purchased by a state agency or a local unit of government as required in this act may be processed by state institutions.

History: 1987, Act 183, Imd. Eff. Nov. 30, 1987.

COST-EFFECTIVE GOVERNMENTAL ENERGY USE ACT
Act 625 of 2012

AN ACT to provide that governmental units implement cost-effective energy conservation improvements to minimize energy consumption and reduce operating costs; to provide for energy audits; to specify procedures for obtaining contracts to reduce energy consumption; to prescribe payment methods for energy conservation contracts; and to prescribe duties for certain state governmental officers and entities.

History: 2012, Act 625, Eff. Mar. 28, 2013.

The People of the State of Michigan enact:

18.1711 Short title; meanings of words or phrases.

Sec. 1. (1) This act shall be known and may be cited as the "cost-effective governmental energy use act".

(2) For purposes of this act, the words and phrases defined in sections 2 to 5 have the meanings ascribed to them in those sections.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1712 "Cost-effective" defined.

Sec. 2. "Cost-effective" means that the present value to a governmental unit of the energy, utility, capital cost avoidance, capital improvement, and operational costs and revenues reasonably expected to be saved or produced by a facility, activity, measure, equipment, or system over its useful life, including any compensation received from a utility, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, equipment, or system over its useful life, if discounted at the cost of public borrowing.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1713 Definitions; C, D.

Sec. 3. (1) "Cost-savings measure" may include any facility improvement, repair, or alteration of, or any equipment, fixture, or furnishing to be added or used in, any facility that is designed to reduce energy consumption, utility costs, capital avoidance costs, capital improvement costs, maintenance costs, and operating costs or increase revenue or the operating efficiency of the facility for its appointed functions and that is cost-effective. Cost-savings measure may include, but is not limited to, all of the following:

- (a) Replacement or modification of lighting components, fixtures, or systems.
- (b) Renewable energy and alternate energy systems.
- (c) Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings.
- (d) Devices that reduce water consumption or sewer charges, including all of the following:
 - (i) Water-conserving fixtures, appliances, and equipment, including water-conserving landscape irrigation equipment, or the substitution of non-water-using fixtures, appliances, and equipment.
 - (ii) Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including landscape contouring, such as the use of berms, swales, and terraces, the use of soil amendments, such as compost, that increase the water-holding capacity of the soil, rainwater harvesting equipment, and equipment to make use of water collected as part of a storm water system installed for water quality control.
 - (iii) Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent.
 - (iv) Equipment to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses.
 - (v) Metering equipment to segregate water use in order to identify water conservation opportunities or verify water savings.
- (e) Changes in operation and maintenance practices.
- (f) Indoor air quality improvements that conform to applicable building code requirements.
- (g) Daylighting systems.
- (h) Insulating the building structure or systems in the building.
- (i) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.
- (j) Automated or computerized energy control systems.
- (k) Heating, ventilation, or air conditioning system modifications or replacements.

- (l) Energy recovery systems.
- (m) Steam trap improvement programs that reduce operating costs.
- (n) Building operation programs that reduce utility and operating costs including, but not limited to, computerized energy management and consumption tracking programs, advanced metering, metering and sub-metering, staff and occupant training, and other similar activities.
- (o) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes.
- (p) Any life safety measures related to compliance with the Americans with disabilities act that provide long-term operating cost reductions and are in compliance with state and local codes.
- (q) A program to reduce energy costs through rate adjustments and load shifting to reduce peak demand, including, but not limited to, 1 or more of the following:
 - (i) Changes to more favorable rate schedules.
 - (ii) Auditing of energy service billing and meters.
- (r) Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules under which service is provided.
- (s) Any other installation, modification of installation, or remodeling of building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes.
- (t) Recommissioning.
- (u) Retro-commissioning.
- (v) Continuous commission.
- (w) Behavior modification and energy policies.
- (x) Measurement and verification.
- (y) Reporting tools.
- (z) Geothermal.
- (aa) Carbon footprint monitoring.
- (2) "Department" means the department of technology, management, and budget.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1714 Definitions; E to O.

Sec. 4. (1) "Energy performance contract" means a contract between a governmental unit and a qualified energy service provider for evaluation, recommendation, and implementation of 1 or more cost-savings measures. An energy performance contract may be structured as either a guaranteed energy savings contract or an energy savings performance contract.

(2) "Energy savings performance contract" means a contract under which the rate of payments is based upon energy and operational cost savings and a stipulated maximum energy consumption level over the life of the contract.

(3) "Governmental unit" means a department, state agency, or state authority.

(4) "Guaranteed energy savings contract" means a contract that includes all of the following:

- (a) The design and installation of equipment.
- (b) If applicable, operation and maintenance of any of the measures implemented.
- (c) Guaranteed annual savings from reduced energy consumption and operating costs or increased operating efficiency that meet or exceed the total annual contract payments made by the governmental unit for the contract, including financing charges to be incurred by the governmental unit over the life of the contract.

(5) "Investment grade audit" means a study by the qualified energy service provider selected for a particular energy performance contract project that includes detailed descriptions of the improvements recommended for the project, the estimated costs of the improvements, and the operations and maintenance cost savings and utility cost savings projected to result from the recommended improvements.

(6) "Operation and maintenance cost savings" means a quantifiable and governmental unit approved decrease in operation and maintenance costs or future replacement expenditures that is a direct result of the implementation of 1 or more utility cost-savings measures. Operation and maintenance cost savings shall be calculated in comparison with an established baseline of operation and maintenance costs.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1715 Definitions; P to U.

Sec. 5. (1) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(2) "Public building" means any structure, building, or facility, including its equipment, furnishings, or

appliances, that is owned or operated by a governmental unit.

(3) "Qualified energy service provider" means a person with a record of successful energy performance contract projects or a person who is experienced in the design, implementation, and installation of energy efficiency and facility improvement measures, the technical capabilities to ensure such measures generate energy and operational cost savings, and accredited by the national association of energy service companies (NAESCO), prequalified for work through the United States department of energy for federal facilities or any other national energy service company accreditation program.

(4) "Utility cost savings" means any utility expenses that are eliminated or avoided on a long-term basis as a result of equipment installed or modified, or services performed by a qualified energy service provider. Utility cost savings do not include merely shifting personnel costs or similar short-term cost savings.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1716 Energy performance contract; compliance of cost-savings measures with state or local building codes; limitation on duration.

Sec. 6. Any governmental unit may enter into an energy performance contract with a qualified energy service provider to produce utility cost savings or operation and maintenance cost savings, except as otherwise provided in section 237 of the management and budget act, 1984 PA 431, MCL 18.1237. Cost-savings measures implemented under an energy performance contract shall comply with state or local building codes. Any governmental unit may implement other capital improvements in conjunction with an energy performance contract if the measures that are being implemented to achieve energy and operation and maintenance cost savings are a significant portion of an overall project. A governmental unit shall not enter into an energy savings performance contract for a period of more than 1 year unless the governmental unit finds that the amount the governmental unit would spend on the cost-savings measures will not exceed the amount to be saved in energy, water, wastewater, and operating costs over 15 years or the average useful life of the measures from the date of installation.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1717 Program of energy performance contracts; department as lead agency; duties; evaluation of providers; criteria.

Sec. 7. (1) The department is the lead agency for the development and promotion of a program of energy performance contracts in governmental units. The department shall do all of the following with respect to this program:

(a) Assemble a list of qualified energy service providers through a request for qualifications process and a list of standardized tools and contract templates.

(b) Develop a standardized energy performance contract process and standard energy performance contract documents, including all of the following:

(i) A request for qualifications.

(ii) An investment grade audit and energy services contract.

(iii) Guidelines and an approval process for awarding energy performance contracts that allow the governmental unit to contract with a qualified energy service provider for an investment grade audit to be performed at any building, structure, or facility. Under the contract, the energy service company shall prepare a report containing a description of the physical modifications to be performed to the building, structure, or facility that are required to effect specific future energy savings within a specified period and a determination of the minimum savings in energy usage that will be realized by the governmental unit from making these modifications within that period. After review of the investment grade audit report and subject to approval, the governmental unit may contract with the qualified energy service provider for construction work to be performed at the building, structure, or facility for the purpose of realizing potential savings of future energy costs identified in the audit if the department determines that the anticipated savings to the governmental unit after completion of the work will enable recovery of the costs of the work within a maximum of 15 years or the average useful life of the measures.

(c) Promote the energy performance contract program to all governmental units.

(d) The department shall make the qualified list of qualified energy service providers, standardized tools, and contract templates available to local units of government and public entities.

(2) The criteria used by the department for the evaluation of qualified energy service providers may include, but not be limited to, all of the following substantive factors to assess the capability of the qualified energy service provider in the areas of design, engineering, installation, maintenance, and repairs associated with energy performance contracts:

(a) Experience in conversions to a different energy or fuel source associated with a comprehensive energy

efficiency retrofit.

(b) Experience and capabilities in post-installation project monitoring, data collection, and reporting of savings.

(c) Overall project experience and qualifications.

(d) Management capability.

(e) Experience with projects of similar size and scope.

(f) The financial ability to cover energy guarantees, the procurement of bonds or insurance, and the financial ability to cover energy guarantees as demonstrated by audited financial statements.

(g) Other factors proposed by a governmental unit and determined by the department to be relevant, appropriate, and related to the ability to perform the project.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1718 Annual report.

Sec. 8. The department shall develop an annual report of total facility capital liability and total dollar amount of completed and substantially completed energy performance contract work. Prior to December 31 of each calendar year, the department shall present this report to the members of the house appropriations committee and the senate appropriations committee.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1719 Cost-savings measures at governmental facilities; departmental assistance.

Sec. 9. The department shall assist governmental units in identifying, evaluating, and implementing cost-savings measures at their facilities. The assistance may include 1 or more of the following:

(a) Apprising governmental units of opportunities to develop and finance energy performance contract projects.

(b) Providing technical and analytical support, including procuring energy performance contract services.

(c) Reviewing verification procedures for energy savings.

(d) Assisting in the structuring and arranging of financing for energy performance contract projects.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1720 Fees charged by department; limitation.

Sec. 10. The department may charge fees, not to exceed the lesser of \$500,000.00 adjusted annually, beginning after calendar year 2014, by the consumer price index or up to 2% of the total cost of the energy performance contract project, for any administrative support and resources or other services provided by the department under this section from the governmental units that use its technical support services. A governmental unit may add the costs of these fees to the total cost of an energy performance contract.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1721 Investment grade energy audit.

Sec. 11. The qualified energy service provider chosen as a result of the process set forth in this section shall prepare an investment grade energy audit, which, upon acceptance, shall be part of the final energy performance contract. The investment grade energy audit shall include estimates of the amounts by which utility cost savings and operation and maintenance cost savings would increase and itemized estimates of all costs of such utility cost-savings measures or energy-savings measures, including, but not limited to, all of the following:

(a) Design.

(b) Engineering.

(c) Equipment.

(d) Materials.

(e) Installation.

(f) Maintenance.

(g) Repairs.

(h) Debt service.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1722 Use of designated funds, bonds, or master lease; financing by third party.

Sec. 12. (1) A governmental unit may use designated funds, bonds, or master lease for any energy performance contract, including purchases using installment payment contracts or lease purchase agreements, if that use is consistent with the purpose of the appropriation.

(2) Unless otherwise provided by law or ordinance, a governmental unit may use funds designated for

operating and capital expenditures or utilities for any energy performance contract.

(3) A guaranteed energy savings contract may provide for financing, including tax-exempt financing, by a third party. The contract for third-party financing may be separate from the guaranteed energy savings contract.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1723 Energy performance contract; provisions; extension; limitation.

Sec. 13. (1) Each energy performance contract shall provide both of the following:

(a) All payments between the parties, except obligations on termination of the contract before its expiration, shall be made over time.

(b) The objective of the energy performance contract is implementation of cost-savings measures and achievement of both utility cost savings and operation and maintenance cost savings.

(2) An energy performance contract and payments under that contract may extend beyond the fiscal year in which the energy performance contract becomes effective, subject to appropriation of money, if required by law, for costs incurred in future fiscal years.

(3) The term of an energy performance contract shall not exceed 15 years or the average useful life of the measures. The term of an energy performance contract may also reflect the useful life of the cost-savings measures.

(4) An energy performance contract may provide for payments over a period of time not to exceed deadlines specified in the energy performance contract from the date of the final installation of the cost-savings measures.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1724 Annual reconciliation of energy savings; liability for shortfall; report.

Sec. 14. (1) An energy performance contract shall require the qualified energy service provider to provide to the governmental unit an annual reconciliation of the guaranteed energy savings based on industry standards. The contract shall provide that the qualified provider is liable for any shortfall if the reconciliation reveals a shortfall in annual energy cost savings.

(2) During the term of each energy performance contract, at the discretion of the governmental unit, either the governmental unit, the qualified energy service provider, or an independent third party shall monitor the reductions in energy consumption and the cost savings attributable to the cost-savings measures installed pursuant to the performance contract, and shall, at least annually, provide a report to the governmental unit documenting the performance of the cost-savings measures to the governmental unit. The report shall comply with adopted industry standards as published at the date of the contract.

History: 2012, Act 625, Eff. Mar. 28, 2013.

18.1725 Scope of act.

Sec. 15. Nothing in this act mandates or shall be construed to mandate any of the following:

(a) That government units join or pay membership dues to organizations involved in energy efficiency, sustainable development, or similar practices.

(b) That government units abide by or otherwise follow international standards related to performance measurement and verification protocol.

History: 2012, Act 625, Eff. Mar. 28, 2013.

ECONOMIC DEVELOPMENT INCENTIVE EVALUATION ACT

Act 540 of 2018

AN ACT to evaluate certain economic development incentives; to report those evaluations and make certain recommendations; and to impose certain powers and duties on certain state employees and officials.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

The People of the State of Michigan enact:

18.1751 Short title.

Sec. 1. This act shall be known and may be cited as the "economic development incentive evaluation act".

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1753 Definitions.

Sec. 3. As used in this act:

(a) "Contractor" means the private entity, nonprofit entity, or academic institution selected by the department under section 5 to evaluate certain economic development incentives.

(b) "Department" means the department of technology, management, and budget.

(c) "Economic development incentive" means the abatements, tax credits, exemptions, grants, loans, or loan guarantees related to economic development activities in this state as determined by the Michigan strategic fund provided under the following acts:

(i) 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 206.713.

(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.

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

(xii) The general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(xiii) The Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(xiv) The Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(xv) The obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(xvi) The brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

(xvii) The Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(xviii) Any new economic development programs as determined by the Michigan strategic fund.

(d) "Exclusive economic development incentive" means an economic development incentive that is intended to encourage a single specific entity, project, or associated projects to locate, expand, invest, or remain in this state or to hire or retain employees in this state as determined by the strategic fund.

(e) "The strategic fund" means the fund under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1755 Periodic evaluation of economic development incentives: contract; request for proposals; requirements; timeline; disclosure; evaluations published on website and to certain state agencies.

Sec. 5. (1) The department shall contract with 1 or more contractors for the periodic evaluation of economic development incentives. The department along with the department of treasury and the Michigan strategic fund shall develop a scope of services for a request for proposals for professional services necessary to complete the economic development incentive evaluations under this act. The department may solicit input from a local governmental unit or 1 or more public agencies, as those terms are defined in section 2 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.502, or a Michigan economic development corporation corporate partner, in developing the scope of services for a request for proposal for professional services necessary to complete an economic development incentive evaluation under this act. When selecting

a contractor, the department shall consider the ability for economic development incentive evaluations to be done in an objective manner.

(2) The contractor will complete the economic development incentive evaluations within 270 days of entering into the contract. The department shall provide the economic development incentive evaluation with any additional information to the house and senate appropriations committees no more than 30 days after the completion of the evaluation.

(3) The department shall enter into contracts with contractors for economic development incentive evaluations as follows:

(a) At least once every 6 years for economic development incentives funded with state appropriations of \$15,000,000.00 or less each year.

(b) At least once every 4 years for all other economic development incentives, excluding programs that have entered into legacy status. A program is considered to be in legacy status if the Michigan strategic fund board or other governing body has not approved, authorized, or originated any new abatement, tax credit, or exemption, or distributed funds under a grant, loan, or loan guarantee within the immediately preceding fiscal year period.

(c) Upon the conclusion of an economic development incentive, a 1-time final analysis.

(4) At the request of the department, state agencies shall provide to the contractor, to the extent permitted by law, any records, information, data, or data analysis necessary for the contractors to effectively evaluate the economic development incentives. The contractor shall not disclose or release any data received from state agencies, except as permitted by law. A record or portion of a record, material, or other data that relates to financial, commercial, or proprietary information of any entity that received an economic development incentive provided by another department, agency, municipality, or political subdivision of this state to the department or a contractor in connection with review of an economic development incentive under this act shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The department and contractor may only use the financial or commercial information for carrying out the purposes of this act and shall not disclose or release any data received from a department, agency, municipality, or political subdivision of this state.

(5) Economic development incentive evaluations shall be published on the department's website. The department shall also publish the name of each contractor who is awarded a contract under this act and a schedule of economic development incentives and when they shall be evaluated.

(6) Not less than 30 days prior to the department releasing the economic development incentive evaluation under subsection (2) or publishing it on the department's website under subsection (5), the department shall provide a copy of the economic development incentive evaluation to the Michigan strategic fund, the Michigan economic development corporation, the state agency that has oversight of the economic development incentive, and the entity that is the recipient of the economic development incentive. The Michigan strategic fund, the Michigan economic development corporation, the state agency that has oversight over the economic development incentive, and the entity that is the recipient of the economic development incentive may issue a response to the economic development incentive evaluation.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1757 Multiyear schedule of evaluations; annual update.

Sec. 7. The department, in conjunction with the strategic fund and the department of treasury, shall, not later than February 28, 2019, develop a multiyear schedule that lists all economic development incentives and indicates the year when an economic development incentive evaluation will be published for each economic development incentive. The department shall consider economic development incentive sunset dates and program inactivity when creating the schedule and may group economic development incentives for review by objective or policy rationale of each economic development incentive. The department shall update the schedule annually and include any new economic development programs as determined by the Michigan strategic fund. The department shall also list all economic development incentives that are exclusive economic development incentives.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1759 Periodic evaluation report requirements & recommendations; disclosure of methodology and sources.

Sec. 9. (1) Evaluations of economic development incentives shall include, to the extent practicable, all of the following:

(a) A description of the history of the economic development incentive and its goals.

(b) A literature review of the effectiveness of this type of incentive, including an inventory of similar

incentives in other states.

(c) An estimate of the economic and fiscal impact of the economic development incentive. This estimate shall take into account all of the following considerations in addition to other relevant factors:

(i) The extent to which the economic development incentive influences business behavior.

(ii) The results of the economic development incentive for the economy of this state as a whole. This consideration includes both positive direct and indirect impacts and any negative effects on other businesses located in this state.

(iii) A comparison to the results of other economic development incentives or other economic development strategies with similar goals.

(iv) An evaluation of the loss of potential gains from other alternatives or programs enacted by the legislature or existing economic development incentives that have been extended.

(d) An assessment of whether adequate protections are in place to ensure that the fiscal impact of the economic development incentive does not increase substantially beyond the state's means or expectations in future years.

(e) An assessment of whether the economic development incentive is being administered effectively, including a review of auditor general reports.

(f) An assessment of whether the economic development incentive is achieving its goals.

(g) Recommendations for how this state can most effectively achieve the economic development incentive's goals, including recommendations on whether the economic development incentive should be retained, reconfigured, or repealed.

(h) Recommendations for any changes to state policy, rules, or statutes that would allow the economic development incentive to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goal of the economic development incentive.

(i) Any other information the contractor considers necessary to assess the effectiveness of the economic development incentive and whether it is achieving its goals.

(2) Each evaluation for exclusive economic development incentives shall include all of the following based on a program-wide basis:

(a) Aggregate information and a description of trends related to this state's exclusive economic development incentives, which may include analysis of their structure, performance standards, and economic and fiscal impact.

(b) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to ensure they successfully change business behavior.

(c) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to maximize positive direct and indirect impacts on this state's economy and minimize negative effects on other businesses located in this state.

(d) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to ensure that they represent a cost-effective approach compared to other economic development incentive programs or other economic development strategies.

(e) Recommendations for what protections exclusive economic development incentives should include ensuring their costs do not substantially exceed this state's expectations.

(f) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to avoid adverse impacts on the fiscal stability of local units of government.

(g) Recommendations for the types of performance standards that should be included in exclusive economic development incentives, how these standards should be structured, and how they should be monitored.

(3) A contractor shall disclose a summary of its methodology and source materials in how it arrived at its evaluation under this act.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.