

DRAFT 3
HOUSE SUBSTITUTE FOR
SENATE BILL NO. 865

A bill to safeguard and assure the financial accountability of local units of government and school districts; to preserve the capacity of local units of government and school districts to provide or cause to be provided necessary services essential to the public health, safety, and welfare; to provide for review, management, planning, and control of the financial operation of local units of government and school districts and the provision of services by local units of government and school districts; to provide criteria to be used in determining the financial condition of local units of government and school districts; to authorize a declaration of the existence of a financial emergency within a local unit of government or school district; to prescribe remedial measures to address a financial emergency within a local unit of



government or school district; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency manager for a local unit of government or school district; to provide for the modification or termination of contracts under certain circumstances; to provide for the termination of a financial emergency within a local unit of government or school district; to provide a process by which a local unit of government or school district may file for bankruptcy; to prescribe the powers and duties of certain state agencies and officials and officials within local units of government and school districts; to provide for appropriations; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "local
2 government and school district fiscal responsibility act".

3 Sec. 2. As used in this act:

4 (a) "Chapter 9" means chapter 9 of title 11 of the United
5 States Code, 11 USC 901 to 946.

6 (b) "Chief administrative officer" means any of the following:

7 (i) The manager of a village or, if a village does not employ a
8 manager, the president of the village.

9 (ii) The city manager of a city or, if a city does not employ a
10 city manager, the mayor of the city.

11 (iii) The manager of a township or the manager or superintendent
12 of a charter township or, if the township does not employ a manager
13 or superintendent, the supervisor of the township.

14 (iv) The elected county executive or appointed county manager



1 of a county or, if the county has not adopted the provisions of
2 either 1973 PA 139, MCL 45.551 to 45.573, or 1966 PA 293, MCL
3 45.501 to 45.521, the county's chairperson of the county board of
4 commissioners.

5 (v) The chief operating officer of an authority or of a public
6 utility owned by a city, village, township, or county.

7 (vi) The superintendent of a school district.

8 (c) "Creditor" means either of the following:

9 (i) An entity that has a noncontingent claim against a local
10 government that arose at the time of or before the commencement of
11 the neutral evaluation process and whose claim represents at least
12 \$5,000,000.00 or comprises more than 5% of the local government's
13 debt or obligations, whichever is less.

14 (ii) An entity that would have a noncontingent claim against
15 the local government upon the rejection of an executory contract or
16 unexpired lease in a chapter 9 case and whose claim would represent
17 at least \$5,000,000.00 or would comprise more than 5% of the local
18 government's debt or obligations, whichever is less.

19 (d) "Debtor" means a local government that is authorized to
20 proceed under chapter 9 by this act and that meets the requirements
21 of chapter 9.

22 (e) "Elected mayor" means a mayor elected to the office of
23 mayor by a vote of the electors within that city.

24 (f) "Emergency manager" means an emergency manager appointed
25 under section 9. An emergency manager includes an emergency
26 financial manager appointed under former 1988 PA 101 or former 1990
27 PA 72 who was acting in that capacity on the effective date of this



1 act.

2 (g) "Entity" means a partnership, nonprofit or business
3 corporation, limited liability company, labor organization, or any
4 other association, corporation, trust, or other legal entity.

5 (h) "Financial and operating plan" means a written financial
6 and operating plan for a local government under section 11,
7 including an academic and educational plan for a school district.

8 (i) "Good faith" means participation by an interested party or
9 a representative of the local government in the neutral evaluation
10 process with the intent to negotiate a resolution of the issues
11 that are the subject of the neutral evaluation process, including
12 the timely provision of complete and accurate information to
13 provide the relevant parties through the neutral evaluation process
14 with sufficient information, in a confidential manner, to negotiate
15 the readjustment of the local government's debt.

16 (j) "Interested party" means a trustee, a committee of
17 creditors, an affected creditor, an indenture trustee, a pension
18 fund, a bondholder, a union that under its collective bargaining
19 agreements has standing to initiate contract negotiations with the
20 local government, or a representative selected by an association of
21 retired employees of the public entity who receive income or
22 benefits from the public entity. A local government may invite
23 holders of contingent claims to participate as interested parties
24 in the neutral evaluation process if the local government
25 determines that the contingency is likely to occur and the claim
26 may represent at least \$5,000,000.00 or comprise more than 5% of
27 the local government's debt or obligations, whichever is less.



1 (k) "Local emergency financial assistance loan board" means
2 the local emergency financial assistance loan board created under
3 section 2 of the emergency municipal loan act, 1980 PA 243, MCL
4 141.932.

5 (l) "Local government" means a municipal government or a school
6 district.

7 (m) "Local government representative" means the person or
8 persons designated by the governing body of the local government
9 with authority to make recommendations and to attend the neutral
10 evaluation process on behalf of the governing body of the local
11 government.

12 (n) "Local inspector" means a certified forensic accountant,
13 certified public accountant, attorney, or similarly credentialed
14 person whose responsibility it is to determine the existence of
15 proper internal and management controls, fraud, criminal activity,
16 or any other accounting or management deficiencies.

17 (o) "Municipal government" means a city, a village, a
18 township, a charter township, a county, a department of county
19 government if the county has an elected county executive under 1966
20 PA 293, MCL 45.501 to 45.521, an authority established by law, or a
21 public utility owned by a city, village, township, or county.

22 (p) "Neutral evaluation process" means a form of alternative
23 dispute resolution or mediation between a local government and
24 interested parties as provided for in section 25.

25 (q) "Neutral evaluator" means an impartial, unbiased person or
26 entity, commonly known as a mediator, who assists local governments
27 and interested parties in reaching their own settlement of issues



1 under this act, who is not aligned with any party, and who has no
2 authoritative decision-making power.

3 (r) "Receivership" means the process under this act by which a
4 financial emergency is addressed through the appointment of an
5 emergency manager. Receivership does not include chapter 9 or any
6 provision under federal bankruptcy law.

7 (s) "Review team" means a review team appointed under section
8 4.

9 (t) "School board" means the governing body of a school
10 district.

11 (u) "School district" means a school district as that term is
12 defined in section 6 of the revised school code, 1976 PA 451, MCL
13 380.6, or an intermediate school district as that term is defined
14 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

15 (v) "State financial authority" means the following:

16 (i) For a municipal government, the state treasurer.

17 (ii) For a school district, the superintendent of public
18 instruction.

19 Sec. 3. The legislature finds and declares all of the
20 following:

21 (a) That the health, safety, and welfare of the citizens of
22 this state would be materially and adversely affected by the
23 insolvency of local governments and that the fiscal accountability
24 of local governments is vitally necessary to the interests of the
25 citizens of this state to assure the provision of necessary
26 governmental services essential to public health, safety, and
27 welfare.



1 (b) That it is vitally necessary to protect the credit of this
2 state and its political subdivisions and that it is necessary for
3 the public good and it is a valid public purpose for this state to
4 take action and to assist a local government in a financial
5 emergency so as to remedy the financial emergency by requiring
6 prudent fiscal management and efficient provision of services,
7 permitting the restructuring of contractual obligations, and
8 prescribing the powers and duties of state and local government
9 officials and emergency managers.

10 (c) That the fiscal stability of local governments is
11 necessary to the health, safety, and welfare of the citizens of
12 this state and it is a valid public purpose for this state to
13 assist a local government in a condition of financial emergency by
14 providing for procedures of alternative dispute resolution between
15 a local government and its creditors to resolve disputes, to
16 determine criteria for establishing the existence of a financial
17 emergency, and to set forth the conditions for a local government
18 to exercise powers under federal bankruptcy law.

19 (d) That the authority and powers conferred by this act
20 constitute a necessary program and serve a valid public purpose.

21 Sec. 4. (1) The state financial authority may conduct a
22 preliminary review to determine the existence of probable financial
23 stress within a local government if 1 or more of the following
24 occur:

25 (a) The governing body or the chief administrative officer of
26 a local government requests a preliminary review. The request shall
27 be in writing and shall identify the existing or anticipated



1 financial conditions or events that make the request necessary.

2 (b) The state financial authority receives a written request
3 from a creditor with an undisputed claim that remains unpaid 6
4 months after its due date against the local government that exceeds
5 the greater of \$10,000.00 or 1% of the annual general fund budget
6 of the local government, provided that the creditor notifies the
7 local government in writing at least 30 days before his or her
8 request to the state financial authority of his or her intention to
9 submit a written request under this subdivision.

10 (c) The state financial authority receives a petition
11 containing specific allegations of local government financial
12 distress signed by a number of registered electors residing within
13 the local government's jurisdiction equal to not less than 5% of
14 the total vote cast for all candidates for governor within the
15 local government's jurisdiction at the last preceding election at
16 which a governor was elected. Petitions shall not be filed under
17 this subdivision within 60 days before any election of the local
18 government.

19 (d) The state financial authority receives written
20 notification that a local government has not timely deposited its
21 minimum obligation payment to the local government pension fund as
22 required by law.

23 (e) The state financial authority receives written
24 notification that the local government has failed for a period of 7
25 days or more after the scheduled date of payment to pay wages and
26 salaries or other compensation owed to employees or benefits owed
27 to retirees.



1 (f) The state financial authority receives written
2 notification from a trustee, paying agent, bondholder, or auditor
3 engaged by the local government of a default in a bond or note
4 payment or a violation of 1 or more bond or note covenants.

5 (g) The state financial authority of a local government
6 receives a resolution from either the senate or the house of
7 representatives requesting a preliminary review.

8 (h) The local government has violated a requirement of, or a
9 condition of an order issued pursuant to, former 1943 PA 202, the
10 revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the
11 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
12 141.2821, or any other law governing the issuance of bonds or
13 notes.

14 (i) The municipal government has violated the conditions of an
15 order issued by the local emergency financial assistance loan board
16 pursuant to the emergency municipal loan act, 1980 PA 243, MCL
17 141.931 to 141.942.

18 (j) The local government has violated a requirement of
19 sections 17 to 20 of the uniform budgeting and accounting act, 1968
20 PA 2, MCL 141.437 to 141.440.

21 (k) The local government fails to timely file an annual
22 financial report or audit that conforms with the minimum procedures
23 and standards of the state financial authority and is required for
24 local governments under the uniform budgeting and accounting act,
25 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
26 21.55.

27 (l) If the local government is a school district, the school



1 district fails to provide an annual financial report or audit that
2 conforms with the minimum procedures and standards of the
3 superintendent of public instruction and is required under the
4 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the
5 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

6 (m) The municipal government is delinquent in the distribution
7 of tax revenues, as required by law, that it has collected for
8 another taxing jurisdiction, and that taxing jurisdiction requests
9 a preliminary review.

10 (n) The local government is in breach of its obligations under
11 a deficit elimination plan or an agreement entered into pursuant to
12 a deficit elimination plan.

13 (o) A court has ordered an additional tax levy without the
14 prior approval of the governing body of the local government.

15 (p) The municipal government has ended a fiscal year in a
16 deficit condition as defined in section 21 of the Glenn Steil state
17 revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or has
18 failed to comply with the requirements of that section for filing
19 or instituting a financial plan to correct the deficit condition.

20 (q) The school district ended its most recently completed
21 fiscal year with a deficit in 1 or more of its funds and the school
22 district has not submitted a deficit elimination plan to the state
23 financial authority within 30 days after the district's deadline
24 for submission of its annual financial statement.

25 (r) The local government has been assigned a long-term debt
26 rating within or below the BBB category or its equivalent by 1 or
27 more nationally recognized credit rating agencies.



1 (s) The existence of other facts or circumstances that, in the
2 state treasurer's sole discretion for a municipal government, are
3 indicative of probable financial stress or that, in the state
4 treasurer's or superintendent of public instruction's sole
5 discretion for a school district, are indicative of probable
6 financial stress.

7 (2) Before commencing the preliminary review under subsection
8 (1), the state financial authority shall provide the local
9 government specific written notification that it intends to conduct
10 a preliminary review. Elected and appointed officials of a local
11 government shall promptly and fully provide the assistance and
12 information requested by the state financial authority for that
13 local government in conducting the preliminary review. The state
14 financial authority shall provide an interim report of its findings
15 to the local government within 20 days following the commencement
16 of the preliminary review. The local government may provide
17 comments to the state financial authority concerning the interim
18 report within 5 days after the interim report is provided to the
19 local government. The state financial authority shall prepare and
20 provide a final report detailing its preliminary review to the
21 local emergency financial assistance loan board. The preliminary
22 review and final report by the state financial authority shall be
23 completed within 30 days following commencement of the preliminary
24 review. Within 20 days after receiving the final report from the
25 state financial authority, the local emergency financial assistance
26 loan board shall determine if probable financial stress exists for
27 the local government.



1 (3) If a finding of probable financial stress is made for a
2 municipal government by the local emergency financial assistance
3 loan board under subsection (2), the governor shall appoint a
4 review team for that municipal government consisting of the state
5 treasurer or his or her designee, the director of the department of
6 technology, management, and budget or his or her designee, a
7 nominee of the senate majority leader, and a nominee of the speaker
8 of the house of representatives. The governor may appoint other
9 state officials or other persons with relevant professional
10 experience to serve on a review team to undertake a municipal
11 financial management review.

12 (4) If a finding of probable financial stress is made for a
13 school district by the local emergency financial assistance loan
14 board under subsection (2), the governor shall appoint a review
15 team for that school district consisting of the state treasurer or
16 his or her designee, the superintendent of public instruction or
17 his or her designee, the director of the department of technology,
18 management, and budget or his or her designee, a nominee of the
19 senate majority leader, and a nominee of the speaker of the house
20 of representatives. The governor may appoint other state officials
21 or other persons with relevant professional experience to serve on
22 a review team to undertake a school district financial management
23 review.

24 (5) The department of treasury shall provide staff support to
25 each review team appointed under this section.

26 (6) A review team appointed under former 1988 PA 101 or former
27 1990 PA 72 and serving on the effective date of this act shall



1 continue under this act to fulfill its powers and duties. All
2 proceedings and actions taken by the governor, the state treasurer,
3 the superintendent of public instruction, the local emergency
4 financial assistance loan board, or a review team under former 2011
5 PA 4, former 1988 PA 101, or former 1990 PA 72 before the effective
6 date of this act are ratified and are enforceable as if the
7 proceedings and actions were taken under this act, and a consent
8 agreement entered into under former 2011 PA 4, former 1988 PA 101,
9 or former 1990 PA 72 is ratified and is binding and enforceable
10 under this act.

11 Sec. 5. (1) In conducting its review, the review team may do
12 either or both of the following:

13 (a) Examine the books and records of the local government.

14 (b) Utilize the services of other state agencies and
15 employees.

16 (2) The review team shall meet with the local government as
17 part of its review. At this meeting, the review team shall receive,
18 discuss, and consider information provided by the local government
19 concerning the financial condition of the local government. In
20 addition, the review team shall hold at least 1 public information
21 meeting in the jurisdiction of the local government.

22 (3) The review team shall submit a written report of its
23 findings to the governor, and provide a copy of the report to the
24 state treasurer, within 60 days following its appointment or
25 earlier if required by the governor. Upon request, the governor may
26 grant one 30-day extension of this 60-day time limit. A copy of the
27 report shall be forwarded by the state treasurer to the chief



1 administrative officer and the governing body of the local
2 government, the speaker of the house of representatives, the senate
3 majority leader, and the superintendent of public instruction if
4 the local government is a school district. The report shall include
5 the existence, or an indication of the likely occurrence, of any of
6 the following:

7 (a) A default in the payment of principal or interest upon
8 bonded obligations, notes, or other municipal securities for which
9 no funds or insufficient funds are on hand and, if required,
10 segregated in a special trust fund.

11 (b) Failure for a period of 30 days or more beyond the due
12 date to transfer 1 or more of the following to the appropriate
13 agency:

14 (i) Taxes withheld on the income of employees.

15 (ii) For a municipal government, taxes collected by the
16 municipal government as agent for another governmental unit, school
17 district, or other entity or taxing authority.

18 (iii) Any contribution required by a pension, retirement, or
19 benefit plan.

20 (c) Failure for a period of 7 days or more after the scheduled
21 date of payment to pay wages and salaries or other compensation
22 owed to employees or benefits owed to retirees.

23 (d) The total amount of accounts payable for the current
24 fiscal year, as determined by the state financial authority's
25 uniform chart of accounts, is in excess of 10% of the total
26 expenditures of the local government in that fiscal year.

27 (e) Failure to eliminate an existing deficit in any fund of



1 the local government within the 2-year period preceding the end of
2 the local government's fiscal year during which the review team
3 report is received.

4 (f) Projection of a deficit in the general fund of the local
5 government for the current fiscal year in excess of 5% of the
6 budgeted revenues for the general fund.

7 (g) Failure to comply in all material respects with the terms
8 of an approved deficit elimination plan or an agreement entered
9 into pursuant to a deficit elimination plan.

10 (h) Existence of material loans to the general fund from other
11 local government funds that are not regularly settled between the
12 funds or that are increasing in scope.

13 (i) Existence after the close of the fiscal year of material
14 recurring unbudgeted subsidies from the general fund to other major
15 funds as defined under government accounting standards board
16 principles.

17 (j) Existence of a structural operating deficit.

18 (k) Use of restricted revenues for purposes not authorized by
19 law.

20 (l) The likelihood that the local government is or will be
21 unable to pay its obligations within 60 days after the date of the
22 review team's reporting its findings to the governor.

23 (m) Any other facts and circumstances indicative of local
24 government financial emergency.

25 (4) The review team shall include 1 of the following
26 conclusions in its report:

27 (a) A financial emergency does not exist within the local



1 government.

2 (b) A financial emergency exists within the local government.

3 (5) The review team may, with the approval of the state
4 financial authority, appoint an individual or firm to carry out the
5 review and submit a report to the review team for approval. The
6 department of treasury may enter into a contract with the
7 individual or firm respecting the terms and conditions of the
8 appointment.

9 (6) For purposes of this section:

10 (a) A financial emergency does not exist within a local
11 government if the report under subsection (3) concludes that none
12 of the factors in subsection (3) exist or are likely to occur
13 within the current or next succeeding fiscal year or, if they
14 occur, do not threaten the local government's capability to provide
15 necessary governmental services essential to public health, safety,
16 and welfare.

17 (b) A financial emergency exists within a local government if
18 any of the following occur:

19 (i) The report under subsection (3) concludes that 1 or more of
20 the factors in subsection (3) exist or are likely to occur within
21 the current or next succeeding fiscal year and threaten the local
22 government's current and future capability to provide necessary
23 governmental services essential to the public health, safety, and
24 welfare.

25 (ii) The local government has failed to provide timely and
26 accurate information enabling the review team to complete its
27 report under subsection (3).



1 (iii) The local government has failed to comply in all material
2 respects with the terms of an approved deficit elimination plan or
3 an agreement entered into pursuant to a deficit elimination plan.

4 (iv) The chief administrative officer of the local government,
5 based upon the existence or likely occurrence of 1 or more of the
6 factors in subsection (3), recommends that a financial emergency be
7 declared and the state treasurer concurs with the recommendation.

8 Sec. 6. (1) Within 10 days after receipt of the report under
9 section 5, the governor shall make 1 of the following
10 determinations:

11 (a) A financial emergency does not exist within the local
12 government.

13 (b) A financial emergency exists within the local government.

14 (2) Before making a determination under subsection (1), the
15 governor, in his or her sole discretion, may provide officials of
16 the local government an opportunity to submit a written statement
17 concerning their agreement or disagreement with the findings and
18 conclusion of the review team report under section 5. If the
19 governor determines pursuant to subsection (1) that a financial
20 emergency exists, the governor shall provide the governing body and
21 chief administrative officer of the local government with a written
22 notification of the determination, findings of fact utilized as the
23 basis upon which this determination was made, a concise and
24 explicit statement of the underlying facts supporting the factual
25 findings, and notice that the chief administrative officer or the
26 governing body of the local government has 7 days after the date of
27 the notification to request a hearing conducted by the state



1 financial authority or the state financial authority's designee.
2 Following the hearing, or if no hearing is requested following the
3 expiration of the deadline by which a hearing may be requested, the
4 governor, in his or her sole discretion based upon the record,
5 shall either confirm or revoke, in writing, the determination of
6 the existence of a financial emergency. If confirmed, the governor
7 shall provide a written report to the governing body and chief
8 administrative officer of the local government of the findings of
9 fact of the continuing or newly developed conditions or events
10 providing a basis for the confirmation of a financial emergency and
11 a concise and explicit statement of the underlying facts supporting
12 these factual findings.

13 (3) A local government for which a financial emergency
14 determination under this section has been confirmed to exist may,
15 by resolution adopted by a vote of 2/3 of the members of its
16 governing body elected and serving, appeal this determination
17 within 10 business days to the Ingham county circuit court. A local
18 government may, by resolution adopted by a vote of 2/3 of the
19 members of its governing body elected and serving, waive its right
20 to appeal as provided in this subsection. The court shall not set
21 aside a determination of financial emergency by the governor unless
22 it finds that the determination is either of the following:

23 (a) Not supported by competent, material, and substantial
24 evidence on the whole record.

25 (b) Arbitrary, capricious, or clearly an abuse or unwarranted
26 exercise of discretion.

27 Sec. 7. (1) Notwithstanding section 6(3), upon the



1 confirmation of a finding of a financial emergency under section 6,
2 the governing body of the local government shall, by resolution
3 within 7 days after the confirmation of a finding of a financial
4 emergency, select 1 of the following local government options to
5 address the financial emergency:

6 (a) The consent agreement option pursuant to section 8.

7 (b) The emergency manager option pursuant to section 9.

8 (c) The neutral evaluation process pursuant to section 25.

9 (d) The chapter 9 bankruptcy option pursuant to section 26.

10 (2) If the local government has an elected mayor, the mayor
11 must also approve the resolution under subsection (1). If the local
12 government is a school district, the resolution shall be approved
13 by the school board. The resolution shall be filed with the state
14 treasurer, with a copy to the superintendent of public instruction
15 if the local government is a school district.

16 (3) If the governing body of the local government does not
17 pass a resolution as required under subsection (1), or if the mayor
18 of the local government does not approve the resolution as required
19 under subsection (1), the local government shall proceed under the
20 neutral evaluation process pursuant to section 25.

21 (4) Unless authorized by the governor or the state treasurer,
22 a local government shall not utilize 1 of the local options listed
23 in subsection (1)(a) to (d) more than 1 time.

24 Sec. 8. (1) The chief administrative officer of a local
25 government may negotiate and sign a consent agreement with the
26 state treasurer as provided for in this act. The consent agreement
27 shall provide for remedial measures considered necessary to address



1 the financial emergency within the local government and provide for
2 the financial stability of the local government. The consent
3 agreement may utilize state financial management and technical
4 assistance as necessary in order to alleviate the financial
5 emergency. The consent agreement shall also provide for periodic
6 financial status reports to the state financial authority. The
7 consent agreement may provide for a board appointed by the governor
8 to monitor the local government's compliance with the consent
9 agreement. In order for the consent agreement to go into effect, it
10 shall be approved, by resolution, by the governing body of the
11 local government and shall be approved and executed by the state
12 financial authority. Nothing in the consent agreement shall limit
13 the ability of the state treasurer in his or her sole discretion to
14 declare a material breach of the consent agreement. A consent
15 agreement shall provide that in the event of a material uncured
16 breach of the consent agreement, the state treasurer may place the
17 local government in receivership or in the neutral evaluation
18 process. If within 30 days after a local government selects the
19 consent agreement option under section 7(1)(a) or sooner in the
20 discretion of the state treasurer, a consent agreement cannot be
21 agreed upon, the state treasurer shall require the local government
22 to proceed under 1 of the other local options provided for in
23 section 7(1)(b) to (d).

24 (2) A consent agreement as provided in subsection (1) may
25 require a continuing operations plan or a recovery plan if required
26 by the state treasurer.

27 (3) If the state treasurer requires that a consent agreement



1 include a continuing operations plan, the local government shall
2 prepare and file the continuing operations plan with the state
3 treasurer as provided for in the consent agreement. The state
4 treasurer shall approve or reject the initial continuing operations
5 plan within 14 days of receiving it from the local government. If a
6 continuing operations plan is rejected, the local government shall
7 refile an amended plan within 30 days of the rejection, addressing
8 any concerns raised by the state treasurer or the superintendent of
9 public instruction. If the amended plan is rejected, then the local
10 government may be considered to be in material breach of the
11 consent agreement. The local government shall file annual updates
12 to its continuing operations plan. The annual updates shall be
13 included with the annual filing of the local government's audit
14 report with the state financial authority as long as the continuing
15 operations plan remains in effect.

16 (4) The continuing operations plan shall be in a form
17 prescribed by the state treasurer but shall, at a minimum, include
18 all of the following:

19 (a) A detailed projected budget of revenues and expenditures
20 over not less than 3 fiscal years which demonstrates that the local
21 government's expenditures will not exceed its revenues and that any
22 existing deficits will be eliminated during the projected budget
23 period.

24 (b) A cash flow projection for the budget period.

25 (c) An operating plan for the budget period that assures
26 fiscal accountability for the local government.

27 (d) A plan showing reasonable and necessary maintenance and



1 capital expenditures so as to assure the local government's fiscal
2 accountability.

3 (e) An evaluation of the costs associated with pension and
4 postemployment health care obligations for which the local
5 government is responsible and a plan for how those costs will be
6 addressed within the budget period.

7 (f) A provision for submitting quarterly compliance reports to
8 the state treasurer demonstrating compliance with the continuing
9 operations plan.

10 (5) If a continuing operations plan is approved for a
11 municipal government, the municipal government shall amend the
12 budget and general appropriations ordinance adopted by the
13 municipal government under the uniform budgeting and accounting
14 act, 1968 PA 2, MCL 141.421 to 141.440a, to the extent necessary or
15 advisable to give full effect to the continuing operations plan. If
16 a continuing operations plan is approved for a school district, the
17 school district shall amend the budget adopted by the school
18 district under the uniform budgeting and accounting act, 1968 PA 2,
19 MCL 141.421 to 141.440a, to the extent necessary or advisable to
20 give full effect to the continuing operations plan. The chief
21 administrative officer, the chief financial officer, the governing
22 body, and other officials of the local government shall take and
23 direct such actions as may be necessary or advisable to maintain
24 the local government's operations in compliance with the continuing
25 operations plan.

26 (6) If the state treasurer requires that a consent agreement
27 include a recovery plan, the state treasurer shall develop and



1 adopt a recovery plan. If a recovery plan is developed and adopted
2 for the local government, the local government shall file annual
3 updates to its recovery plan. The annual updates shall be included
4 with the annual filing of the local government's audit report with
5 the state financial authority as long as the recovery plan remains
6 in effect.

7 (7) A recovery plan may include terms and provisions as may be
8 approved in the discretion of the state treasurer, including, but
9 not limited to, 1 or more of the following:

10 (a) A detailed projected budget of revenues and expenditures
11 over not less than 3 fiscal years that demonstrates that the local
12 government's expenditures will not exceed its revenues and that any
13 existing deficits will be eliminated during the projected budget
14 period.

15 (b) A cash flow projection for the budget period.

16 (c) An operating plan for the budget period that assures
17 fiscal accountability for the local government.

18 (d) A plan showing reasonable and necessary maintenance and
19 capital expenditures so as to assure the local government's fiscal
20 accountability.

21 (e) An evaluation of costs associated with pension and
22 postemployment health care obligations for which the local
23 government is responsible and a plan for how those costs will be
24 addressed to assure that current obligations are met and that steps
25 are taken to reduce future unfunded obligations.

26 (f) Procedures for cash control and cash management,
27 including, but not limited to, procedures for timely collection,



1 securing, depositing, balancing, and expending of cash. Procedures
2 for cash control and cash management may include the designation of
3 appropriate fiduciaries.

4 (g) A provision for submitting quarterly compliance reports to
5 the state treasurer and the chief administrative officer of the
6 local government that demonstrate compliance with the recovery
7 plan.

8 (8) The recovery plan may include the appointment of a local
9 auditor or local inspector, or both, in accordance with section
10 12(1)(p).

11 (9) If a recovery plan is developed and adopted by the state
12 treasurer for a local government, the recovery plan shall supersede
13 the budget and general appropriations ordinance adopted by the
14 local government under the uniform budgeting and accounting act,
15 1968 PA 2, MCL 141.421 to 141.440a, and the budget and general
16 appropriations ordinance is considered amended to the extent
17 necessary or advisable to give full effect to the recovery plan. In
18 the event of any inconsistency between the recovery plan and the
19 budget or general appropriations ordinance, the recovery plan shall
20 control. The chief administrative officer, the chief financial
21 officer, the governing body, and other officers of the local
22 government shall take and direct actions as may be necessary or
23 advisable to bring and maintain the local government's operations
24 in compliance with the recovery plan.

25 (10) Except as otherwise provided in this subsection, the
26 consent agreement may include a grant to the chief administrative
27 officer, the chief financial officer, the governing body, or other



1 officers of the local government by the state treasurer of 1 or
2 more of the powers prescribed for emergency managers as otherwise
3 provided in this act for such periods and upon such terms and
4 conditions as the state treasurer considers necessary or
5 convenient, in the state treasurer's discretion to enable the local
6 government to achieve the goals and objectives of the consent
7 agreement. However, the consent agreement shall not include a grant
8 to the chief administrative officer, the chief financial officer,
9 the governing body, or other officers of the local government of
10 the powers prescribed for emergency managers in section 12(1)(k).

11 (11) Unless the state treasurer determines otherwise,
12 beginning 30 days after the date a local government enters into a
13 consent agreement under this act, that local government is not
14 subject to section 15(1) of 1947 PA 336, MCL 423.215, for the
15 remaining term of the consent agreement.

16 (12) The consent agreement may provide for the required
17 retention by the local government of a consultant for the purpose
18 of assisting the local government to achieve the goals and
19 objectives of the consent agreement.

20 (13) A local government is released from the requirements
21 under this section upon compliance with the consent agreement as
22 determined by the state treasurer.

23 Sec. 9. (1) The governor may appoint an emergency manager to
24 address a financial emergency within that local government as
25 provided for in this act.

26 (2) Upon appointment, an emergency manager shall act for and
27 in the place and stead of the governing body and the office of



1 chief administrative officer of the local government. The emergency
2 manager shall have broad powers in receivership to rectify the
3 financial emergency and to assure the fiscal accountability of the
4 local government and the local government's capacity to provide or
5 cause to be provided necessary governmental services essential to
6 the public health, safety, and welfare. Following appointment of an
7 emergency manager and during the pendency of receivership, the
8 governing body and the chief administrative officer of the local
9 government shall not exercise any of the powers of those offices
10 except as may be specifically authorized in writing by the
11 emergency manager or as otherwise provided by this act and are
12 subject to any conditions required by the emergency manager.

13 (3) All of the following apply to an emergency manager:

14 (a) The emergency manager shall have a minimum of 5 years'
15 experience and demonstrable expertise in business, financial, or
16 local or state budgetary matters.

17 (b) The emergency manager may, but need not, be a resident of
18 the local government.

19 (c) The emergency manager shall be an individual.

20 (d) Except as otherwise provided in this subdivision, the
21 emergency manager shall serve at the pleasure of the governor. An
22 emergency manager is subject to impeachment and conviction by the
23 legislature as if he or she were a civil officer under section 7 of
24 article XI of the state constitution of 1963. A vacancy in the
25 office of emergency manager shall be filled in the same manner as
26 the original appointment.

27 (e) The emergency manager's compensation shall be paid by this



1 state and shall be set forth in a contract approved by the state
2 treasurer. The contract shall be posted on the department of
3 treasury's website within 7 days after the contract is approved by
4 the state treasurer.

5 (f) In addition to the salary provided to an emergency manager
6 in a contract approved by the state treasurer under subdivision
7 (e), this state may receive and distribute private funds to an
8 emergency manager. As used in this subdivision, "private funds"
9 means any money the state receives for the purpose of allocating
10 additional salary to an emergency manager. Private funds
11 distributed under this subdivision are subject to section 1 of 1901
12 PA 145, MCL 21.161, and section 17 of article IX of the state
13 constitution of 1963.

14 (4) In addition to staff otherwise authorized by law, an
15 emergency manager shall appoint additional staff and secure
16 professional assistance as the emergency manager considers
17 necessary to fulfill his or her appointment.

18 (5) The emergency manager shall submit quarterly reports to
19 the state treasurer with respect to the financial condition of the
20 local government in receivership, with a copy to the superintendent
21 of public instruction if the local government is a school district.

22 (6) The emergency manager shall continue in the capacity of an
23 emergency manager as follows:

24 (a) Until removed by the governor or the legislature as
25 provided in subsection (3) (d). If an emergency manager is removed,
26 the governor shall within 30 days of the removal appoint a new
27 emergency manager.



1 (b) Until the financial emergency is rectified.

2 (c) If the emergency manager has served for at least 1 year
3 after his or her appointment under this act, the emergency manager
4 may, by resolution, be removed by a 2/3 vote of the governing body
5 of the local government. If the local government has an elected
6 mayor, the elected mayor must approve the resolution before the
7 emergency manager may be removed. If the emergency manager is
8 removed under this subsection, the local government shall proceed
9 with the neutral evaluation process pursuant to section 25.

10 (7) A local government shall be removed from receivership when
11 the financial conditions are corrected in a sustainable fashion as
12 provided in this act. In addition, the local government may be
13 removed from receivership if an emergency manager is removed under
14 subsection (6)(c) and the governing body of the local government by
15 2/3 vote approves a resolution for the local government to be
16 removed from receivership. If the local government has an elected
17 mayor, the elected mayor must approve the resolution before the
18 local government is removed from receivership. A local government
19 that is removed from receivership while a financial emergency
20 continues to exist shall proceed under the neutral evaluation
21 process pursuant to section 25.

22 (8) The governor may delegate his or her duties under this
23 section to the state treasurer.

24 (9) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323,
25 an emergency manager is subject to all of the following:

26 (a) 1968 PA 317, MCL 15.321 to 15.330, as a public servant.

27 (b) 1973 PA 196, MCL 15.341 to 15.348, as a public officer.



1 (c) 1968 PA 318, MCL 15.301 to 15.310, as if he or she were a
2 state officer.

3 (10) An emergency financial manager appointed under former
4 1988 PA 101 or former 1990 PA 72, and serving on the effective date
5 of this act, shall be considered an emergency manager under this
6 act and shall continue under this act to fulfill his or her powers
7 and duties. Notwithstanding any other provision of this act, the
8 governor may appoint a person who was appointed as an emergency
9 manager under former 2011 PA 4 or an emergency financial manager
10 under former 1988 PA 101 or former 1990 PA 72 to serve as an
11 emergency manager under this act.

12 (11) Subject to the requirements of this section, if an
13 emergency manager has served for less than 1 year after his or her
14 appointment under this act, the governing body of the local
15 government may petition the state treasurer or the governor to
16 remove the emergency manager as provided this section.

17 Sec. 10. (1) An emergency manager shall issue to the
18 appropriate local elected and appointed officials and employees,
19 agents, and contractors of the local government the orders the
20 emergency manager considers necessary to accomplish the purposes of
21 this act, including, but not limited to, orders for the timely and
22 satisfactory implementation of a financial and operating plan,
23 including an academic and educational plan for a school district,
24 or to take actions, or refrain from taking actions, to enable the
25 orderly accomplishment of the financial and operating plan. An
26 order issued under this section is binding on the local elected and
27 appointed officials and employees, agents, and contractors of the



1 local government to whom it is issued. Local elected and appointed
2 officials and employees, agents, and contractors of the local
3 government shall take and direct those actions that are necessary
4 and advisable to maintain compliance with the financial and
5 operating plan.

6 (2) If an order of the emergency manager under subsection (1)
7 is not carried out and the failure to carry out an order is
8 disrupting the emergency manager's ability to manage the local
9 government, the emergency manager, in addition to other remedies
10 provided in this act, may prohibit the local elected or appointed
11 official or employee, agent, or contractor of the local government
12 from access to the local government's office facilities, electronic
13 mail, and internal information systems.

14 Sec. 11. (1) An emergency manager shall develop and may amend
15 a written financial and operating plan for the local government.
16 The plan shall have the objectives of assuring that the local
17 government is able to provide or cause to be provided governmental
18 services essential to the public health, safety, and welfare and
19 assuring the fiscal accountability of the local government. The
20 financial and operating plan shall provide for all of the
21 following:

22 (a) Conducting all aspects of the operations of the local
23 government within the resources available according to the
24 emergency manager's revenue estimate.

25 (b) The payment in full of the scheduled debt service
26 requirements on all bonds, notes, and municipal securities of the
27 local government, contract obligations in anticipation of which



1 bonds, notes, and municipal securities are issued, and all other
2 uncontested legal obligations.

3 (c) The modification, rejection, termination, and
4 renegotiation of contracts pursuant to section 12.

5 (d) The timely deposit of required payments to the pension
6 fund for the local government or in which the local government
7 participates.

8 (e) For school districts, an academic and educational plan.

9 (f) Any other actions considered necessary by the emergency
10 manager in the emergency manager's discretion to achieve the
11 objectives of the financial and operating plan, alleviate the
12 financial emergency, and remove the local government from
13 receivership.

14 (2) Within 45 days after the emergency manager's appointment,
15 the emergency manager shall submit the financial and operating plan
16 to the state treasurer, with a copy to the superintendent of public
17 instruction if the local government is a school district, and to
18 the chief administrative officer and governing body of the local
19 government. The plan shall be regularly reexamined by the emergency
20 manager and the state treasurer and may be modified from time to
21 time by the emergency manager with notice to the state treasurer.
22 If the emergency manager reduces his or her revenue estimates, the
23 emergency manager shall modify the plan to conform to the revised
24 revenue estimates.

25 (3) The financial and operating plan shall be in a form as
26 provided by the state treasurer and shall contain that information
27 for each year during which year the plan is in effect that the



1 emergency manager, in consultation with the state financial
2 authority, specifies. The financial and operating plan may serve as
3 a deficit elimination plan otherwise required by law if so approved
4 by the state financial authority.

5 (4) The emergency manager, within 30 days of submitting the
6 financial and operating plan to the state financial authority,
7 shall conduct a public informational meeting on the plan and any
8 modifications to the plan. This subsection does not mean that the
9 emergency manager must receive public approval before he or she
10 implements the plan or any modification of the plan.

11 Sec. 12. (1) An emergency manager may take 1 or more of the
12 following additional actions with respect to a local government
13 that is in receivership, notwithstanding any charter provision to
14 the contrary:

15 (a) Analyze factors and circumstances contributing to the
16 financial emergency of the local government and initiate steps to
17 correct the condition.

18 (b) Amend, revise, approve, or disapprove the budget of the
19 local government, and limit the total amount appropriated or
20 expended.

21 (c) Receive and disburse on behalf of the local government all
22 federal, state, and local funds earmarked for the local government.
23 These funds may include, but are not limited to, funds for specific
24 programs and the retirement of debt.

25 (d) Require and approve or disapprove, or amend or revise, a
26 plan for paying all outstanding obligations of the local
27 government.



1 (e) Require and prescribe the form of special reports to be
2 made by the finance officer of the local government to its
3 governing body, the creditors of the local government, the
4 emergency manager, or the public.

5 (f) Examine all records and books of account, and require
6 under the procedures of the uniform budgeting and accounting act,
7 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
8 21.55, or both, the attendance of witnesses and the production of
9 books, papers, contracts, and other documents relevant to an
10 analysis of the financial condition of the local government.

11 (g) Make, approve, or disapprove any appropriation, contract,
12 expenditure, or loan, the creation of any new position, or the
13 filling of any vacancy in a position by any appointing authority.

14 (h) Review payrolls or other claims against the local
15 government before payment.

16 (i) Notwithstanding any minimum staffing level requirement
17 established by charter or contract, establish and implement
18 staffing levels for the local government.

19 (j) Reject, modify, or terminate 1 or more terms and
20 conditions of an existing contract.

21 (k) Subject to section 19, after meeting and conferring with
22 the appropriate bargaining representative and, if in the emergency
23 manager's sole discretion and judgment, a prompt and satisfactory
24 resolution is unlikely to be obtained, reject, modify, or terminate
25 1 or more terms and conditions of an existing collective bargaining
26 agreement. The rejection, modification, or termination of 1 or more
27 terms and conditions of an existing collective bargaining agreement



1 under this subdivision is a legitimate exercise of the state's
2 sovereign powers if the emergency manager and state treasurer
3 determine that all of the following conditions are satisfied:

4 (i) The financial emergency in the local government has created
5 a circumstance in which it is reasonable and necessary for the
6 state to intercede to serve a significant and legitimate public
7 purpose.

8 (ii) Any plan involving the rejection, modification, or
9 termination of 1 or more terms and conditions of an existing
10 collective bargaining agreement is reasonable and necessary to deal
11 with a broad, generalized economic problem.

12 (iii) Any plan involving the rejection, modification, or
13 termination of 1 or more terms and conditions of an existing
14 collective bargaining agreement is directly related to and designed
15 to address the financial emergency for the benefit of the public as
16 a whole.

17 (iv) Any plan involving the rejection, modification, or
18 termination of 1 or more terms and conditions of an existing
19 collective bargaining agreement is temporary and does not target
20 specific classes of employees.

21 (l) Act as sole agent of the local government in collective
22 bargaining with employees or representatives and approve any
23 contract or agreement.

24 (m) If a municipal government's pension fund is not
25 actuarially funded at a level of 80% or more, according to the most
26 recent governmental accounting standards board's applicable
27 standards, at the time the most recent comprehensive annual



1 financial report for the municipal government or its pension fund
2 was due, the emergency manager may remove 1 or more of the serving
3 trustees of the local pension board or, if the state treasurer
4 appoints the emergency manager as the sole trustee of the local
5 pension board, replace all the serving trustees of the local
6 pension board. For the purpose of determining the pension fund
7 level under this subdivision, the valuation shall exclude the net
8 value of pension bonds or evidence of indebtedness. The annual
9 actuarial valuation for the municipal government's pension fund
10 shall use the actuarial accrued liabilities and the actuarial value
11 of assets. If a pension fund uses the aggregate actuarial cost
12 method or a method involving a frozen accrued liability, the
13 retirement system actuary shall use the entry age normal actuarial
14 cost method. If the emergency manager serves as sole trustee of the
15 local pension board, all of the following apply:

16 (i) The emergency manager shall assume and exercise the
17 authority and fiduciary responsibilities of the local pension board
18 including, to the extent applicable, setting and approval of all
19 actuarial assumptions for pension obligations of a municipal
20 government to the local pension fund.

21 (ii) The emergency manager shall fully comply with the public
22 employee retirement system investment act, 1965 PA 314, MCL 38.1132
23 to 38.1140m, and section 24 of article IX of the state constitution
24 of 1963, and any actions taken shall be consistent with the pension
25 fund's qualified plan status under the federal internal revenue
26 code.

27 (iii) The emergency manager shall not make changes to a local



1 pension fund without identifying the changes and the costs and
2 benefits associated with the changes and receiving the state
3 treasurer's approval for the changes. If a change includes the
4 transfer of funds from 1 pension fund to another pension fund, the
5 valuation of the pension fund receiving the transfer must be
6 actuarially funded at a level of 80% or more, according to the most
7 recent governmental accounting standards board's applicable
8 standards, at the time the most recent comprehensive annual
9 financial report for the municipal government was due.

10 (iv) The emergency manager's assumption and exercise of the
11 authority and fiduciary responsibilities of the local pension board
12 shall end not later than the termination of the receivership of the
13 municipal government as provided in this act.

14 (n) Consolidate or eliminate departments of the local
15 government or transfer functions from 1 department to another and
16 appoint, supervise, and, at his or her discretion, remove
17 administrators, including heads of departments other than elected
18 officials.

19 (o) Employ or contract for, at the expense of the local
20 government and with the approval of the state financial authority,
21 auditors and other technical personnel considered necessary to
22 implement this act.

23 (p) Retain 1 or more persons or firms, which may be an
24 individual or firm selected from a list approved by the state
25 treasurer, to perform the duties of a local inspector or a local
26 auditor as described in this subdivision. The duties of a local
27 inspector are to assure integrity, economy, efficiency, and



1 effectiveness in the operations of the local government by
2 conducting meaningful and accurate investigations and forensic
3 audits, and to detect and deter waste, fraud, and abuse. At least
4 annually, a report of the local inspector shall be submitted to the
5 emergency manager, the state treasurer, and the superintendent of
6 public instruction if the local government is a school district.
7 The duties of a local auditor are to assure that internal controls
8 over local government operations are designed and operating
9 effectively to mitigate risks that hamper the achievement of the
10 emergency manager's financial plan, assure that local government
11 operations are effective and efficient, assure that financial
12 information is accurate, reliable, and timely, comply with
13 policies, regulations, and applicable laws, and assure assets are
14 properly managed. At least annually, a report of the local auditor
15 shall be submitted to the emergency manager, the state treasurer,
16 and the superintendent of public instruction if the local
17 government is a school district.

18 (q) An emergency manager may initiate court proceedings in the
19 Michigan court of claims or in the circuit court of the county in
20 which the local government is located in the name of the local
21 government to enforce compliance with any of his or her orders or
22 any constitutional or legislative mandates, or to restrain
23 violations of any constitutional or legislative power of his or her
24 orders.

25 (r) Subject to section 19, if provided in the financial and
26 operating plan, or otherwise with the prior written approval of the
27 governor or his or her designee, sell, lease, convey, assign, or



1 otherwise use or transfer the assets, liabilities, functions, or
2 responsibilities of the local government, provided the use or
3 transfer of assets, liabilities, functions, or responsibilities for
4 this purpose does not endanger the health, safety, or welfare of
5 residents of the local government or unconstitutionally impair a
6 bond, note, security, or uncontested legal obligation of the local
7 government.

8 (s) Apply for a loan from the state on behalf of the local
9 government, subject to the conditions of the emergency municipal
10 loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient
11 amount to pay the expenses of the emergency manager and for other
12 lawful purposes.

13 (t) Order, as necessary, 1 or more millage elections for the
14 local government consistent with the Michigan election law, 1954 PA
15 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of article
16 IX of the state constitution of 1963, and any other applicable
17 state law.

18 (u) Subject to section 19, authorize the borrowing of money by
19 the local government as provided by law.

20 (v) Approve or disapprove of the issuance of obligations of
21 the local government on behalf of the local government under this
22 subdivision. An election to approve or disapprove of the issuance
23 of obligations of the local government pursuant to this subdivision
24 shall only be held at the general November election.

25 (w) Enter into agreements with creditors or other persons or
26 entities for the payment of existing debts, including the
27 settlement of claims by the creditors.



1 (x) Enter into agreements with creditors or other persons or
2 entities to restructure debt on terms, at rates of interest, and
3 with security as shall be agreed among the parties, subject to
4 approval by the state treasurer.

5 (y) Enter into agreements with other local governments, public
6 bodies, or entities for the provision of services, the joint
7 exercise of powers, or the transfer of functions and
8 responsibilities.

9 (z) For municipal governments, enter into agreements with
10 other units of municipal government to transfer property of the
11 municipal government under 1984 PA 425, MCL 124.21 to 124.30, or as
12 otherwise provided by law, subject to approval by the state
13 treasurer.

14 (aa) Enter into agreements with 1 or more other local
15 governments or public bodies for the consolidation of services.

16 (bb) For a city, village, or township, the emergency manager
17 may recommend to the state boundary commission that the municipal
18 government consolidate with 1 or more other municipal governments,
19 if the emergency manager determines that consolidation would
20 materially alleviate the financial emergency of the municipal
21 government and would not materially and adversely affect the
22 financial situation of the government or governments with which the
23 municipal government in receivership is consolidated. Consolidation
24 under this subdivision shall proceed as provided by law.

25 (cc) For municipal governments, with approval of the governor,
26 disincorporate or dissolve the municipal government and assign its
27 assets, debts, and liabilities as provided by law.



1 (dd) Exercise solely, for and on behalf of the local
 2 government, all other authority and responsibilities of the chief
 3 administrative officer and governing body concerning the adoption,
 4 amendment, and enforcement of ordinances or resolutions of the
 5 local government as provided in the following acts:

6 (i) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

7 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
 8 113.20.

9 (iii) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

10 (iv) 1851 PA 156, MCL 46.1 to 46.32.

11 (v) 1966 PA 293, MCL 45.501 to 45.521.

12 (vi) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

13 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
 14 78.28.

15 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
 16 380.1852.

17 (ix) The state school aid act of 1979, 1979 PA 94, MCL 388.1601
 18 to 388.1896.

19 (ee) Take any other action or exercise any power or authority
 20 of any officer, employee, department, board, commission, or other
 21 similar entity of the local government, whether elected or
 22 appointed, relating to the operation of the local government. The
 23 power of the emergency manager shall be superior to and supersede
 24 the power of any of the foregoing officers or entities.

25 (ff) Remove, replace, appoint, or confirm the appointments to
 26 any office, board, commission, authority, or other entity which is
 27 within or is a component unit of the local government.



1 (2) Except as otherwise provided in this act, during the
2 pendency of the receivership, the authority of the chief
3 administrative officer and governing body to exercise power for and
4 on behalf of the local government under law, charter, and ordinance
5 shall be suspended and vested in the emergency manager.

6 (3) Except as otherwise provided in this subsection, any
7 contract involving a cumulative value of \$50,000.00 or more is
8 subject to competitive bidding by an emergency manager. However, if
9 a potential contract involves a cumulative value of \$50,000.00 or
10 more, the emergency manager may submit the potential contract to
11 the state treasurer for review and the state treasurer may
12 authorize that the potential contract is not subject to competitive
13 bidding.

14 (4) An emergency manager appointed for a city or village shall
15 not sell or transfer a public utility furnishing light, heat, or
16 power without the approval of a majority of the electors of the
17 city or village voting thereon, or a greater number if the city or
18 village charter provides, as required by section 25 of article VII
19 of the state constitution of 1963. In addition, an emergency
20 manager appointed for a city or village shall not utilize the
21 assets of a public utility furnishing heat, light, or power, the
22 finances of which are separately maintained and accounted for by
23 the city or village, to satisfy the general obligations of the city
24 or village.

25 Sec. 13. Upon appointment of an emergency manager and during
26 the pendency of the receivership, the salary, wages, or other
27 compensation, including the accrual of postemployment benefits, and



1 other benefits of the chief administrative officer and members of
2 the governing body of the local government shall be eliminated.
3 This section does not authorize the impairment of vested pension
4 benefits. If an emergency manager has reduced, suspended, or
5 eliminated the salary, wages, or other compensation of the chief
6 administrative officer and members of the governing body of a local
7 government before the effective date of this act, the reduction,
8 suspension, or elimination is valid to the same extent had it
9 occurred after the effective date of this act. The emergency
10 manager may restore, in whole or in part, any of the salary, wages,
11 other compensation, or benefits of the chief administrative officer
12 and members of the governing body during the pendency of the
13 receivership, for such time and on such terms as the emergency
14 manager considers appropriate, to the extent that the emergency
15 manager finds that the restoration of salary, wages, compensation,
16 or benefits is consistent with the financial and operating plan.

17 Sec. 14. In addition to the actions otherwise authorized in
18 this act, an emergency manager for a school district may take 1 or
19 more of the following additional actions with respect to a school
20 district that is in receivership:

21 (a) Negotiate, renegotiate, approve, and enter into contracts
22 on behalf of the school district.

23 (b) Receive and disburse on behalf of the school district all
24 federal, state, and local funds earmarked for the school district.
25 These funds may include, but are not limited to, funds for specific
26 programs and the retirement of debt.

27 (c) Seek approval from the superintendent of public



1 instruction for a reduced class schedule in accordance with
2 administrative rules governing the distribution of state school
3 aid.

4 (d) Subject to section 19, sell, assign, transfer, or
5 otherwise use the assets of the school district to meet past or
6 current obligations or assure the fiscal accountability of the
7 school district, provided the use, assignment, or transfer of
8 assets for this purpose does not impair the education of the pupils
9 of the school district. The power under this subdivision includes
10 the closing of schools or other school buildings in the school
11 district.

12 (e) Approve or disapprove of the issuance of obligations of
13 the school district.

14 (f) Exercise solely, for and on behalf of the school district,
15 all other authority and responsibilities affecting the school
16 district that are prescribed by law to the school board and
17 superintendent of the school district.

18 (g) With the approval of the state treasurer, employ or
19 contract for, at the expense of the school district, school
20 administrators considered necessary to implement this act.

21 Sec. 15. (1) Unless the potential sale and value of an asset
22 is included in the emergency manager's financial and operating
23 plan, the emergency manager shall not sell an asset of the local
24 government valued at more than \$50,000.00 without the state
25 treasurer's approval.

26 (2) A provision of an existing collective bargaining agreement
27 that authorizes the payment of a benefit upon the death of a police



1 officer or firefighter that occurs in the line of duty shall not be
2 impaired and is not subject to any provision of this act
3 authorizing an emergency manager to reject, modify, or terminate 1
4 or more terms of an existing collective bargaining agreement.

5 Sec. 16. An emergency manager shall, on his or her own or upon
6 the advice of the local inspector if a local inspector has been
7 retained, make a determination as to whether possible criminal
8 conduct contributed to the financial situation resulting in the
9 local government's receivership status. If the emergency manager
10 determines that there is reason to believe that criminal conduct
11 has occurred, the manager shall refer the matter to the attorney
12 general and the local prosecuting attorney for investigation.

13 Sec. 17. Beginning 6 months after an emergency manager's
14 appointment, and every 3 months thereafter, an emergency manager
15 shall submit to the governor, the senate majority leader, the
16 speaker of the house of representatives, and the clerk of the local
17 government that is in receivership, and shall post on the internet
18 on the website of the local government, a report that contains all
19 of the following:

20 (a) A description of each expenditure made, approved, or
21 disapproved during the reporting period that has a cumulative value
22 of \$5,000.00 or more and the source of the funds.

23 (b) A list of each contract that the emergency manager awarded
24 or approved with a cumulative value of \$5,000.00 or more, including
25 the purpose of the contract and the identity of the contractor.

26 (c) A description of each loan sought, approved, or
27 disapproved during the reporting period that has a cumulative value



1 of \$5,000.00 or more and the proposed use of the funds.

2 (d) A description of any new position created or any vacancy
3 in a position filled by the appointing authority.

4 (e) A description of any position that has been eliminated or
5 from which an employee has been laid off.

6 (f) A copy of the contract with the emergency manager as
7 provided in section 9(2)(e).

8 (g) The salary and benefits of the emergency manager.

9 (h) The financial and operating plan.

10 Sec. 18. (1) If, in the judgment of the emergency manager, no
11 reasonable alternative to rectifying the financial emergency of the
12 local government which is in receivership exists, then the
13 emergency manager may recommend to the governor and the state
14 treasurer that the local government be authorized to proceed under
15 chapter 9. If the governor approves of the recommendation, the
16 governor shall inform the state treasurer and the emergency manager
17 in writing of the decision, with a copy to the superintendent of
18 public instruction if the local government is a school district.
19 The governor may place contingencies on a local government in order
20 to proceed under chapter 9. Upon receipt of the written approval,
21 the emergency manager is authorized to proceed under chapter 9.
22 This section empowers the local government for which an emergency
23 manager has been appointed to become a debtor under title 11 of the
24 United States Code, 11 USC 101 to 1532, as required by section 109
25 of title 11 of the United States Code, 11 USC 109, and empowers the
26 emergency manager to act exclusively on the local government's
27 behalf in any such case under chapter 9.



1 (2) The recommendation to the governor and the state treasurer
2 under subsection (1) shall include 1 of the following:

3 (a) A determination by the emergency manager that no feasible
4 financial plan can be adopted that can satisfactorily rectify the
5 financial emergency of the local government in a timely manner.

6 (b) A determination by the emergency manager that a plan, in
7 effect for at least 180 days, cannot be implemented as written or
8 as it might be amended in a manner that can satisfactorily rectify
9 the financial emergency in a timely manner.

10 (3) The emergency manager shall provide a copy of the
11 recommendation as provided under subsection (1) to the
12 superintendent of public instruction if the local government is a
13 school district.

14 Sec. 19. (1) Except as otherwise provided in this subsection,
15 before an emergency manager executes an action under section
16 12(1)(k), (r), or (u) or section 14(d), he or she shall submit his
17 or her proposed action to the governing body of the local
18 government. The governing body of the local government shall have 7
19 days from the date of submission to approve or disapprove the
20 action proposed by the emergency manager. If the governing body of
21 the local government does not act within 7 days, the proposed
22 action is considered approved by the governing body of the local
23 government and the emergency manager may then execute the proposed
24 action. For an action under section 12(1)(r) or section 14(d), this
25 subsection only applies if the asset, liability, function, or
26 responsibility involves an amount of \$50,000.00 or more.

27 (2) If the governing body of the local government disapproves



1 the proposed action within 7 days, the governing body of the local
2 government shall, within 10 days of its disapproval of the action
3 proposed by the emergency manager, submit to the local emergency
4 financial assistance loan board an alternative proposal that would
5 yield substantially the same financial result as the action
6 proposed by the emergency manager. The local emergency financial
7 assistance loan board shall have 30 days to review both the
8 alternative proposal submitted by the governing body of the local
9 government and the action proposed by the emergency manager and to
10 approve either the alternative proposal submitted by the governing
11 body of the local government or the action proposed by the
12 emergency manager. The emergency manager shall implement the
13 alternative proposal submitted by the governing body of the local
14 government or the action proposed by the emergency manager,
15 whichever is approved by the local emergency financial assistance
16 loan board.

17 Sec. 20. (1) An emergency manager is immune from liability as
18 provided in section 7(5) of 1964 PA 170, MCL 691.1407. A person
19 employed by an emergency manager is immune from liability as
20 provided in section 7(2) of 1964 PA 170, MCL 691.1407.

21 (2) The attorney general shall defend any civil claim, demand,
22 or lawsuit which challenges any of the following:

23 (a) The validity of this act.

24 (b) The authority of a state official or officer acting under
25 this act.

26 (c) The authority of an emergency manager if the emergency
27 manager is or was acting within the scope of authority for an



1 emergency manager under this act.

2 (3) With respect to any aspect of a receivership under this
3 act, the costs incurred by the attorney general in carrying out the
4 responsibilities of subsection (2) for attorneys, experts, court
5 filing fees, and other reasonable and necessary expenses shall be
6 at the expense of the local government that is subject to that
7 receivership and shall be reimbursed to the attorney general by the
8 local government. The failure of a municipal government that is or
9 was in receivership to remit to the attorney general the costs
10 incurred by the attorney general within 30 days after written
11 notice to the municipal government from the attorney general of the
12 costs is a debt owed to this state and shall be recovered by the
13 state treasurer as provided in section 17a(5) of the Glenn Steil
14 state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a. The
15 failure of a school district that is or was in receivership to
16 remit to the attorney general the costs incurred by the attorney
17 general within 30 days after written notice to the school district
18 from the attorney general of the costs is a debt owed to this state
19 and shall be recovered by the state treasurer as provided in the
20 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

21 (4) An emergency manager may procure and maintain, at the
22 expense of the local government for which the emergency manager is
23 appointed, worker's compensation, general liability, professional
24 liability, and motor vehicle insurance for the emergency manager
25 and any employee, agent, appointee, or contractor of the emergency
26 manager as may be provided to elected officials, appointed
27 officials, or employees of the local government. The insurance



1 procured and maintained by an emergency manager may extend to any
2 claim, demand, or lawsuit asserted or costs recovered against the
3 emergency manager and any employee, agent, appointee, or contractor
4 of the emergency manager from the date of appointment of the
5 emergency manager to the expiration of the applicable statute of
6 limitation if the claim, demand, or lawsuit asserted or costs
7 recovered against the emergency manager or any employee, agent,
8 appointee, or contractor of the emergency manager resulted from
9 conduct of the emergency manager or any employee, agent, appointee,
10 or contractor of the emergency manager taken in accordance with
11 this act during the emergency manager's term of service.

12 (5) If, after the date that the service of an emergency
13 manager is concluded, the emergency manager or any employee, agent,
14 appointee, or contractor of the emergency manager is subject to a
15 claim, demand, or lawsuit arising from an action taken during the
16 service of that emergency manager, and not covered by a procured
17 worker's compensation, general liability, professional liability,
18 or motor vehicle insurance, litigation expenses of the emergency
19 manager or any employee, agent, appointee, or contractor of the
20 emergency manager, including attorney fees for civil and criminal
21 proceedings and preparation for reasonably anticipated proceedings,
22 and payments made in settlement of civil proceedings both filed and
23 anticipated, shall be paid out of the funds of the local government
24 that is or was subject to the receivership administered by that
25 emergency manager, provided that the litigation expenses are
26 approved by the state treasurer and that the state treasurer
27 determines that the conduct resulting in actual or threatened legal



1 proceedings that is the basis for the payment is based upon both of
2 the following:

3 (a) The scope of authority of the person or entity seeking the
4 payment.

5 (b) The conduct occurred on behalf of a local government while
6 it was in receivership under this act.

7 (6) The failure of a municipal government to honor and remit
8 the legal expenses of a former emergency manager or any employee,
9 agent, appointee, or contractor of the emergency manager as
10 required by this section is a debt owed to this state and shall be
11 recovered by the state treasurer as provided in section 17a(5) of
12 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL
13 141.917a. The failure of a school district to honor and remit the
14 legal expenses of a former emergency manager or any employee,
15 agent, appointee, or contractor of the emergency manager as
16 required by this section is a debt owed to this state and shall be
17 recovered by the state treasurer as provided in the state school
18 aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

19 Sec. 21. (1) Before the termination of receivership and the
20 completion of the emergency manager's term, or if a transition
21 advisory board is appointed under section 23, then before the
22 transition advisory board is appointed, the emergency manager shall
23 adopt and implement a 2-year budget, including all contractual and
24 employment agreements, for the local government commencing with the
25 termination of receivership.

26 (2) After the completion of the emergency manager's term and
27 the termination of receivership, the governing body of the local



1 government shall not amend the 2-year budget adopted under
2 subsection (1) without the approval of the state treasurer, and
3 shall not revise any order or ordinance implemented by the
4 emergency manager during his or her term prior to 1 year after the
5 termination of receivership.

6 Sec. 22. (1) If an emergency manager determines that the
7 financial emergency that he or she was appointed to manage has been
8 rectified, the emergency manager shall inform the governor and the
9 state treasurer.

10 (2) If the governor disagrees with the emergency manager's
11 determination that the financial emergency has been rectified, the
12 governor shall inform the emergency manager and the term of the
13 emergency manager shall continue or the governor shall appoint a
14 new emergency manager.

15 (3) Subject to subsection (4), if the governor agrees that the
16 financial emergency has been rectified, the emergency manager has
17 adopted a 2-year budget as required under section 21, and the
18 financial conditions of the local government have been corrected in
19 a sustainable fashion as required under section 9(7), the governor
20 may do either of the following:

21 (a) Remove the local government from receivership.

22 (b) Appoint a receivership transition advisory board as
23 provided in section 23.

24 (4) Before removing a local government from receivership, the
25 governor may impose 1 or more of the following conditions on the
26 local government:

27 (a) The implementation of financial best practices within the



1 local government.

2 (b) The adoption of a model charter or model charter
3 provisions.

4 (c) Pursue financial or managerial training to ensure that
5 official responsibilities are properly discharged.

6 Sec. 23. (1) Before removing a local government from
7 receivership, the governor may appoint a receivership transition
8 advisory board to monitor the affairs of the local government until
9 the receivership is terminated.

10 (2) A receivership transition advisory board shall consist of
11 the state treasurer or his or her designee, the director of the
12 department of technology, management, and budget or his or her
13 designee, and, if the local government is a school district, the
14 superintendent of public instruction or his or her designee. The
15 governor also may appoint to a receivership transition advisory
16 board 1 or more other individuals with relevant professional
17 experience, including 1 or more residents of the local government.

18 (3) A receivership transition advisory board serves at the
19 pleasure of the governor.

20 (4) At its first meeting, a receivership transition advisory
21 board shall adopt rules of procedure to govern its conduct,
22 meetings, and periodic reporting to the governor. Procedural rules
23 required by this section are not subject to the administrative
24 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

25 (5) A receivership transition advisory board may do all of the
26 following:

27 (a) Require the local government to annually convene a



1 consensus revenue estimating conference for the purpose of arriving
2 at a consensus estimate of revenues to be available for the ensuing
3 fiscal year of the local government.

4 (b) Require the local government to provide monthly cash flow
5 projections and a comparison of budgeted revenues and expenditures
6 to actual revenues and expenditures.

7 (c) Review proposed and amended budgets of the local
8 government. A proposed budget or budget amendment shall not take
9 effect unless approved by the receivership transition advisory
10 board.

11 (d) Review requests by the local government to issue debt
12 under the revised municipal finance act, 2001 PA 34, MCL 141.2101
13 to 141.2821, or any other law governing the issuance of bonds or
14 notes.

15 (e) Review proposed collective bargaining agreements
16 negotiated under section 15(1) of 1947 PA 336, MCL 423.215. A
17 proposed collective bargaining agreement shall not take effect
18 unless approved by the receivership transition advisory board.

19 (f) Review compliance by the local government with a deficit
20 elimination plan submitted under section 21 of the Glenn Steil
21 state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

22 (g) Review proposed judgment levies before submission to a
23 court under section 6093 or 6094 of the revised judicature act of
24 1961, 1961 PA 236, MCL 600.6093 and 600.6094.

25 (h) Perform any other duties assigned by the governor at the
26 time the receivership transition advisory board is appointed.

27 (6) A receivership transition advisory board is a public body



1 as that term is defined in section 2 of the open meetings act, 1976
2 PA 267, MCL 15.262, and meetings of a receivership transition
3 advisory board are subject to the open meetings act, 1976 PA 267,
4 MCL 15.261 to 15.275. A receivership transition advisory board is
5 also a public body as that term is defined in section 2 of the
6 freedom of information act, 1976 PA 442, MCL 15.232, and a public
7 record in the possession of a receivership transition advisory
8 board is subject to the freedom of information act, 1976 PA 442,
9 MCL 15.231 to 15.246.

10 Sec. 24. The governor may, upon his or her own initiative or
11 after receiving a recommendation from a receivership transition
12 advisory board, determine that the financial conditions of a local
13 government have not been corrected in a sustainable fashion as
14 required under section 9(7) and appoint a new emergency manager.

15 Sec. 25. (1) A neutral evaluation process may be utilized as
16 provided for in this act. A local government shall initiate the
17 neutral evaluation process by providing notice by certified mail of
18 a request for neutral evaluation process to all interested parties.

19 (2) An interested party shall respond within 10 business days
20 of receipt of notice of the local government's request for neutral
21 evaluation process.

22 (3) The local government and the interested parties agreeing
23 to participate in the neutral evaluation process shall, through a
24 mutually agreed-upon process, select a neutral evaluator to oversee
25 the neutral evaluation process and facilitate all discussions in an
26 effort to resolve their disputes.

27 (4) If the local government and interested parties fail to



1 agree on a neutral evaluator within 7 days after the interested
2 parties have responded to the notification sent by the local
3 government, the local government shall, within 7 days, select 5
4 qualified neutral evaluators and provide their names, references,
5 and backgrounds to the participating interested parties. Within 3
6 business days, a majority of participating interested parties may
7 disqualify up to 4 names from the list. If a majority of
8 participating interested parties disqualify 4 names from the list,
9 the remaining candidate shall be the neutral evaluator. If the
10 majority of participating parties disqualify fewer than 4 names,
11 the local government shall choose which of the remaining candidates
12 shall be the neutral evaluator.

13 (5) If an interested party objects to the qualifications of
14 the neutral evaluator after the process for selection in subsection
15 (4) is complete, the interested party may appeal to the state
16 treasurer to determine if the neutral evaluator meets the
17 qualifications under subsection (6). If the state treasurer
18 determines that the qualifications have been met, the neutral
19 evaluation process shall continue. If the state treasurer
20 determines that the qualifications have not been met, the state
21 treasurer shall select the neutral evaluator.

22 (6) A neutral evaluator shall have experience and training in
23 conflict resolution and alternative dispute resolution and have at
24 least 1 of the following qualifications:

25 (a) At least 10 years of high-level business or legal
26 experience involving bankruptcy or service as a United States
27 bankruptcy judge.



1 (b) At least 10 years of combined professional experience or
2 training in municipal finance in 1 or more of the following areas:

3 (i) Municipal organization.

4 (ii) Municipal debt restructuring.

5 (iii) Municipal finance dispute resolution.

6 (iv) Chapter 9 bankruptcy.

7 (v) Public finance.

8 (vi) Taxation.

9 (vii) Michigan constitutional law.

10 (viii) Michigan labor law.

11 (ix) Federal labor law.

12 (7) The neutral evaluator's performance shall be impartial,
13 objective, independent, and free from prejudice. The neutral
14 evaluator shall not act with partiality or prejudice based on any
15 participant's personal characteristics, background, values, or
16 beliefs, or performance during the neutral evaluation process.

17 (8) The neutral evaluator shall avoid a conflict of interest
18 and the appearance of a conflict of interest during the neutral
19 evaluation process. The neutral evaluator shall make a reasonable
20 inquiry to determine whether there are any facts that a reasonable
21 individual would consider likely to create a potential or actual
22 conflict of interest. Notwithstanding subsection (16), if the
23 neutral evaluator is informed of the existence of any facts that a
24 reasonable individual would consider likely to create a potential
25 or actual conflict of interest, the neutral evaluator shall
26 disclose these facts in writing to the local government and all
27 interested parties involved in the neutral evaluation process. If



1 any party to the neutral evaluation process objects to the neutral
2 evaluator, that party shall notify the local government and all
3 other parties to the neutral evaluation process, including the
4 neutral evaluator, within 15 days of receipt of the notice from the
5 neutral evaluator. The neutral evaluator shall withdraw, and a new
6 neutral evaluator shall be selected as provided in subsections (3)
7 and (4).

8 (9) Before commencing a neutral evaluation process, the
9 neutral evaluator shall not establish another fiscal or fiduciary
10 relationship with any of the interested parties or the local
11 government in a manner that would raise questions about the
12 integrity of the neutral evaluation process, except that the
13 neutral evaluator may conduct further neutral evaluation processes
14 regarding other potential local public entities that may involve
15 some of the same or similar constituents to a prior mediation.

16 (10) The neutral evaluator shall conduct the neutral
17 evaluation process in a manner that promotes voluntary, uncoerced
18 decision making in which each party makes free and informed choices
19 regarding the neutral evaluation process and outcome.

20 (11) The neutral evaluator shall not impose a settlement on
21 the parties. The neutral evaluator shall use his or her best
22 efforts to assist the parties to reach a satisfactory resolution of
23 their disputes. Subject to the discretion of the neutral evaluator,
24 the neutral evaluator may make oral or written recommendations for
25 a settlement or plan of readjustment to a party privately or to all
26 parties jointly.

27 (12) The neutral evaluator shall inform the local government



1 and all parties of the provisions of chapter 9 relative to other
2 chapters of title 11 of the United States Code, 11 USC 101 to 1532.
3 This instruction shall highlight the limited authority of United
4 States bankruptcy judges in chapter 9, including, but not limited
5 to, the restriction on federal bankruptcy judges' authority to
6 interfere with or force liquidation of a local government's
7 property and the lack of flexibility available to federal
8 bankruptcy judges to reduce or cram down debt repayments and
9 similar efforts not available to reorganize the operations of the
10 local government that may be available to a corporate entity.

11 (13) The neutral evaluator may request from the parties
12 documentation and other information that the neutral evaluator
13 believes may be helpful in assisting the parties to address the
14 obligations between them. This documentation may include the status
15 of funds of the local government that clearly distinguishes between
16 general funds and special funds and the proposed plan of
17 readjustment prepared by the local government. The parties shall
18 respond to a request from the neutral evaluator in a timely manner.

19 (14) The neutral evaluator shall provide counsel and guidance
20 to all parties, shall not be a legal representative of any party,
21 and shall not have a fiduciary duty to any party.

22 (15) If a settlement with all interested parties occurs, the
23 neutral evaluator may assist the parties in negotiating a pre-
24 petitioned, pre-agreed-upon plan of readjustment in connection with
25 a potential chapter 9 filing.

26 (16) If at any time during the neutral evaluation process the
27 local government and a majority of the representatives of the



1 interested parties participating in the neutral evaluation process
2 wish to remove the neutral evaluator, the local government or any
3 interested party may make a request to the other interested parties
4 to remove the neutral evaluator. If the local government and a
5 majority of the interested parties agree that the neutral evaluator
6 should be removed and agree on who should replace the neutral
7 evaluator, the parties shall select a new neutral evaluator.

8 (17) The local government and all interested parties
9 participating in the neutral evaluation process shall negotiate in
10 good faith.

11 (18) The local government and interested parties shall provide
12 a representative of each party to attend all sessions of a neutral
13 evaluation process. Each representative shall have the authority to
14 settle and resolve disputes or shall be in a position to present
15 any proposed settlement or plan of readjustment to the parties
16 participating in the neutral evaluation process.

17 (19) The parties shall maintain the confidentiality of the
18 neutral evaluation process and shall not at the conclusion of the
19 neutral evaluation process or during any bankruptcy proceeding
20 disclose statements made, information disclosed, or documents
21 prepared or produced unless a judge in a chapter 9 bankruptcy
22 proceeding orders that the information be disclosed to determine
23 the eligibility of a local government to proceed with a bankruptcy
24 proceeding under chapter 9, or as otherwise required by law.

25 (20) A neutral evaluation process authorized by this act shall
26 not last for more than 60 days following the date the neutral
27 evaluator is initially selected, unless the local government or a



1 majority of participating interested parties elect to extend the
2 neutral evaluation process for up to 30 additional days. The
3 neutral evaluation process shall not last for more than 90 days
4 following the date the neutral evaluator is selected.

5 (21) The local government shall pay 50% of the costs of a
6 neutral evaluation process, including, but not limited to, the fees
7 of the neutral evaluator, and the interested parties shall pay the
8 balance of the costs of the neutral evaluation process, unless
9 otherwise agreed to by the local government and a majority of the
10 interested parties.

11 (22) The neutral evaluation process shall end if any of the
12 following occur:

13 (a) The parties execute a settlement agreement. However, if
14 the state treasurer determines that the settlement agreement does
15 not provide sufficient savings to the local government, the state
16 treasurer shall provide notice to the local government that the
17 settlement agreement does not provide sufficient savings to the
18 local government and the local government shall proceed under 1 of
19 the other local government options listed in section 7(1) (a), (b),
20 or (d).

21 (b) The parties reach an agreement or proposed plan of
22 readjustment that requires the approval of a bankruptcy judge.

23 (c) The neutral evaluation process has exceeded 60 days
24 following the date the neutral evaluator was selected, the parties
25 have not reached an agreement, and neither the local government nor
26 a majority of the interested parties elect to extend the neutral
27 evaluation process past the initial 60-day time period.



1 (d) The local government initiated the neutral evaluation
2 process under subsection (1) and did not receive a response from
3 any interested party within the time specified in subsection (2).

4 (e) The fiscal condition of the local government deteriorates
5 to the point that necessitates the need to proceed under the
6 chapter 9 bankruptcy option pursuant to section 26.

7 (23) If the 60-day time period for a neutral evaluation
8 process expires, including any extension of the neutral evaluation
9 process past the initial 60-day time period under subsection (20),
10 and the neutral evaluation process is complete with differences
11 resolved, the neutral evaluation process shall be concluded. If the
12 neutral evaluation process does not resolve all pending disputes
13 with interested parties, or if subsection (22) (b), (c), or (d)
14 applies, the governing body of the local government shall adopt a
15 resolution recommending that the local government proceed under
16 chapter 9 and submit the resolution to the state treasurer. If the
17 local government has an elected mayor, the elected mayor must
18 approve the resolution before proceeding under chapter 9. If the
19 governing body of the local government fails to adopt a resolution
20 within ___ days after the neutral evaluation process is concluded
21 as provided in this subsection, the governor may appoint a person
22 to act exclusively on behalf of the local government in chapter 9
23 bankruptcy proceedings. Upon receiving written approval from the
24 state treasurer under section 26, the local government may file a
25 petition under chapter 9 and exercise powers under federal
26 bankruptcy law.

27 Sec. 26. (1) With the written approval of the state treasurer,



1 a local government may file a petition under chapter 9 and exercise
2 powers pursuant to federal bankruptcy law if the local government
3 adopts a resolution, by a majority vote of the governing body of
4 the local government, that declares a financial emergency in the
5 local government. If the local government has an elected mayor, the
6 mayor must also approve the resolution. The resolution shall
7 include a statement determining that the financial condition of the
8 local government jeopardizes the health, safety, and welfare of the
9 residents who reside within the local government or service area of
10 the local government absent the protections of chapter 9 and that
11 the local government is or will be unable to pay its obligations
12 within 60 days following the adoption of the resolution.

13 (2) A local government shall hold a public hearing before
14 adopting a resolution under subsection (1). Notice of the time and
15 place of the hearing shall be given by publication in a newspaper
16 of general circulation designated by the local government not less
17 than 7 days before the date set for the hearing. Notice of the time
18 and place of the hearing on a proposed resolution under this
19 section shall contain a description of the findings on which the
20 local government proposes to make its declaration of a financial
21 emergency.

22 (3) If the state treasurer approves a local government to
23 proceed under chapter 9, the state treasurer shall inform the local
24 government in writing of the decision and shall provide a copy to
25 the governor. The governor may place contingencies on a local
26 government in order to proceed under chapter 9 including, but not
27 limited to, appointing a person to act exclusively on behalf of the



1 local government in the chapter 9 bankruptcy proceedings. Upon
2 receipt of the written approval and subject to this subsection, the
3 local government may proceed under chapter 9 and exercise powers
4 under federal bankruptcy law.

5 Sec. 27. (1) The local elected and appointed officials and
6 employees, agents, and contractors of a local government shall
7 promptly and fully provide the assistance and information necessary
8 and properly requested by the state financial authority, a review
9 team, or the emergency manager in the effectuation of their duties
10 and powers and of the purposes of this act. If the review team or
11 emergency manager believes that a local elected or appointed
12 official or employee, agent, or contractor of the local government
13 is not answering questions accurately or completely or is not
14 furnishing information requested, the review team or emergency
15 manager may issue subpoenas and administer oaths to the local
16 elected or appointed official or employee, agent, or contractor to
17 furnish answers to questions or to furnish documents or records, or
18 both. If the local elected or appointed official or employee,
19 agent, or contractor refuses, the review team or emergency manager
20 may bring an action in the circuit court in which the local
21 government is located or the Michigan court of claims, as
22 determined by the review team or emergency manager, to compel
23 testimony and furnish records and documents. An action in mandamus
24 may be used to enforce this section.

25 (2) Failure of a local government official to abide by this
26 act shall be considered gross neglect of duty, which the review
27 team or emergency manager may report to the state financial



1 authority and the attorney general. Following review and a hearing
2 with a local government elected official, the state financial
3 authority may recommend to the governor that the governor remove
4 the elected official from office. If the governor removes the
5 elected official from office, the resulting vacancy in office shall
6 be filled as prescribed by law.

7 (3) A local government placed in receivership under this act
8 is not subject to section 15(1) of 1947 PA 336, MCL 423.215, for a
9 period of 5 years from the date the local government is placed in
10 receivership or until the time the receivership is terminated,
11 whichever occurs first.

12 Sec. 28. This act does not give the emergency manager or the
13 state financial authority the power to impose taxes, over and above
14 those already authorized by law, without the approval at an
15 election of a majority of the qualified electors voting on the
16 question.

17 Sec. 29. The state financial authority shall issue bulletins
18 or promulgate rules as necessary to carry out the purposes of this
19 act. Rules shall be promulgated pursuant to the administrative
20 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 Sec. 30. (1) All of the following actions that occurred under
22 former 2011 PA 4, former 1988 PA 101, or former 1990 PA 72, before
23 the effective date of this act are effective under this act:

24 (a) A determination by the state treasurer or superintendent
25 of public instruction pursuant to a preliminary review of the
26 existence of probable financial stress or a serious financial
27 problem in a local government.



1 (b) The appointment of a review team.

2 (c) The findings and conclusion contained in a review team
3 report submitted to the governor.

4 (d) A determination by the governor of a financial emergency
5 in a local government.

6 (e) A confirmation by the governor of a financial emergency in
7 a local government.

8 (2) An action contained in subsection (1) need not be
9 reenacted or reaffirmed in any manner to be effective under this
10 act.

11 Sec. 31. An emergency manager or emergency financial manager
12 appointed and serving under state law before the effective date of
13 this act shall continue under this act as an emergency manager for
14 the local government.

15 Sec. 32. This act does not impose any liability or
16 responsibility in law or equity upon this state, any department,
17 agency, or other entity of this state, or any officer or employee
18 of this state, or any member of a receivership transition advisory
19 board, for any action taken by any local government under this act,
20 for any violation of the provisions of this act by any local
21 government, or for any failure to comply with the provisions of
22 this act by any local government. A cause of action against this
23 state or any department, agency, or entity of this state, or any
24 officer or employee of this state acting in his or her official
25 capacity, or any membership of a receivership transition advisory
26 board acting in his or her official capacity, may not be maintained
27 for any activity authorized by this act, or for the act of a local



1 government filing under chapter 9, including any proceeding
2 following a local government's filing.

3 Sec. 33. If any portion of this act or the application of this
4 act to any person or circumstances is found to be invalid by a
5 court, the invalidity shall not affect the remaining portions or
6 applications of this act which can be given effect without the
7 invalid portion or application. The provisions of this act are
8 severable.

9 Sec. 34. For the fiscal year ending September 30, 2013,
10 \$780,000.00 is appropriated from the general fund to the department
11 of treasury to administer the provisions of this act and to pay the
12 salaries of emergency managers. The appropriation made and the
13 expenditures authorized to be made by the department of treasury
14 are subject to the management and budget act, 1984 PA 431, MCL
15 18.1101 to 18.1594.

16 Sec. 35. (1) For the fiscal year ending September 30, 2013,
17 \$5,000,000.00 is appropriated from the general fund to the
18 department of treasury to administer the provisions of this act, to
19 secure the services of financial consultants, lawyers, work-out
20 experts, and other professionals to assist in the implementation of
21 this act, and to assist local governments in proceeding under
22 chapter 9.

23 (2) The appropriation authorized in this section is a work
24 project appropriation, and any unencumbered or unallotted funds are
25 carried forward into the following fiscal year. The following is in
26 compliance with section 451a(1) of the management and budget act,
27 1984 PA 431, MCL 18.1451a:



1 (a) The purpose of the project is to provide technical and
2 administrative support for the department of treasury to implement
3 this act. Costs related to this project include, but are not
4 limited to, all of the following:

5 (i) Staffing-related costs.

6 (ii) Costs to promote public awareness.

7 (iii) Any other costs related to implementation and dissolution
8 of the program, including the resolution of accounts.

9 (b) The work project will be accomplished through the use of
10 interagency agreements, grants, state employees, and contracts.

11 (c) The total estimated completion cost of the project is
12 \$5,000,000.00.

13 (d) The expected completion date is September 30, 2016.

14 Enacting section 1. The local government fiscal responsibility
15 act, 1990 PA 72, MCL 141.1201 to 141.1291, is repealed.

16 Enacting section 2. It is the intent of the legislature that
17 this act function and be interpreted as a successor statute to
18 former 1988 PA 101, former 1990 PA 72, and former 2011 PA 4, and
19 that whenever possible a reference to former 1988 PA 101, former
20 1990 PA 72, or former 2011 PA 4, under other laws of this state or
21 to a function or responsibility of an emergency financial manager
22 or emergency manager under former 1988 PA 101, former 1990 PA 72,
23 or former 2011 PA 4, under other laws of this state shall function
24 and be interpreted to reference to this act, with the other laws of
25 this state referencing former 1988 PA 101, former 1990 PA 72, or
26 former 2011 PA 4, including, but not limited to, all of the
27 following:



- 1 (a) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.
- 2 (b) 1966 PA 293, MCL 45.501 to 45.521.
- 3 (c) 1851 PA 156, MCL 46.1 to 46.32.
- 4 (d) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.
- 5 (e) The home rule village act, 1909 PA 278, MCL 78.1 to 78.28.
- 6 (f) The fourth class city act, 1895 PA 215, MCL 81.1 to
- 7 113.20.
- 8 (g) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.
- 9 (h) The metropolitan transportation authorities act of 1967,
- 10 1967 PA 204, MCL 124.401 to 124.426.
- 11 (i) 1947 PA 336, MCL 423.201 to 423.217.

