

SUBSTITUTE FOR  
HOUSE BILL NO. 5469

A bill to amend 1976 PA 442, entitled  
"Freedom of information act,"  
(MCL 15.231 to 15.246) by adding part 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 2

SEC. 51. (1) THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE  
"LEGISLATIVE OPEN RECORDS ACT".

(2) IT IS THE PUBLIC POLICY OF THIS STATE THAT ALL PERSONS,  
EXCEPT THOSE PERSONS INCARCERATED IN STATE OR LOCAL CORRECTIONAL  
FACILITIES, ARE ENTITLED TO FULL AND COMPLETE INFORMATION REGARDING  
THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF THOSE WHO  
REPRESENT THEM AS PUBLIC OFFICIALS AND PUBLIC EMPLOYEES, CONSISTENT  
WITH THIS PART. THE PEOPLE SHALL BE INFORMED SO THAT THEY MAY FULLY  
PARTICIPATE IN THE DEMOCRATIC PROCESS.

SEC. 52. AS USED IN THIS PART:

House Bill No. 5469 as amended September 20, 2016

1 (A) "COUNCIL ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE  
2 LEGISLATIVE COUNCIL APPOINTED UNDER SECTION 104A OF THE LEGISLATIVE  
3 COUNCIL ACT, 1986 PA 268, MCL 4.1104A.

4 (B) "LEGISLATOR" MEANS A MEMBER OF THE SENATE OR THE HOUSE OF  
5 REPRESENTATIVE OF THIS STATE.

6 (C) "LORA" MEANS THE LEGISLATIVE OPEN RECORDS ACT.

7 (D) "LORA COORDINATOR" MEANS EITHER OF THE FOLLOWING:

8 (i) AN INDIVIDUAL WHO IS A PUBLIC BODY.

9 (ii) AN INDIVIDUAL DESIGNATED BY A PUBLIC BODY TO ACCEPT AND  
10 PROCESS REQUESTS FOR PUBLIC RECORDS UNDER THIS PART.

11 (E) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, LIMITED  
12 LIABILITY COMPANY, PARTNERSHIP, FIRM, ORGANIZATION, ASSOCIATION,  
13 GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY. PERSON DOES NOT INCLUDE  
14 AN INDIVIDUAL SERVING A SENTENCE OF IMPRISONMENT IN A STATE OR  
15 COUNTY CORRECTIONAL FACILITY IN THIS STATE OR ANY OTHER STATE OR IN  
16 A FEDERAL CORRECTIONAL FACILITY.

17 (F) "PUBLIC BODY" MEANS A STATE OFFICER, LEGISLATOR, EMPLOYEE,  
18 AGENCY, DEPARTMENT, DIVISION, BUREAU, BOARD, COMMISSION, COMMITTEE,  
19 COUNCIL, AUTHORITY, OR OTHER BODY IN THE LEGISLATIVE BRANCH OF THE  
20 STATE GOVERNMENT. [PUBLIC BODY DOES NOT INCLUDE THE OFFICE OF THE AUDITOR  
21 GENERAL.]

22 (G) "PUBLIC RECORD" MEANS A WRITING PREPARED, OWNED, USED, IN  
23 THE POSSESSION OF, OR RETAINED BY A PUBLIC BODY IN THE PERFORMANCE  
24 OF AN OFFICIAL FUNCTION THAT HAS BEEN IN THE POSSESSION OF THE  
25 PUBLIC BODY FOR 15 DAYS OR MORE. PUBLIC RECORD DOES NOT INCLUDE  
26 COMPUTER SOFTWARE. THIS PART SEPARATES PUBLIC RECORDS INTO THE  
27 FOLLOWING 2 CLASSES:

(i) THOSE THAT ARE EXEMPT FROM DISCLOSURE UNDER SECTION 59D.

1           (ii) THOSE THAT ARE NOT EXEMPT FROM DISCLOSURE UNDER SECTION  
2 59D AND ARE SUBJECT TO DISCLOSURE UNDER THIS PART.

3           (H) "SESSION DAY" MEANS A DAY IN WHICH EITHER THE HOUSE OF  
4 REPRESENTATIVES OR THE SENATE CONVENES IN SESSION AND A QUORUM OF  
5 THE BODY IS RECORDED.

6           (I) "SOFTWARE" MEANS A SET OF STATEMENTS OR INSTRUCTIONS THAT,  
7 WHEN INCORPORATED IN A MACHINE-USABLE MEDIUM, IS CAPABLE OF CAUSING  
8 A MACHINE OR DEVICE HAVING INFORMATION-PROCESSING CAPABILITIES TO  
9 INDICATE, PERFORM, OR ACHIEVE A PARTICULAR FUNCTION, TASK, OR  
10 RESULT. SOFTWARE DOES NOT INCLUDE COMPUTER-STORED INFORMATION OR  
11 DATA OR A FIELD NAME IF DISCLOSURE OF THAT FIELD NAME WOULD NOT  
12 VIOLATE A SOFTWARE LICENSE.

13           (J) "UNUSUAL CIRCUMSTANCES" MEANS ANY 1 OR A COMBINATION OF  
14 THE FOLLOWING, BUT ONLY TO THE EXTENT NECESSARY FOR THE PROPER  
15 PROCESSING OF A REQUEST:

16           (i) THE NEED TO SEARCH FOR, COLLECT, OR APPROPRIATELY EXAMINE  
17 OR REVIEW A VOLUMINOUS AMOUNT OF SEPARATE AND DISTINCT PUBLIC  
18 RECORDS PURSUANT TO A SINGLE REQUEST.

19           (ii) THE NEED TO COLLECT THE REQUESTED PUBLIC RECORDS FROM  
20 NUMEROUS OFFICES, FACILITIES, OR OTHER ESTABLISHMENTS.

21           (K) "WRITING" MEANS HANDWRITING, TYPEWRITING, PRINTING,  
22 PHOTOSTATING, PHOTOGRAPHING, PHOTOCOPYING, AND EVERY OTHER MEANS OF  
23 RECORDING, AND INCLUDES LETTERS, WORDS, PICTURES, SOUNDS, OR  
24 SYMBOLS, OR COMBINATIONS THEREOF, AND PAPERS, MAPS, MAGNETIC OR  
25 PAPER TAPES, PHOTOGRAPHIC FILMS OR PRINTS, MICROFILM, MICROFICHE,  
26 MAGNETIC OR PUNCHED CARDS, DISCS, DRUMS, OR OTHER MEANS OF  
27 RECORDING OR RETAINING MEANINGFUL CONTENT.

1           (1) "WRITTEN REQUEST" MEANS A WRITING THAT ASKS FOR  
2 INFORMATION AND INCLUDES A WRITING TRANSMITTED BY FACSIMILE,  
3 ELECTRONIC MAIL, OR OTHER ELECTRONIC MEANS.

4           SEC. 53. (1) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 59D, UPON  
5 PROVIDING A PUBLIC BODY'S LORA COORDINATOR WITH A WRITTEN REQUEST  
6 THAT DESCRIBES A PUBLIC RECORD SUFFICIENTLY TO ENABLE THE PUBLIC  
7 BODY TO FIND THE PUBLIC RECORD, A PERSON HAS A RIGHT TO INSPECT,  
8 COPY, OR RECEIVE COPIES OF THE REQUESTED PUBLIC RECORD OF THE  
9 PUBLIC BODY. A PERSON HAS A RIGHT TO SUBSCRIBE TO FUTURE ISSUANCES  
10 OF PUBLIC RECORDS THAT ARE CREATED, ISSUED, OR DISSEMINATED ON A  
11 REGULAR BASIS. A SUBSCRIPTION SHALL BE VALID FOR UP TO 6 MONTHS, AT  
12 THE REQUEST OF THE SUBSCRIBER, AND IS RENEWABLE. AN EMPLOYEE OF A  
13 PUBLIC BODY WHO RECEIVES A REQUEST FOR A PUBLIC RECORD SHALL  
14 FORWARD THAT REQUEST TO THE LORA COORDINATOR WITHIN 3 BUSINESS  
15 DAYS.

16           (2) A LORA COORDINATOR SHALL KEEP A COPY OF ALL WRITTEN  
17 REQUESTS FOR PUBLIC RECORDS ON FILE FOR NOT LESS THAN 1 YEAR.

18           (3) A PUBLIC BODY SHALL FURNISH A REQUESTING PERSON A  
19 REASONABLE OPPORTUNITY FOR INSPECTION AND EXAMINATION OF ITS PUBLIC  
20 RECORDS AND SHALL FURNISH REASONABLE FACILITIES FOR MAKING  
21 MEMORANDA OR ABSTRACTS FROM ITS PUBLIC RECORDS DURING THE USUAL  
22 BUSINESS HOURS. A PUBLIC BODY MAY MAKE REASONABLE RULES NECESSARY  
23 TO PROTECT ITS PUBLIC RECORDS AND TO PREVENT EXCESSIVE AND  
24 UNREASONABLE INTERFERENCE WITH THE DISCHARGE OF ITS FUNCTIONS. A  
25 PUBLIC BODY SHALL PROTECT PUBLIC RECORDS FROM LOSS, UNAUTHORIZED  
26 ALTERATION, MUTILATION, OR DESTRUCTION.

27           (4) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO MAKE A

1 COMPILATION, SUMMARY, OR REPORT OF INFORMATION.

2 (5) THIS PART DOES NOT REQUIRE A PUBLIC BODY TO CREATE A NEW  
3 PUBLIC RECORD, EXCEPT TO THE EXTENT REQUIRED BY THIS PART FOR THE  
4 FURNISHING OF COPIES, OR EDITED COPIES OF AN EXISTING PUBLIC RECORD  
5 UNDER THIS PART.

6 (6) THE CUSTODIAN OF A PUBLIC RECORD SHALL, UPON WRITTEN  
7 REQUEST, FURNISH A REQUESTING PERSON A CERTIFIED COPY OF A PUBLIC  
8 RECORD.

9 (7) A PUBLIC BODY SHALL NOT DESTROY OR ALTER A RECORD BEFORE  
10 THE RECORD HAS BEEN IN ITS POSSESSION FOR 15 DAYS IF THE RECORD  
11 WOULD BECOME A PUBLIC RECORD AFTER IT HAS BEEN IN THE POSSESSION OF  
12 THE PUBLIC BODY FOR 15 DAYS.

13 Enacting section 1. This amendatory act takes effect January  
14 1, 2017.

15 Enacting section 2. This amendatory act does not take effect  
16 unless all of the following bills of the 98th Legislature are  
17 enacted into law:

18 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5470 (request no.  
19 05430'16).

20 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5471 (request no.  
21 05431'16).

22 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5472 (request no.  
23 05432'16).

24 (d) Senate Bill No. \_\_\_\_ or House Bill No. 5473 (request no.  
25 05433'16).

26 (e) Senate Bill No. \_\_\_\_ or House Bill No. 5474 (request no.  
27 05434'16).

1 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. 5475 (request no.  
2 05435'16).

3 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 5476 (request no.  
4 05436'16).

5 (h) Senate Bill No. \_\_\_\_\_ or House Bill No. 5478 (request no.  
6 05437'16).

7 (i) Senate Bill No. \_\_\_\_\_ or House Bill No. 5477 (request no.  
8 05438'16).