

SENATE BILL No. 539

October 1, 2015, Introduced by Senators HANSEN, ANANICH, CASPERSON, BOOHER, EMMONS, YOUNG, JOHNSON, HERTEL, NOFS, MARLEAU, KNEZEK, GREGORY and PROOS and referred to the Committee on Economic Development and International Investment.

A bill to amend 2008 PA 549, entitled
"Michigan promise zone authority act,"
by amending the title and sections 5, 7, 9, 11, 17, and 19 (MCL
390.1665, 390.1667, 390.1669, 390.1671, 390.1677, and 390.1679),
sections 5, 7, 11, and 17 as amended by 2013 PA 210, and by adding
sections 4 and 4a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act **TO AUTHORIZE THE CREATION OF PROMISE ZONES**; to
authorize the creation of promise **ZONE** authorities and the
implementation of promise zone development plans; to prescribe the
powers and duties of promise zone authorities; to provide for the
capture and disbursement of certain tax revenue; and to prescribe
powers and duties of certain state and local officials.

SEC. 4. (1) IF A GOVERNING BODY DETERMINES THAT IT IS

1 NECESSARY FOR THE BEST INTERESTS OF THE PUBLIC TO PROMOTE ACCESS TO
2 POSTSECONDARY EDUCATION, THE GOVERNING BODY MAY, BY RESOLUTION,
3 DECLARE ITS INTENTION TO ESTABLISH A PROMISE ZONE.

4 (2) A GOVERNING BODY SHALL SET A DATE FOR A PUBLIC HEARING ON
5 THE ADOPTION OF A PROPOSED RESOLUTION ESTABLISHING A PROMISE ZONE.
6 NOTICE OF THE PUBLIC HEARING SHALL BE PUBLISHED TWICE IN A
7 NEWSPAPER OF GENERAL CIRCULATION IN THE ELIGIBLE ENTITY, AT LEAST
8 20 AND NOT MORE THAN 40 DAYS BEFORE THE DATE OF THE HEARING. NOTICE
9 OF THE HEARING SHALL BE POSTED IN AT LEAST 20 CONSPICUOUS AND
10 PUBLIC PLACES IN THE ELIGIBLE ENTITY AT LEAST 20 DAYS BEFORE THE
11 HEARING. THE NOTICE SHALL STATE THE DATE, TIME, AND PLACE OF THE
12 HEARING AND SHALL DESCRIBE THE PROPOSED PROMISE ZONE, THE DETAILS
13 OF THE PROMISE OF FINANCIAL ASSISTANCE, AND THE CRITERIA FOR
14 ELIGIBILITY TO RECEIVE THAT FINANCIAL ASSISTANCE.

15 (3) AT LEAST 15 DAYS AFTER THE PUBLIC HEARING, IF THE
16 GOVERNING BODY OF AN ELIGIBLE ENTITY INTENDS TO PROCEED WITH THE
17 ESTABLISHMENT OF A PROMISE ZONE, IT SHALL SUBMIT AN APPLICATION TO
18 THE DEPARTMENT OF TREASURY SEEKING APPROVAL TO ESTABLISH THE
19 PROMISE ZONE.

20 (4) THE DEPARTMENT OF TREASURY SHALL REVIEW AN APPLICATION
21 SUBMITTED UNDER SUBSECTION (3) AND SHALL DETERMINE IF THE GOVERNING
22 BODY OF THE ELIGIBLE ENTITY THAT SUBMITTED THE APPLICATION IS
23 ELIGIBLE TO ESTABLISH A PROMISE ZONE UNDER THIS ACT. IF SO, THE
24 DEPARTMENT OF TREASURY SHALL CERTIFY THE ELIGIBILITY OF THAT
25 GOVERNING BODY TO ESTABLISH A PROMISE ZONE. THE DEPARTMENT OF
26 TREASURY SHALL REVIEW THE APPLICATIONS SUBMITTED UNDER SUBSECTION
27 (3) ON A FIRST-COME FIRST-SERVED BASIS AND SHALL NOT CERTIFY MORE

1 THAN 15 GOVERNING BODIES OF ELIGIBLE ENTITIES AS ELIGIBLE TO
2 ESTABLISH A PROMISE ZONE UNDER THIS ACT.

3 (5) IF THE DEPARTMENT OF TREASURY CERTIFIES THAT THE GOVERNING
4 BODY OF THE ELIGIBLE ENTITY IS ELIGIBLE TO CREATE A PROMISE ZONE,
5 THE GOVERNING BODY SHALL, BY RESOLUTION, ESTABLISH A PROMISE ZONE.

6 (6) WITHIN 90 DAYS AFTER A GOVERNING BODY APPROVES A
7 RESOLUTION TO ESTABLISH A PROMISE ZONE, A LOCAL SCHOOL DISTRICT MAY
8 BY RESOLUTION ELECT NOT TO PARTICIPATE IN THE ESTABLISHMENT OF A
9 PROMISE ZONE BY THE GOVERNING BODY OF THE ELIGIBLE ENTITY IN WHICH
10 THE LOCAL SCHOOL DISTRICT IS LOCATED. THE RESOLUTION SHALL INCLUDE
11 A PROVISION THAT THE LOCAL SCHOOL DISTRICT WILL ESTABLISH A
12 SEPARATE PROMISE ZONE UNDER THIS ACT. IF THE LOCAL SCHOOL DISTRICT
13 DOES NOT ESTABLISH A PROMISE ZONE WITHIN A REASONABLE PERIOD OF
14 TIME, THE DEPARTMENT OF TREASURY MAY INCLUDE THAT LOCAL SCHOOL
15 DISTRICT IN THE PROMISE ZONE ESTABLISHED BY THE ELIGIBLE ENTITY IN
16 WHICH THE LOCAL SCHOOL DISTRICT IS LOCATED.

17 (7) IF A GOVERNING BODY OF AN ELIGIBLE ENTITY BY RESOLUTION
18 DISSOLVES A PROMISE ZONE ESTABLISHED UNDER SUBSECTION (5), THE
19 DEPARTMENT OF TREASURY'S CERTIFICATION AUTHORIZING THAT PROMISE
20 ZONE UNDER SUBSECTION (4) IS TERMINATED AND DOES NOT COUNT TOWARD
21 THE LIMIT OF 15 CERTIFICATIONS UNDER SUBSECTION (4).

22 SEC. 4A. (1) A CITY, TOWNSHIP, COUNTY, LOCAL SCHOOL DISTRICT,
23 OR INTERMEDIATE SCHOOL DISTRICT THAT IS NOT AN ELIGIBLE ENTITY MAY
24 CREATE A PROMISE ZONE UNDER THIS ACT BUT SHALL NOT CAPTURE REVENUE
25 FROM THE STATE EDUCATION TAX UNDER THIS ACT. THE GOVERNING BODY OF
26 A CITY, TOWNSHIP, COUNTY, LOCAL SCHOOL DISTRICT, OR INTERMEDIATE
27 SCHOOL DISTRICT THAT IS NOT AN ELIGIBLE ENTITY SHALL NOT BE

1 CONSIDERED UNDER SECTION 4 IN DETERMINING THE NUMBER OF GOVERNING
2 BODIES OF ELIGIBLE ENTITIES ELIGIBLE TO ESTABLISH A PROMISE ZONE
3 UNDER THIS ACT.

4 (2) THIS SECTION SHALL NOT PREVENT AN ELIGIBLE ENTITY LOCATED
5 WITHIN A CITY, TOWNSHIP, COUNTY, LOCAL SCHOOL DISTRICT, OR
6 INTERMEDIATE SCHOOL DISTRICT THAT IS NOT AN ELIGIBLE ENTITY FROM
7 CREATING A PROMISE ZONE UNDER THIS ACT AND CAPTURING REVENUE FROM
8 THE STATE EDUCATION TAX UNDER THIS ACT.

9 Sec. 5. (1) ~~If the department of treasury certifies the~~
10 ~~eligibility of a governing body to establish a promise zone and the~~
11 A governing body, by resolution, establishes a promise zone under
12 ~~the Michigan promise zone act, 2008 PA 550, MCL 390.1641 to~~
13 ~~390.1649,~~ **SECTION 4(5)**, the governing body shall, by resolution,
14 create a promise zone authority.

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

20 (3) An authority shall be under the supervision and control of
21 a board. All of the following apply to the board of an authority:

22 (a) The board shall consist of 11 members, as follows:

23 (i) Nine locally appointed members. The chief executive
24 officer of the eligible entity, with the advice and consent of the
25 governing body, shall appoint the 9 initial locally appointed
26 members of the board described in this subparagraph. If a vacancy
27 occurs in an office of a locally appointed member appointed under

1 this subparagraph, the board shall appoint a new member to fill
2 that vacancy. As used in this subparagraph, for a local school
3 district or an intermediate school district, "chief executive
4 officer" means the superintendent of that local school district or
5 intermediate school district.

6 (ii) One member appointed by the senate majority leader.

7 (iii) One member appointed by the speaker of the house of
8 representatives.

9 (b) Not more than 3 members of the board shall be government
10 officials.

11 (c) One member of the board shall be a representative of the
12 public school community.

13 (d) The term of office of a member of the board is 4 years.
14 However, of the members first appointed, an equal number of the
15 members, as near as is practicable, shall be appointed for 1 year,
16 2 years, 3 years, and 4 years.

17 (e) A member of the board shall hold office until the member's
18 successor is appointed.

19 (f) Members of the board shall serve without compensation, but
20 may be reimbursed for actual and necessary expenses.

21 (g) The chairperson of the board shall be elected by the
22 board.

23 (4) Before assuming the duties of office, a member shall
24 qualify by taking and subscribing to the constitutional oath of
25 office.

26 (5) The proceedings and rules of the board are subject to the
27 open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board

1 shall adopt rules governing its procedure and the holding of
2 regular meetings, subject to the approval of the governing body.
3 Special meetings may be held if called in the manner provided in
4 the rules of the board.

5 (6) After having been given notice and an opportunity to be
6 heard, a member of the board may be removed for cause by the
7 governing body.

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

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

14 (2) A promise zone development plan shall include, but is not
15 limited to, all of the following:

16 (a) A complete description of the proposed promise of
17 financial assistance. The proposed promise of financial assistance
18 shall include, but is not limited to, a promise of financial
19 assistance to all eligible students residing within the promise
20 zone and who graduate from a public high school or nonpublic high
21 school located within that promise zone, in an amount established
22 by the board to reflect the amount available for disbursement to
23 eligible students and included in the annual budget under section
24 15. The amount of proposed promise of financial assistance shall,
25 at a minimum, equal or exceed the amount the board determines is
26 sufficient to pay for the qualified educational expenses for an
27 eligible student to obtain an associate degree at a community or

1 junior college in this state, and shall not exceed the amount the
2 board determines is sufficient to pay for the qualified educational
3 expenses for an eligible student to obtain a bachelor's degree or
4 its equivalent at a public postsecondary institution in this state
5 or combination of public postsecondary institutions in this state,
6 subject to any limitations authorized under this section. The
7 proposed promise of financial assistance may also, at most, provide
8 funding for an eligible student to attend a private college in this
9 state in an amount that does not exceed the average amount of
10 qualified educational expenses to obtain a bachelor's degree at all
11 public universities in this state. The proposed promise of
12 financial assistance may also authorize the expenditure of funds
13 for educational improvement activities designed to increase
14 readiness for postsecondary education at public schools located in
15 the promise zone.

16 (b) A complete description of any limitation on the promise of
17 financial assistance, including, but not limited to, any of the
18 following:

19 (i) If the promise of financial assistance will be prorated
20 based on the number of years the student has resided within the
21 promise zone.

22 (ii) If the promise of financial assistance will be restricted
23 to students who have resided within or attended a public high
24 school or nonpublic high school within the promise zone for a
25 minimum number of years.

26 (iii) If the promise of financial assistance is predicated on
27 the student maintaining a minimum college grade point average and

1 carrying a minimum college credit hour classload.

2 (iv) If the promise of financial assistance is restricted to
3 attendance at 1 or more public or private postsecondary
4 institutions in this state.

5 (v) If the promise of financial assistance is limited to
6 students whose cumulative high school grade point average exceeds a
7 specified minimum. However, a board may revise, establish, or
8 eliminate a high school grade point average requirement for
9 students after it submits a promise zone development plan to the
10 department of treasury and is not required to amend the plan or
11 obtain approval from the department of treasury for that change.

12 (vi) If the promise of financial assistance is limited to
13 students who comply with requirements established by the board in
14 order to improve student progress toward degree completion.

15 (vii) If the promise of financial assistance in a promise zone
16 that encompasses more than 2 school districts is limited to
17 students who reside in and graduate from high schools located
18 within the boundaries of fewer than all of its constituent school
19 districts.

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

25 (d) How the funds necessary to accomplish the promise of
26 financial assistance will be raised. Any amount received under the
27 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896,

shall not be included as a method of raising the necessary funds.
The promise zone development plan shall be financed from 1 or more
of the following sources:

(i) Donations.

(ii) Revenues.

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

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

**(F) A COMPLETE DESCRIPTION OF THE CRITERIA AND PROCEDURES BY
WHICH THE PERFORMANCE OF STUDENTS RECEIVING FINANCIAL ASSISTANCE
PURSUANT TO THE PROPOSED PLAN WILL BE ASSESSED AND REPORTED. THIS
ASSESSMENT AND REPORTING METHODOLOGY SHALL INCLUDE, BUT IS NOT
LIMITED TO, THE SUBMISSION OF A WRITTEN REPORT BY NO LATER THAN
FEBRUARY 15 OF EACH YEAR TO THE DEPARTMENT OF TREASURY THAT
INCLUDES THE FOLLOWING INFORMATION:**

**(i) THE NUMBER OF STUDENTS WHO RECEIVED FINANCIAL ASSISTANCE
PURSUANT TO THE AUTHORITY'S APPROVED PROMISE ZONE DEVELOPMENT PLAN
DURING THE PRIOR CALENDAR YEAR.**

**(ii) OF THOSE STUDENTS ACCOUNTED FOR UNDER SUBPARAGRAPH (i) ,
THE NUMBER WHO SUCCESSFULLY COMPLETED THE FOLLOWING:**

(A) A CERTIFICATE OR ASSOCIATE PROGRAM.

(B) A BACHELOR'S PROGRAM.

(C) A POSTGRADUATE OR PROFESSIONAL PROGRAM.

**(iii) OF THOSE STUDENTS ACCOUNTED FOR UNDER SUBPARAGRAPH (i) ,
THE NUMBER WHO WITHDREW FROM CLASSES DURING THE PRIOR CALENDAR**

1 YEAR.

2 (iv) OF THOSE STUDENTS ACCOUNTED FOR UNDER SUBPARAGRAPH (i)
3 WHO INITIALLY REACHED SUCCESSFUL COMPLETION OF MORE THAN THE
4 EQUIVALENT OF 23 SEMESTER CREDITS DURING THE PRIOR CALENDAR YEAR,
5 THE AVERAGE TIME TO SUCCESSFULLY COMPLETE THE EQUIVALENT OF 24
6 SEMESTER CREDITS.

7 (v) THE GRADUATION RATE FOR STUDENTS WHO FIRST RECEIVED
8 FINANCIAL ASSISTANCE PURSUANT TO THE AUTHORITY'S APPROVED PROMISE
9 ZONE DEVELOPMENT PLAN DURING EACH OF THE 6 PRIOR CALENDAR YEARS.

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

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

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

1 all requirements under this act and is sustainable.

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

13 **Sec. 9. (1) THE ESTABLISHMENT OF A PROMISE ZONE DOES NOT**
14 **CREATE A CAUSE OF ACTION IN LAW OR IN EQUITY AGAINST THIS STATE, AN**
15 **ELIGIBLE ENTITY, OR A PROMISE ZONE AUTHORITY.**

16 (2) The establishment of a promise zone development plan does
17 not create a cause of action in law or in equity against this
18 state, an eligible entity, or a promise zone authority, if the
19 proposed promise of financial assistance set forth in the promise
20 zone development plan is not paid to an eligible student.

21 **Sec. 11. (1)** The board may employ a director. All of the
22 following apply to a director employed by a board under this
23 subsection:

24 (a) The board shall establish the director's compensation.

25 (b) The director serves at the pleasure of the board.

26 (c) A member of the board is not eligible to hold the position
27 of director.

1 (d) Before beginning his or her duties, the director shall
2 take and subscribe to the constitutional oath and furnish a bond in
3 an amount determined in the resolution establishing the authority,
4 payable to the authority for use and benefit of the authority,
5 approved by the board, and filed with the clerk of the eligible
6 entity. The premium on the bond shall be considered an operating
7 expense of the authority, payable from money available to the
8 authority for expenses of operation.

9 (e) The director is the chief executive officer of the
10 authority.

11 (2) Subject to the approval of the board, the director shall
12 supervise and is responsible for implementing the promise zone
13 development plan and the performance of the functions of the
14 authority in the manner authorized under this act. The director
15 shall attend the meetings of the board and shall provide to the
16 board, the governing body, and the chief executive officer of the
17 eligible entity a regular report covering the activities and
18 financial condition of the authority. If the director is absent or
19 disabled, the board may designate a qualified person as acting
20 director to perform the duties of the office. Before beginning his
21 or her duties, the acting director shall take and subscribe to the
22 oath, and furnish a bond, as required of the director under
23 subsection (1)(d). The director shall furnish the board with any
24 information or reports governing the operation of the authority
25 that the board requires.

26 (3) The board may employ and fix the compensation of a
27 treasurer, who shall keep the financial records of the authority

1 and who, together with the director, shall approve all vouchers for
2 the expenditure of money of the authority. The treasurer shall
3 perform all duties delegated to him or her by the board and shall
4 furnish a bond in an amount prescribed by the board.

5 (4) The board may employ and fix the compensation of a
6 secretary, who shall maintain custody of the official seal and of
7 records, books, documents, or other papers the treasurer is not
8 required to maintain. The secretary shall attend meetings of the
9 board and keep a record of its proceedings and shall perform other
10 duties delegated by the board.

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

13 (6) The board may employ any other personnel that the board
14 considers necessary.

15 (7) The authority shall immediately deposit any money it
16 receives to the credit of the authority, subject to disbursement
17 under this act.

18 (8) Beginning in the first fiscal year in which it receives
19 revenue from the state from the capture of state education tax
20 revenue under section 17, the authority may use not more than 15%
21 of the amount of that revenue to pay for administrative costs.

22 (9) Within 120 days after the end of each fiscal year, the
23 board shall submit audited financial statements of the authority
24 for that fiscal year to the department of education. The board
25 shall include with the financial statements a certification by the
26 board that the board and authority are in compliance with this act
27 ~~, with the requirements of the Michigan promise zone act, 2008 PA~~

1 ~~550, MCL 390.1641 to 390.1649,~~ and with the authority's approved
2 promise zone development plan.

3 Sec. 17. (1) The authority shall determine the base year for
4 calculating the amount of incremental growth for the capture of the
5 state education tax as provided in this section. The base year is
6 the amount of revenue received from the collection of the state
7 education tax in the promise zone in the year immediately preceding
8 the year in which an authority makes its initial payment of
9 qualified educational expenses in accordance with the promise of
10 financial assistance or the amount of revenue received from the
11 collection of the state education tax in the promise zone in any 1
12 of the 5 immediately succeeding years, whichever is less.

13 (2) If the authority continues to make annual payments in
14 accordance with the promise of financial assistance, in the year
15 immediately succeeding the base year determined in subsection (1)
16 and each year thereafter, this state shall capture 1/2 of the
17 increase in revenue, if any, from the collection of the state
18 education tax. This state shall not capture any revenue from the
19 collection of the state education tax under this act if that
20 revenue is subject to capture under any other law of this state.
21 Proceeds from the capture of the state education tax under this
22 section shall be deposited in the state treasury and credited to a
23 restricted fund to be used solely for the purposes of this act.

24 (3) If the authority continues to make annual payments of
25 qualified educational expenses in accordance with the promise of
26 financial assistance, 2 years after the authority's initial payment
27 of financial assistance and each year thereafter, this state shall

1 pay to the authority the state education tax captured under
2 subsection (2). If the boundaries of 2 or more promise zones
3 created under this act overlap, payments under this section shall
4 only be made to the first authority eligible for payment under this
5 subsection. **IF THE BOUNDARIES OF A PROMISE ZONE ARE CHANGED BY**
6 **MERGER OR OTHERWISE, THE DEPARTMENT OF TREASURY MAY ADJUST THE**
7 **CALCULATION OF THE TAX REVENUE CAPTURE UNDER THIS SECTION TO**
8 **REFLECT THAT CHANGE.**

9 (4) If at any time the authority does not make annual payments
10 of qualified educational expenses in accordance with the promise
11 for financial assistance, any amount captured from that promise
12 zone in the restricted fund created under subsection (2) shall be
13 paid into the school aid fund established in section 11 of article
14 IX of the state constitution of 1963.

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

18 Sec. 19. (1) The department of treasury shall oversee the
19 operations of any promise zone authority or board created under
20 this act. If the department of treasury determines that the actions
21 of a promise zone authority or board are not in accordance with the
22 promise zone development plan, the department of treasury may
23 assume operational control of that promise zone authority or board.

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

1 eligible entity **AND SHALL BE USED SOLELY FOR PURPOSES OF PROMOTING**
2 **ACCESS TO POSTSECONDARY EDUCATION PURSUANT TO RESOLUTION OF THE**
3 **GOVERNING BODY OF THE ELIGIBLE ENTITY.**

4 Enacting section 1. The Michigan promise zone act, 2008 PA
5 550, MCL 390.1641 to 390.1649, is repealed.