

Promise Zones

This draft bill combines two Michigan laws enacted in 2009. This legislation permits cities, townships, counties, school districts, or intermediate school districts in areas where the percentage of families with children living at or below the Federal poverty rate is higher than the state average to establish “Promise Zones” to provide financial assistance to postsecondary education to students who graduate from a public or nonpublic high school within that zone. The bill requires the governing bodies of such entities to apply to state department of treasury for approval to establish promise zones.

This bill permits that if the state department of treasury certifies the creation of a promise zone and development plan then the governing body would, by resolution, create a Promise Zone Authority. The Authority is under the control of an 11-member board appointed by the chief executive officer of the eligible entity, with the advice and consent of the governing body. Not more than five members can be government officials. Members serve without compensation but can be reimbursed for actual and necessary expenses. The chair is to be elected by the board.

A Promise Zone Authority Board can:

- prepare an analysis of the postsecondary educational opportunities for the residents of the zone;
- study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the zone;
- acquire, by purchase or lease, land and other property;
- collect fees, rents, and charges for the use of any facility or property under its control;
- lease, in whole or in part, any facility, building, or property under its control, and
- solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Submitted as:

Michigan

Act 549 of 2008 and Act 550 of 2008

Status: Both bills were signed into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Short Title.*] This Act shall be cited as the “Promise Zone Act.”
2
3 Section 2. [*Definitions.*] As used in this Act:
4 (1) “Authority” means a promise zone authority created under this Act.
5 (2) “Board” means the governing body of an authority.
6 (3) “Eligible entity” means a city, township, county, local school district, or intermediate
7 school district, in which the percentage of families with children under age [18] that are living at
8 or below the federal poverty level is greater than or equal to the state average of families with
9 children under age [18] living at or below the federal poverty level, as determined by the
10 [department of treasury].

11 (4) “Federal poverty level” means the poverty guidelines published annually in the
12 Federal Register by the United States Department of Health and Human Services under its
13 authority to revise the poverty line under section 673(2) of subtitle B of title VI of the Omnibus
14 Budget Reconciliation Act of 1981, Public Law 97-35, 42 USC 9902.

15 (5) “Governing body” means the elected body of an eligible entity having legislative
16 powers.

17 (6) “Nonpublic high school” means a high school operated by a nonpublic school that
18 includes grades [9 to 12 or 10 to 12] and that awards a high school diploma. Nonpublic high
19 school also includes a General Education Development test.

20 (7) “Nonpublic school” means that term as defined in [insert citation].

21 (8) “Promise of financial assistance” means a commitment by an eligible entity to
22 provide financial resources for public or private postsecondary education to eligible students
23 living in a promise zone and who have graduated from a public high school or nonpublic high
24 school located within that promise zone.

25 (9) “Promise zone” means that area created by a governing body under this Act.

26 (10) “Promise zone development plan” means that plan developed by an authority under
27 this Act that will ensure that the financial resources are available to adequately fund the promise
28 of financial assistance.

29 (11) “Public high school” means a public school that includes grades [9 to 12 or 10 to 12]
30 and that awards a high school diploma.

31 (12) “Public school” means that term as defined in [insert citation].

32 (13) “School district” means that term as defined in [insert citation].

33 (14) “State education tax” means the tax levied under [insert citation].

34

35 Section 3. [*Establishing Promise Zones.*]

36 (A) If a governing body determines that it is necessary for the best interests of the public
37 to promote access to postsecondary education, the governing body may, by resolution, declare its
38 intention to establish a promise zone.

39 (B) The governing body shall set a date for a public hearing on the adoption of a
40 proposed resolution establishing the promise zone. Notice of the public hearing shall be
41 published [twice] in a newspaper of general circulation in the eligible entity, not less than [20 or
42 more than 40] days before the date of the hearing. Notice of the hearing shall be posted in at least
43 [20] conspicuous and public places in the eligible entity not less than [20] days before the
44 hearing. The notice shall state the date, time, and place of the hearing and shall describe the
45 proposed promise zone, the details of the promise of financial assistance, and the criteria for
46 eligibility to receive that financial assistance.

47 (C) Not less than [30] days after the public hearing, if the governing body of the eligible
48 entity intends to proceed with the establishment of the promise zone, it shall submit an
49 application to the [department of treasury] seeking approval to establish a promise zone.

50 (D) The [department of treasury] shall review the application submitted under subsection
51 (C) and shall certify that the governing body of the eligible entity is eligible to establish a
52 promise zone under this Act. The [department of treasury] shall review the applications
53 submitted under subsection (C) on a first-come first-served basis and shall not certify more than
54 [10] governing bodies of eligible entities as eligible to establish a promise zone under this Act.

55 (E) If the [department of treasury] certifies that the governing body of the eligible entity
56 is eligible to create a promise zone, the governing body shall, by resolution, establish a promise
57 zone.

58 (F) Not more than [90] days after the governing body approves a resolution to establish a
59 promise zone, a local school district may by resolution elect not to participate in the
60 establishment of a promise zone by the governing body of the eligible entity in which the local
61 school district is located. The resolution shall include a provision that the local school district
62 will establish a separate promise zone under this Act. If the local school district does not
63 establish a promise zone within a reasonable period of time, the [department of treasury] may
64 include that local school district in the promise zone established by the eligible entity in which
65 the local school district is located.

66 (G) A city, township, county, local school district, or intermediate school district that is
67 not an eligible entity may create a promise zone under this Act, but shall not capture revenue
68 from the [state education tax] under [insert citation]. The governing body of a city, township,
69 county, local school district, or intermediate school district that is not an eligible entity shall not
70 be considered under this section in determining the number of governing bodies of eligible
71 entities eligible to establish a promise zone under this Act.

72 (H) This section shall not prevent an eligible entity located within a city, township,
73 county, local school district, or intermediate school district that is not an eligible entity from
74 creating a promise zone under this Act and capturing revenue from the [state education tax]
75 under [insert citation].

76 (I) The establishment of a promise zone does not create a cause of action in law or in
77 equity against this state or an eligible entity.

78
79 Section 4. [*Promise Zone Authorities and Governing Boards.*]

80 (A) If the [department of treasury] certifies the eligibility of a governing body to establish
81 a promise zone and the governing body, by resolution, establishes a promise zone, the governing
82 body shall, by resolution, create a promise zone authority.

83 (B) An authority is a public body corporate that may sue and be sued in any court of this
84 state. An authority possesses all the powers necessary to carry out its purpose. The enumeration
85 of a power in this Act shall not be construed as a limitation upon the general powers of an
86 authority.

87 (C) An authority shall be under the supervision and control of a board consisting of [11]
88 members. [Nine members shall be appointed by the chief executive officer of the eligible entity
89 with the advice and consent of the governing body. One member shall be appointed by the senate
90 majority leader. One member shall be appointed by the speaker of the house of representatives.
91 Not more than 3 members shall be government officials. One member shall be a representative of
92 the public school community]. Of the members first appointed, an equal number of the members,
93 as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member
94 shall hold office until the member's successor is appointed. After the initial appointment, each
95 member shall serve for a term of [4] years. An appointment to fill a vacancy shall be made by the
96 chief executive officer of the eligible entity for the unexpired term only. Members of the board
97 shall serve without compensation, but may be reimbursed for actual and necessary expenses. The
98 chairperson of the board shall be elected by the board. As used in this subsection, for a local
99 school district or an intermediate school district, "chief executive officer" means the
100 superintendent of the local school district or intermediate school district.

101 (D) Before assuming the duties of office, a member shall qualify by taking and
102 subscribing to the constitutional oath of office.

103 (E) The proceedings and rules of the board are subject to [insert citation].

104 (F) The board shall adopt rules governing its procedure and the holding of regular
105 meetings, subject to the approval of the governing body. Special meetings may be held if called
106 in the manner provided in the rules of the board.

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

109 (H) A writing prepared, owned, used, in the possession of, or retained by the board in the
110 performance of an official function is subject to [insert citation].

111 (I) The board may employ and fix the compensation of a director. The director shall serve
112 at the pleasure of the board. A member of the board is not eligible to hold the position of
113 director. Before beginning his or her duties, the director shall take and subscribe to the
114 constitutional oath and furnish bond by posting a bond in the sum determined in the resolution
115 establishing the authority payable to the authority for use and benefit of the authority, approved
116 by the board, and filed with the clerk of the eligible entity. The premium on the bond shall be
117 considered an operating expense of the authority, payable from funds available to the authority
118 for expenses of operation. The director shall be the chief executive officer of the authority.

119 (J) Subject to the approval of the board, the director shall supervise and be responsible for
120 implementing the promise zone development plan and the performance of the functions of the
121 authority in the manner authorized by this Act. The director shall attend the meetings of the
122 board and shall provide to the board, the governing body, and the chief executive officer of the
123 eligible entity a regular report covering the activities and financial condition of the authority. If
124 the director is absent or disabled, the board may designate a qualified person as acting director to
125 perform the duties of the office. Before beginning his or her duties, the acting director shall take
126 and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish
127 the board with information or reports governing the operation of the authority as the board
128 requires.

129 (K) The director of the authority shall submit a budget to the board for the operation of
130 the authority for each fiscal year before the beginning of the fiscal year. The budget shall be
131 prepared in the manner and contain the information required of municipal departments. After
132 review by the board, the budget shall be submitted to the governing body. The governing body
133 must approve the budget before the board may adopt the budget. Unless authorized by the
134 governing body, funds of the eligible entity shall not be included in the budget of the authority.

135 (L) The board may employ and fix the compensation of a treasurer, who shall keep the
136 financial records of the authority and who, together with the director, shall approve all vouchers
137 for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to
138 him or her by the board and shall furnish a bond in an amount prescribed by the board.

139 (M) The board may employ and fix the compensation of a secretary, who shall maintain
140 custody of the official seal and of records, books, documents, or other papers not required to be
141 maintained by the treasurer. The secretary shall attend meetings of the board and keep a record
142 of its proceedings and shall perform other duties delegated by the board.

143 (N) The board may retain legal counsel to advise the board in the proper performance of
144 its duties.

145 (O) The board may employ other personnel considered necessary by the board.

146 (P) Money received by the authority shall immediately be deposited to the credit of the
147 authority, subject to disbursement under this Act.

148 (Q) The authority shall not expend more than [15%] of the proposed annual budget for
149 administrative costs.

150 (R) The board may do any of the following:

151 (1) Prepare an analysis of the postsecondary educational opportunities for the
152 residents of the promise zone.

153 (2) Study and analyze the need for financial resources to provide postsecondary
154 educational opportunities for residents of the promise zone.

155 (3) Acquire by purchase or otherwise, on terms and conditions and in a manner
156 the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or
157 lessee, land and other property, real or personal, or rights or interests in the property, that the
158 authority determines is reasonably necessary to achieve the purposes of this Act, and grant or
159 acquire licenses, easements, and options.

160 (4) Fix, charge, and collect fees, rents, and charges for the use of any facility,
161 building, or property under its control or any part of the facility, building, or property.

162 (5) Lease, in whole or in part, any facility, building, or property under its control.

163 (6) Solicit and accept grants and donations of money, property, labor, or other
164 things of value from a public or private source.

165

166 Section 5. [*Promise Zone Development Plans.*]

167 (A) A promise zone authority created under section 4 of this Act shall prepare a promise
168 zone development plan.

169 (B) The promise zone development plan shall include, but is not limited to, all of the
170 following:

171 (1) A complete description of the proposed promise of financial assistance. The
172 proposed promise of financial assistance shall include, but is not limited to, a promise of
173 financial assistance to all students residing within the promise zone and who graduate from a
174 public high school or nonpublic high school located within that promise zone. The proposed
175 promise of financial assistance shall, at a minimum, provide funding sufficient to provide an
176 eligible student the tuition necessary to obtain an associate degree or its equivalent at a
177 community or junior college in this state or combination of community or junior colleges in this
178 state and, at most, provide funding sufficient to provide an eligible student the tuition necessary
179 to obtain a bachelor's degree or its equivalent at a public postsecondary institution in this state or
180 combination of public postsecondary institutions in this state, subject to any limitations
181 authorized under this section. The proposed promise of financial assistance may also, at most,
182 provide funding for an eligible student to attend a private college in this state in an amount not to
183 exceed the average tuition necessary to obtain a bachelor's degree at all public universities in this
184 state. The proposed promise of financial assistance may also authorize the expenditure of funds
185 for educational improvement activities designed to increase readiness for postsecondary
186 education at public schools located in the promise zone.

187 (2) A complete description of any limitation on the promise of financial assistance;
188 if the promise of financial assistance will be prorated based on the number of years the student
189 has resided within the promise zone; if the promise of financial assistance will be restricted to
190 students who have resided within or attended a public high school or nonpublic high school
191 within the promise zone for a minimum number of years; if the promise of financial assistance is
192 predicated on the student maintaining a minimum college grade point average and carrying a
193 minimum college credit hour classload; or if the promise of financial assistance is restricted to
194 attendance at [1 or more] public or private postsecondary institutions in this state.

195 (3) A requirement that graduates of a public high school or nonpublic high school
196 exhaust all other known and available restricted grants for tuition and fees for postsecondary
197 education provided by a federal, state, or local governmental entity, as determined by the board.

198 (4) How the funds necessary to accomplish the promise of financial assistance will
199 be raised. Any amount received under [insert citation] shall not be included as a method of
200 raising the necessary funds. The promise zone development plan shall be financed from [1 or
201 more] of the following sources:

202 (a) Donations.

203 (b) Revenues.

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

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

208 (C) The proposed promise of financial assistance under subsection (B) shall not include
209 funding for attendance at a public or private postsecondary institution not located in this state.

210 (D) The board shall submit the promise zone development plan to the [department of
211 treasury] promptly after its adoption. The promise zone development plan shall be published on
212 the website of the eligible entity that established the promise zone.

213 (E) The [department of treasury] shall review the promise zone development plan
214 submitted under subsection (D). Not more than [60] days after receipt of a promise zone
215 development plan submitted under subsection (D), the [department of treasury] shall either
216 approve the promise zone development plan or provide a written notice of deficiencies. If the
217 [department of treasury] does not approve a promise zone development plan submitted under
218 subsection (D) or provide a written notice of deficiencies within [60] days, the promise zone
219 development plan shall be considered approved. If a promise zone development plan is
220 approved, the [department of treasury] shall certify that the promise zone development plan
221 meets all requirements under this Act and is sustainable.

222 (F) The [department of treasury] shall review any proposed amendments to a promise
223 zone development plan. Not more than [60] days after receipt of proposed amendments to a
224 promise zone development plan, the [department of treasury] shall either approve the proposed
225 amendments or provide a written notice of deficiencies. If the [department of treasury] does not
226 approve proposed amendments or provide a written notice of deficiencies within [60] days, the
227 proposed amendments shall be considered approved. If proposed amendments are approved, the
228 [department of treasury] shall certify that the amendments meet all requirements under this Act.

229 (G) The establishment of a promise zone development plan does not create a cause of
230 action in law or in equity against this state, an eligible entity, or a promise zone authority, if the
231 proposed promise of financial assistance set forth in the promise zone development plan is not
232 paid to an eligible student.

233
234 Section 6. *[Using Proceeds from the State Education Tax to Pay Tuition in Accordance*
235 *with this Promise Zones Act.]*

236 (A) The authority shall determine the base year for calculating the amount of incremental
237 growth for the capture of the [state education tax] as provided in this section. The base year is the
238 amount of revenue received from the collection of the [state education tax] in the promise zone
239 in the year immediately preceding the year in which an authority makes its initial tuition
240 payment in accordance with the promise of financial assistance or the amount of revenue
241 received from the collection of the state education tax in the promise zone in [any 1 of the 3
242 immediately succeeding years, whichever is less].

243 (B) If the authority continues to make annual payments in accordance with the promise of
244 financial assistance, in the year immediately succeeding the base year determined in subsection
245 (A) and each year thereafter, this state shall capture [1/2 of the increase] in revenue, if any, from

246 the collection of the [state education tax]. This state shall not capture any revenue from the
247 collection of the [state education tax] under this Act if that revenue is subject to capture under
248 any other law of this state. Proceeds from the capture of the [state education tax] under this
249 section shall be deposited in the [state treasury] and credited to a restricted fund to be used solely
250 for the purposes of this Act.

251 (C) If the authority continues to make annual tuition payments in accordance with the
252 promise of financial assistance, [2] years after the authority's initial payment of financial
253 assistance and each year thereafter, this state shall pay to the authority the [state education tax]
254 captured under subsection (B). If the boundaries of [2] or more promise zones created under this
255 Act overlap, payments under this section shall only be made to the first authority eligible for
256 payment under this subsection.

257 (D) If at any time the authority does not make annual tuition payments in accordance
258 with the promise for financial assistance, any amount captured from that promise zone in the
259 restricted fund created under subsection (B) shall be paid into the [school aid fund] established
260 under [insert citation].

261 (E) For purposes of this section, payments under this section shall not be included in
262 determining payments for financial assistance in the immediately preceding year.

263

264 Section 7. [*Overseeing Promise Zone Authority Operations.*]

265 (A) The [department of treasury] shall oversee the operations of any promise zone
266 authority or board created under this Act. If the [department of treasury] determines that the
267 actions of a promise zone authority or board are not in accordance with the promise zone
268 development plan, the [department of treasury] may assume operational control of that promise
269 zone authority or board.

270 (B) An authority that has completed the purposes for which it was organized shall be
271 dissolved by resolution of the governing body. The property and assets of the authority
272 remaining after the satisfaction of the obligations of the authority belong to the eligible entity.

273

274 Section 8. [*Severability.*] [Insert severability clause.]

275

276 Section 9. [*Repealer.*] [Insert repealer clause.]

277

278 Section 10. [*Effective Date.*] [Insert effective date.]