PUBLIC ACTS

[No. 1]

(HB 4802)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 540c (MCL 750.540c), as amended by 2002 PA 672.

The People of the State of Michigan enact:

750.540c Prohibited conduct with regard to telecommunications access device; "materials" defined; violation as felony; penalty; amateur radio service; forfeiture; order; definitions.

Sec. 540c. (1) A person shall not assemble, develop, manufacture, possess, deliver, or use any type telecommunications access device with the intent to defraud by doing, but not limited to, any of the following:

(a) Obtain or attempt to obtain a telecommunications service in violation of section 219a.

(b) Conceal the existence or place of origin or destination of any telecommunications service.

(c) To receive, disrupt, decrypt, transmit, retransmit, acquire, or intercept any telecommunications service without the express authority of the telecommunications service provider.

(2) A person shall not modify, alter, program, or reprogram a telecommunications access device to commit an act prohibited under subsection (1).

(3) A person shall not deliver or advertise plans, written instructions, or materials for the manufacture, assembly, or development of an unlawful telecommunications access device. As used in this subsection, "materials" includes any hardware, cables, tools, data, computer software, or other information or equipment used or intended for use in the manufacture, assembly, or development of any type of a telecommunications access device.

(4) A person who violates subsection (1), (2), or (3) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both. Each unlawful telecommunications access device or telecommunications access device is considered a separate violation.

(5) This section does not prohibit or restrict the possession of radio receivers or transceivers by licensees of the federal communications commission in the amateur radio service that are intended primarily or exclusively for use in the amateur radio service.

(6) Any unlawful telecommunications access device involved in violation of this section is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, and the court may order either of the following:

(a) Destroyed or retained as provided under section 540d.

(b) Returned to the telecommunications service provider if the device is owned or controlled by the provider or disposed of as provided under section 540d.

(7) The court shall order a person convicted of violating subsection (1), (2), or (3) to make restitution in accordance with section 1a of the code of criminal procedure, 1927 PA 175, MCL 769.1a.

(8) A violation of subsection (1), (2), or (3) is considered to have occurred at the place where the person manufactures, assembles, develops, or designs any type of telecommunications access device, or the places where the device is sold or delivered to another person.

(9) As used in this section and sections 540f and 540g:

(a) "Deliver" means to actually or constructively sell, give, loan, lease, or otherwise transfer a telecommunications access device, unlawful telecommunications access device, and plans, written instructions, or materials concerning the devices to another person.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Telecommunications service" shall have the same meaning as in section 219a.

(d) "Telecommunications service provider" shall have the same meaning as in section 219a.

(e) "Telecommunications system" shall have the same meaning as in section 219a.

(f) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

This act is ordered to take immediate effect.
Approved February 12, 2004.
Filed with Secretary of State February 12, 2004.

[No. 2]

(HB 4916)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure

in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16z of chapter XVII (MCL 777.16z), as amended by 2002 PA 271.

The People of the State of Michigan enact:

CHAPTER XVII

777.16z MCL 750.535 to 750.552b; felonies to which chapter applicable.

Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.535(2)	Property	D	Receiving or concealing stolen property having a value of $20,000 or more or with prior convictions	10
750.535(3)	Property	E	Receiving or concealing stolen property having a value of $1,000 to $20,000 or with prior convictions	5
750.535(7)	Property	E	Receiving or concealing stolen motor vehicle	5
750.535a(2)	Pub ord	D	Operating a chop shop	10
750.535a(3)	Pub ord	D	Operating a chop shop, subsequent violation	10
750.535b	Pub saf	E	Stolen firearms or ammunition	10
750.539c	Pub ord	H	Eavesdropping	2
750.539d	Pub ord	H	Installing eavesdropping device	2
750.539e	Pub ord	H	Divulging or using information obtained by eavesdropping	2
750.539f	Pub ord	H	Manufacture or possession of eavesdropping device	2
750.540	Pub ord	H	Tapping or cutting telephone lines	2
750.540c(4)	Property	F	Telecommunication violation	4

750.540f(2)	Property	E	Knowingly publishing a communications access device with prior convictions	5
750.540g(1)(c)	Property	E	Diverting telecommunication services having a value of $1,000 to $20,000 or with prior convictions	5
750.540g(1)(d)	Property	D	Diverting telecommunications services having a value of $20,000 or more or with prior convictions	10
750.543f	Person	A	Terrorism without causing death	Life
750.543h(3)(a)	Pub ord	B	Hindering prosecution of terrorism — certain terrorist acts	20
750.543h(3)(b)	Pub ord	A	Hindering prosecution of terrorism — act of terrorism	Life
750.543k	Pub saf	B	Soliciting or providing material support for terrorism or terrorist acts	20
750.543m	Pub ord	B	Threat or false report of terrorism	20
750.543p	Pub saf	B	Use of internet or telecommunications to commit certain terrorist acts	20
750.543r	Pub saf	B	Possession of vulnerable target information with intent to commit certain terrorist acts	20
750.545	Pub ord	E	Misprision of treason	5
750.552b	Property	F	Trespassing on correctional facility property	4

This act is ordered to take immediate effect.
Approved February 12, 2004.
Filed with Secretary of State February 12, 2004.

[No. 3]

(HB 4236)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the

classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16131, 16186, and 16263 (MCL 333.16131, 333.16186, and 333.16263), sections 16131 and 16263 as amended by 2001 PA 139 and section 16186 as amended by 2002 PA 643, and by adding section 16344 and part 187.

The People of the State of Michigan enact:

333.16131 Boards and task forces; expiration of terms of members; exception.

Sec. 16131. The terms of office of individual members of the boards and task forces, except those appointed to fill vacancies, expire 4 years after appointment as follows:

Nursing	June 30
Nursing home administrator	June 30
Optometry	June 30
Pharmacy	June 30
Podiatric medicine and surgery	June 30
Dentistry	June 30
Chiropractic	December 31
Counseling	June 30
Marriage and family therapy	June 30
Medicine	December 31
Occupational therapists	December 31
Osteopathic medicine and surgery	December 31
Physical therapy	December 31
Psychology	December 31
Respiratory care	December 31
Social work	December 31
Veterinary medicine	December 31

333.16186 Reciprocity; requirements; person licensed as respiratory therapist in Canada.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2007, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or specialty licensed in another state or, until January 1, 2007, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2007, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) Until January 1, 2007, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of the 2002 amendatory act that added this subsection, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in the country of Canada, the department shall consult the international reciprocity agreement executed by the national board for respiratory care and the Canadian society of respiratory therapists in effect on the effective date of the amendatory act that added this subsection.

333.16263 Restricted use of words, titles, or letters.

Sec. 16263. (1) Except as provided in subsection (2), the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this article to use the terms and in a way prescribed in this article:

(a) "Chiropractic", "doctor of chiropractic", "chiropractor", "d.c.", and "chiropractic physician".

(b) "Dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "r.d.a.", "d.d.s.", "d.m.d.", and "r.d.h.".

(c) "Doctor of medicine" and "m.d.".

(d) "Physician's assistant" and "p.a.".

(e) "Registered professional nurse", "registered nurse", "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife", "nurse anesthetist", "nurse practitioner", "trained attendant", and "t.a.".

(f) "Doctor of optometry", "optometrist", and "o.d.".

(g) "Osteopath", "osteopathy", "osteopathic practitioner", "doctor of osteopathy", "diplomate in osteopathy", and "d.o.".

(h) "Pharmacy", "pharmacist", "apothecary", "drugstore", "druggist", "medicine store", "prescriptions", and "r.ph.".

(i) "Physical therapy", "physical therapist", "physiotherapist", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "p.t.", "r.p.t.", "l.p.t.", and "p.t.t.".

(j) "Chiropodist", "chiropody", "chiropodical", "podiatry", "podiatrist", "podiatric", "doctor of podiatric medicine", "foot specialist", "podiatric physician and surgeon", and "d.p.m.".

(k) "Consulting psychologist", "psychologist", "psychological assistant", "psychological examiner", "licensed psychologist", and "limited licensed psychologist".

(*l*) "Licensed professional counselor", "licensed counselor", "professional counselor", and "l.p.c.".

(m) "Sanitarian", "registered sanitarian", and "r.s.".

(n) "Social worker", "certified social worker", "social work technician", "s.w.", "c.s.w.", and "s.w.t.".

(o) "Veterinary", "veterinarian", "veterinary doctor", "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.", "d.v.m.", "animal technician", or "animal technologist".

(p) "Occupational therapist", "occupational therapist registered", "certified occupational therapist", "o.t.", "o.t.r.", "c.o.t.", "certified occupational therapy assistant", "occupational therapy assistant", or "c.o.t.a.".

(q) "Marriage advisor" or "marriage consultant"; "family counselor", "family advisor", "family therapist", or "family consultant"; "family guidance counselor", "family guidance advisor", or "family guidance consultant"; "marriage guidance counselor", "marriage guidance advisor", or "marriage guidance consultant"; "family relations counselor"; "marriage relations counselor", "marriage relations advisor", or "marriage relations consultant"; "marital counselor" or "marital therapist"; "limited licensed marriage and family therapist" or "limited licensed marriage counselor"; "licensed marriage and family therapist" or "licensed marriage counselor"; and "l.m.f.t.".

(r) "Nursing home administrator".

(s) "Respiratory therapist", "respiratory care practitioner", "licensed respiratory therapist", "licensed respiratory care practitioner", "r.t.", "r.c.p.", "l.r.t.", and "l.r.c.p.".

(2) Notwithstanding section 16261, a person who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and upon completion of training, received a 2-year associate of science degree as an orthopedic

physician's assistant before January 1, 1977, may use the title "orthopedic physician's assistant" whether or not the person is licensed under this article.

333.16344 Respiratory therapist; license fees.

Sec. 16344. Fees for an individual licensed or seeking licensure as a respiratory therapist under part 187 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	75.00
(c) Temporary license fee, per year	75.00

PART 187. RESPIRATORY CARE

333.18701 Definitions.

Sec. 18701. (1) As used in this part:

(a) "Health facility" means a health facility or agency licensed under article 17.

(b) "Medical director" means a physician who is responsible for the quality, safety, appropriateness, and effectiveness of the respiratory care services provided by a respiratory therapist, who assists in quality monitoring, protocol development, and competency validation, and who meets all of the following:

(*i*) Is the medical director of an inpatient or outpatient respiratory care service or department within a health facility, or of a home care agency, durable medical equipment company, or educational program.

(*ii*) Has special interest and knowledge in the diagnosis and treatment of cardiopulmonary disorders and diseases.

(*iii*) Is qualified by training or experience, or both, in the management of acute and chronic cardiopulmonary disorders and diseases.

(c) "Physician" means that term as defined in sections 17001 and 17501.

(d) "Practice of respiratory care" means the provision of respiratory care services. Practice of respiratory care may be provided by an inpatient or outpatient service or department within a health facility, by a home care agency or durable medical equipment company, or by an educational program.

(e) "Respiratory care services" means preventative services, diagnostic services, therapeutic services, and rehabilitative services under the written, verbal, or telecommunicated order of a physician to an individual with a disorder, disease, or abnormality of the cardiopulmonary system as diagnosed by a physician. Respiratory care services involve, but are not limited to, observing, assessing, and monitoring signs and symptoms, reactions, general behavior, and general physical response of individuals to respiratory care services, including determination of whether those signs, symptoms, reactions, behaviors, or general physical response exhibit abnormal characteristics; the administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care services; the collection of blood specimens and other bodily fluids and tissues for, and the performance of, cardiopulmonary diagnostic testing procedures including, but not limited to, blood gas analysis; development, implementation, and modification of respiratory care treatment plans based on assessed abnormalities of the cardiopulmonary system, respiratory care protocols, clinical pathways, referrals, and written, verbal, or telecommunicated orders of a physician; application, operation, and management of mechanical ventilatory support and other means of life support; and the initiation of emergency procedures under the rules promulgated by the board.

(f) "Respiratory therapist" and "respiratory care practitioner" mean an individual engaged in the practice of respiratory care and who is responsible for providing respiratory care services and who is licensed under this article as a respiratory therapist or respiratory care practitioner.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.18703 Restricted use of words, titles, or letters.

Sec. 18703. Beginning the effective date of the amendatory act that added this part, an individual shall not use the titles "respiratory therapist", "respiratory care practitioner", "licensed respiratory therapist", "licensed respiratory care practitioner", "r.t.", "r.c.p.", "l.r.t.", "l.r.c.p.", or similar words that indicate the individual is a respiratory therapist unless the individual is licensed under this article as a respiratory therapist or respiratory care practitioner.

333.18705 Michigan board of respiratory care; creation; membership.

Sec. 18705. The Michigan board of respiratory care is created in the department and consists of the following 7 members who meet the requirements of part 161:

(a) Four individuals who meet the requirements of section 16135(2).

(b) One medical director.

(c) Two public members.

333.18707 Practice of respiratory care; license required.

Sec. 18707. (1) An individual shall not engage in the practice of respiratory care or provide or offer to provide respiratory care services unless licensed under this part.

(2) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered respiratory care services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 18703.

(b) An individual not licensed under this part from performing activities that are considered respiratory care services while under the supervision of an individual who is licensed under this part as a respiratory therapist or respiratory care practitioner, if the individual does not use the titles protected under section 18703.

(c) An individual not licensed under this part from performing activities that are considered diagnostic services if the individual possesses a level of training approved by the board, has successfully passed a credentialing examination approved by the board, and if the individual does not use the titles protected under section 18703.

(d) The practice of respiratory care which is an integral part of a program of study by students enrolled in an accredited respiratory therapist educational program approved by the board, provided that they are identified as a student and provide respiratory care services only while under the supervision of a licensed respiratory therapist or respiratory care practitioner.

(e) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed respiratory therapist or respiratory care practitioner.

333.18709 Licensure requirements; rules; temporary license; interim standards.

Sec. 18709. (1) The department shall promulgate rules under section 16145 as necessary or appropriate to fulfill its functions under this article. In promulgating rules to establish requirements for licensure under section 16145, the department shall adopt all of the following requirements:

(a) Successful completion of an accredited respiratory therapist training program approved by the department.

(b) Having at least a 2-year associate's degree from an accredited college or university approved by the department.

(c) Having the credential conferred by the national board for respiratory care or its successor organization as a respiratory therapist or its successor credential, as approved by the department.

(2) The department shall issue a license as a respiratory therapist to an individual who had either of the credentials as a registered respiratory therapist or certified respiratory therapist, or their predecessor credentials, conferred by the national board for respiratory care, or its predecessor organization, on or before the effective date of this part, and who applies for licensure as a respiratory therapist within 1 year after the effective date of this part.

(3) The department shall issue a license as a respiratory therapist to an individual who is a holder of a temporary license as a respiratory therapist if a holder of a temporary license meets all of the following requirements:

(a) Applies for licensure as a respiratory therapist prior to the expiration of his or her temporary license as prescribed in section 18711(2).

(b) Provides proof to the department that he or she has successfully completed the national credentialing exam by the national board for respiratory care or its successor organization, as approved by the department.

(4) The department may utilize the standards contained in the clinical practice guidelines issued by the American association of respiratory care that are in effect on the effective date of this part as interim standards, which are adopted by reference, until rules are promulgated under subsection (1).

333.18711 Temporary license.

Sec. 18711. (1) The department may issue a temporary license as a respiratory therapist to an applicant who does not meet all of the requirements of section 18709, if the applicant does all of the following:

(a) Applies to the department for a temporary license within 1 year after the effective date of the amendatory act that added this part.

(b) Provides satisfactory proof to the department that he or she has been employed full-time as a respiratory therapist for the 4 years immediately preceding the date of application in 1 of the following:

(*i*) An inpatient or outpatient respiratory care service or department within a licensed health facility.

(*ii*) A durable medical equipment company or home care agency.

(*iii*) A respiratory care educational program.

(c) Provides the department with a letter of recommendation from his or her medical director at the time of application attesting to the applicant's clinical competence as a respiratory therapist.

(d) Pays the applicable fees prescribed by section 16344.

(2) A temporary license issued by the department under this section expires within the same time period as a nontemporary license issued by the department under this part. The holder of a temporary license issued under this section may apply for 1 or more renewals of the temporary license a number of times, but an individual may not hold a temporary license for more than a total of 4 years.

(3) The holder of a temporary license issued under this section is subject to this part and the rules promulgated under this part, except for the requirements for licensure.

333.18713 New or additional reimbursement or benefits not required.

Sec. 18713. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a respiratory therapist under this article.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2004.

This act is ordered to take immediate effect.
Approved February 17, 2004.
Filed with Secretary of State February 18, 2004.

[No. 4]

(HB 5244)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 9b (MCL 211.9b), as amended by 2003 PA 274.

The People of the State of Michigan enact:

211.9b Special tool; exemption from taxation; definitions.

Sec. 9b. (1) A special tool is exempt from the collection of taxes under this act.

(2) The statement required under section 19 may provide for a separate line for providing the aggregate total original cost of excluded exempt special tools.

(3) As used in this section:

(a) "Product" means an item of tangible property that is directly created or produced through the manufacturing process. A product may be any of the following items:

(*i*) A part.

(*ii*) A special tool.

(*iii*) A component.

(*iv*) A sub-assembly.

(*v*) Completed goods that are available for sale or lease in wholesale or retail trade.

(b) "Special tool" means a finished or unfinished device such as a die, jig, fixture, mold, pattern, special gauge, or similar device, that is used, or is being prepared for use, to manufacture a product and that cannot be used to manufacture another product without substantial modification of the device. The length of the economic life of the product manufactured shall not be considered in making a determination whether a device used to manufacture that product is a special tool. Special tools do not include the following:

(*i*) A device that differs in character from dies, jigs, fixtures, molds, patterns, or special gauges.

(*ii*) Standard tools.

(*iii*) Machinery or equipment, even if customized, and even if used in conjunction with special tools.

(c) "Standard tool" means a die, jig, fixture, mold, pattern, gauge, or other tool that is not a special tool. Standard tool does not include machinery or equipment, even if customized, and even if used in conjunction with special tools or standard tools.

Effective date.

Enacting section 1. This amendatory act is retroactive and is effective December 31, 2003.

This act is ordered to take immediate effect.
Approved February 19, 2004.
Filed with Secretary of State February 19, 2004.

[No. 5]

(HB 4340)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 61 (MCL 38.1361), as amended by 2001 PA 30.

The People of the State of Michigan enact:

38.1361 Employment of retirant in reporting unit.

Sec. 61. (1) Except as otherwise provided in this section, if a retirant is receiving a retirement allowance other than a disability allowance payable under this act or under former 1945 PA 136, on account of either age or years of personal service performed, or both, and becomes employed by a reporting unit, the following shall take place:

(a) The retirant shall not be entitled to a new final average compensation or additional service credit under this retirement system unless additional service is performed equivalent to 5 or more years of service credit or, if the retirant has contributed to the member investment plan, the equivalent of 3 or more years of service credit. The retirant may elect to have the retirement allowance recomputed based on the added credit or the final average compensation resulting from the added service, or both. A retirement allowance shall not be recomputed until the retirant pays into the retirement system an amount equal to the retirant's new final average compensation multiplied by the percentage determined under section 41(2) for normal cost and unfunded actuarial accrued liabilities, not including the percentage required for the funding of health benefits, multiplied by the total service credit in the period in which the retirant's additional service was performed.

(b) The retirant's retirement allowance shall be reduced by the lesser of the amount that the earnings in a calendar year exceed the amount permitted without a reduction of benefits under the social security act, chapter 531, 49 Stat. 620, or 1/3 of the retirant's final average compensation. For purposes of computing allowable earnings under this subdivision, the final average compensation shall be increased by 5% for each full year of retirement.

(2) The retirement system may offset retirement benefits payable under this act against amounts owed to the retirement system by a retirant or retirement allowance beneficiary.

(3) Subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is a former teacher or administrator employed in a teaching or research capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3).

(b) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(c) A university that employs a retirant pursuant to this subsection shall report such employment to the retirement system by July 1 of each year. The report to be filed shall include the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

(4) Until July 1, 2006, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has an approved emergency situation, not including a situation caused by a labor dispute, that necessitates the hiring of a retirant in the capacity of a teacher, principal, stationary engineer, or administrator to prevent depriving students of an education. The chief executive officer or superintendent of the school district shall include with the written notification documentation showing that more than 8% of all classes in the district during the 1998-99 school year are taught by full-time substitute teachers who are not certificated in the subjects or grade levels

which they teach. Within 30 days after receipt of the notification and documentation under this subdivision, the department of education shall notify the chief executive officer or superintendent and the retirement system of its approval or disapproval of the emergency situation. If disapproved by the department of education, this subsection does not apply.

(b) The retirant is employed under an emergency situation described in subdivision (a) for a period not to exceed 6 years.

(c) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(5) On or before July 1, 1999, the state superintendent of public instruction shall compile a listing of critical shortage disciplines. This listing shall be updated annually.

(6) Until July 1, 2006, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has a situation, not including a situation caused by a labor dispute, that necessitates the hiring of a retirant in an area that has been identified by the state superintendent of public instruction as a critical shortage discipline pursuant to subsection (5).

(b) The retirant is employed under a situation described in subdivision (a) for a period not to exceed 6 years.

(c) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(7) The provisions of subsections (4) and (6) shall only apply for retirants who retired on or before July 1, 2003.

This act is ordered to take immediate effect.
Approved February 20, 2004.
Filed with Secretary of State February 20, 2004.

[No. 6]

(HB 4659)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the

transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20906 (MCL 333.20906), as amended by 2000 PA 375.

The People of the State of Michigan enact:

333.20906 Definitions; L, M.

Sec. 20906. (1) "Life support agency" means an ambulance operation, nontransport prehospital life support operation, aircraft transport operation, or medical first response service.

(2) "Limited advanced life support" means patient care that may include any care an emergency medical technician specialist is qualified to provide by emergency medical technician specialist education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for an emergency medical technician specialist.

(3) "Local governmental unit" means a county, city, village, charter township, or township.

(4) "Medical control" means supervising and coordinating emergency medical services through a medical control authority, as prescribed, adopted, and enforced through department-approved protocols, within an emergency medical services system.

(5) "Medical control authority" means an organization designated by the department under section 20910(1)(g) to provide medical control.

(6) "Medical director" means a physician who is appointed to that position by a medical control authority under section 20918.

(7) "Medical first responder" means an individual who has met the educational requirements of a department approved medical first responder course and who is licensed to provide medical first response life support as part of a medical first response service or as a driver of an ambulance that provides basic life support services only. Medical first responder does not include a police officer solely because his or her police vehicle is equipped with an automated external defibrillator.

(8) "Medical first response life support" means patient care that may include any care a medical first responder is qualified to provide by medical first responder education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for a medical first responder.

(9) "Medical first response service" means a person licensed by the department to respond under medical control to an emergency scene with a medical first responder and equipment required by the department before the arrival of an ambulance, and includes a fire suppression agency only if it is dispatched for medical first response life support. Medical first response service does not include a law enforcement agency, as defined in section 8 of 1968 PA 319, MCL 28.258, unless the law enforcement agency holds itself out as a medical first response service and the unit responding was dispatched to provide medical first response life support.

(10) "Medical first response vehicle" means a motor vehicle staffed by at least 1 medical first responder and meeting equipment requirements of the department.

This act is ordered to take immediate effect.
Approved February 20, 2004.
Filed with Secretary of State February 20, 2004.

[No. 7]

(HB 4965)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3406k (MCL 500.3406k), as added by 1998 PA 125.

The People of the State of Michigan enact:

500.3406k Emergency health services; medical services coverage; "stabilization" defined.

Sec. 3406k. (1) An expense-incurred hospital, medical, or surgical policy or certificate delivered, issued for delivery, or renewed in this state that provides coverage for emergency health services and a health maintenance organization contract shall provide coverage for medically necessary services provided to an insured for the sudden onset of a medical condition that manifests itself by signs and symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health or to a pregnancy in the case of a pregnant woman, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. An insurer shall not require a physician to transfer a patient before the physician determines that the patient has reached the point of stabilization. An insurer shall not deny payment for emergency health services up to the point of stabilization provided to an insured under this subsection because of either of the following:

(a) The final diagnosis.

(b) Prior authorization was not given by the insurer before emergency health services were provided.

(2) As used in this section, "stabilization" means the point at which no material deterioration of a condition is likely, within reasonable medical probability, to result from or occur during transfer of the patient.

This act is ordered to take immediate effect.
Approved February 20, 2004.
Filed with Secretary of State February 20, 2004.

[No. 8]

(HB 4966)

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," by amending section 418 (MCL 550.1418), as added by 1998 PA 124.

The People of the State of Michigan enact:

550.1418 Emergency health services; medical coverage required; "stabilization" defined.

Sec. 418. (1) A health care corporation certificate that provides coverage for emergency health services shall provide coverage for medically necessary services provided to a member for the sudden onset of a medical condition that manifests itself by signs and symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to the individual's health or to a pregnancy in the case of a pregnant woman, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. A health care corporation shall not require a physician to transfer a patient before the physician determines that the patient has reached the point of stabilization. A health care corporation shall not deny payment for emergency health services up to the point of stabilization provided to a member under this subsection because of either of the following:

(a) The final diagnosis.

(b) Prior authorization was not given by the health care corporation before emergency health services were provided.

(2) As used in this section, "stabilization" means the point at which no material deterioration of a condition is likely, within reasonable medical probability, to result from or occur during transfer of the patient.

This act is ordered to take immediate effect.
Approved February 20, 2004.
Filed with Secretary of State February 20, 2004.

[No. 9]

(SB 334)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for

the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 13 (MCL 247.663), as amended by 1999 PA 54.

The People of the State of Michigan enact:

247.663 Return of distribution to city and village treasurers; manner, purpose, terms, and conditions; report.

Sec. 13. (1) The amount distributed to cities and villages shall be returned to the treasurers of the cities and villages in the manner, for the purposes, and under the terms and conditions specified in this section. As used in this section, "population" means the population according to the most recent statewide federal census as certified at the beginning of the state fiscal year, except that, if a municipality has been newly incorporated since completion of the census, the population of the municipality for purposes of the distribution of funds before completion of the next census shall be the population as determined by special federal census, if there is a special federal census, and if not, by the population as determined by the official census in connection with the incorporation, if there is such a census and, if not, by a special state census to be taken at the expense of the municipality by the secretary of state pursuant to section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The amount received by the newly incorporated municipality shall be in place of any other direct distribution of funds from the Michigan transportation fund. The population of the newly incorporated municipality as determined under this section shall be added to the total population of all incorporated cities and villages in the state in computing the amounts to be returned under this section to each municipality in the state. Major street mileage, local street mileage, and equivalent major mileage, if applicable, shall be determined by the state transportation department before the next month for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

(2) From the amount available for distribution to cities and villages during each December, an amount equal to 0.7% of the total amount returned to all cities and villages under subsections (3) and (4) during the previous calendar year shall be withheld. The amount withheld shall be used to partially reimburse those cities and villages located in those counties that are eligible for snow removal funds pursuant to section 12a and that have costs for winter maintenance on major and local streets that are greater than the statewide average. The distributions shall be made annually during February and shall be calculated separately for the major and local street systems but may be paid in a combined warrant. The distribution to a city or village shall be equal to 1/2 of its winter maintenance expenditures after deducting the product of its total earnings under subsections (3) and (4)

multiplied by 2 times the average municipal winter maintenance factor. Winter maintenance expenditures shall be determined from the street financial reports for the most current fiscal years ending before July 1. A city or village that does not submit a street financial report for the fiscal year ending before July 1 by the subsequent December 31 shall be ineligible for the winter maintenance payment that is to be based on that street financial report. The average municipal winter maintenance factor shall be determined annually by the state transportation department by dividing the total expenditures of all cities and villages on winter maintenance of streets and highways by the total amount earned by all cities and villages under subsections (3) and (4) during the 12 months. If the sum of the distributions to be made under this subsection exceeds the amount withheld, the distributions to each eligible city and village shall be reduced proportionately. If the sum is less than the amount withheld, the balance shall be added to the amount available for distribution under subsections (3) and (4) during the next month. The distributions shall be for use on the major and local street systems respectively and shall be subject to the same provisions as funds returned under subsections (3) and (4).

(3) Seventy-five percent of the remaining amount to be returned to the cities and villages, after deducting the amounts withheld pursuant to subsection (2), shall be returned 60% in the same proportion that the population of each bears to the total population of all cities and villages, and 40% in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all cities and villages. As used in this section, "equivalent major mileage" means the sum of 2 times the state trunk line mileage certified by the state transportation department as of March 31 of each year, as being within the boundaries of each city and village having a population of 25,000 or more, plus the major street mileage in each city and village, multiplied by the following factor:

1.0 for cities and villages of 2,000 or less population;
1.1 for cities and villages from 2,001 to 10,000 population;
1.2 for cities and villages from 10,001 to 20,000 population;
1.3 for cities and villages from 20,001 to 30,000 population;
1.4 for cities and villages from 30,001 to 40,000 population;
1.5 for cities and villages from 40,001 to 50,000 population;
1.6 for cities and villages from 50,001 to 65,000 population;
1.7 for cities and villages from 65,001 to 80,000 population;
1.8 for cities and villages from 80,001 to 95,000 population;
1.9 for cities and villages from 95,001 to 160,000 population;
2.0 for cities and villages from 160,001 to 320,000 population;

and for cities over 320,000 population, by a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000. The amount returned under this subsection shall be used by each city and village for the following purposes in the following order of priority:

(a) For the payment of contributions required to be made by a city or village under the provisions of contracts previously entered into under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been previously pledged for the payment of the principal and interest on bonds issued under that act; or for the payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Payment of obligations of the city or village on highway projects undertaken by the city or village jointly with the state transportation department.

(c) For the payment of principal and interest upon loans received pursuant to section 11(7), to the extent other funds have not been made available for that payment.

(d) For the preservation, construction, acquisition, and extension of the major street system as defined by this act including the acquisition of a necessary right of way for the system, work incidental to the system, and an appurtenant roadside park or motor parkway, of the city or village and for the payment of the principal and interest on that portion of the city's or village's general obligation bonds which are attributable to the construction or reconstruction of the city's or village's major street system. Not more than 5% per year of the funds returned to a city or village by this subsection shall be expended for the preservation or acquisition of appurtenant roadside parks and motor parkways. Surplus funds may be expended for the development, construction, or repair of off-street parking facilities, and the construction or repair of street lighting, and transfer to the local street system under subsection (6).

(4) The remaining amount to be returned to incorporated cities and villages shall be expended in each city or village for the preservation, construction, acquisition, and extension of the local street system of the city or village, as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and subject to subsection (5), for the payment of the principal and interest on that portion of the city's or village's general obligation bonds which are attributable to the construction or reconstruction of the city's or village's local street system. The amount returned under this subsection shall be returned to the cities and villages 60% in the same proportion that the population of each bears to the total population of all incorporated cities and villages in the state, and 40% in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all cities and villages of the state. The payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707, and after that payment, the payment of debt service on loans received under section 11(7), shall have priority in the expenditure of money returned under this subsection.

(5) Money distributed to each city and village for the maintenance and preservation of its local street system under this act represents the total responsibility of the state for local street system support. Funds distributed from the Michigan transportation fund shall not be expended for construction purposes on city and village local streets except to the extent matched from local revenues including other money returned to a city or village by the state under the state constitution of 1963 and statutes of the state, from funds that can be raised by taxation in cities and villages for street purposes within the limitations of the state constitution of 1963 and statutes of the state, from special assessments, or from any other source. This subsection does not apply to section 11b.

(6) Except as provided in subsection (12), money returned under this section to a city or village shall be expended on the major and local street systems of that city or village. However, the first priority shall be the major street system. Money returned for expenditure on the major street system shall be expended in the priority order provided in subsection (3) except that surplus funds may be transferred for preservation of the local street system. Major street funds transferred for use on the local street system shall not be used for construction but may be used for preservation as defined in section 10c. A city or village shall not transfer more than 25% of its annual major street funding for the local street system unless it has adopted and is following an asset management process for its major and local street systems and adopts a resolution with a copy to the department setting forth all of the following:

(a) A list of the major streets in that city or village.

(b) A statement that the city or village is adequately maintaining its major streets.

(c) The dollar amount of the transfer.

(d) The local streets to be funded with the transfer.

(e) A statement that the city or village is following an asset management process for its major and local street systems.

(7) Not more than 10% per year of all of the funds returned to a city or village from any source for the purposes of this section may be expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or maintenance projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities. A city or village which in a year expends more than 10% for administrative expenses shall be subject to section 14(5).

(8) In each city and village to which funds are returned under this section, the responsibility for street preservation and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the state transportation department pursuant to this act.

(9) Cities and villages may provide for consolidated street administration. A city or a village may enter into an agreement with other cities or villages, the county road commission, or with the state transportation commission for the performance of street or highway work on a road or street within the limits of the city or village or adjacent to the city or village. The agreement may provide for the performance by any of the contracting parties of the work contemplated by the contracts including services and acquisition of rights of way, by purchase or condemnation by any of the contracting parties in its own name. The agreement may provide for joint participation in the costs if appropriate.

(10) Interest earned on funds returned to a city or a village for purposes provided in this section shall be credited to the appropriate street fund.

(11) In addition to the financial compliance audits required by law, the department of treasury shall conduct performance audits and make investigations of the disposition of all state funds received by cities and villages for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department of treasury shall provide notice to cities and villages of the standards to be used for audits under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify cities and villages of any subsequent changes to the standards. Cities and villages shall make available to the department of treasury the pertinent records for the audit.

(12) Effective January 1, 2009, money returned to a city or village for expenditure on the major street system may not be transferred or expended for use on the local street system except to the extent matched by local revenues expended by the city or village on the major street system or state trunk line highways. For purposes of this subsection, local revenue means revenue other than Michigan transportation fund revenue and includes, but is not limited to, general fund revenue and special assessments.

(13) On or before October 1, 2008, the department shall prepare a report listing by city and village, and in total, the following information:

(a) Amounts transferred between major street fund and local street fund.

(b) Amounts of local revenue as defined in subsection (12) expended on the major street system. The report shall include fiscal years from January 1, 2002 through June 30, 2008. The report shall analyze the extent to which the amendatory act that added this

subsection affected city and village transfers from major street funds to local street funds, and the amount of local revenue expended on city or village major streets and state trunk lines. The report shall be submitted to the house and senate appropriations committees and to the house and senate fiscal agencies.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 10]

(HB 4276)

AN ACT to establish Holocaust remembrance week in the state of Michigan.

The People of the State of Michigan enact:

435.311 Holocaust remembrance; designation.

Sec. 1. (1) The legislature recognizes that the horrors of the Holocaust should never be forgotten. The Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. In addition to the murder of some 6,000,000 Jews, millions more, including the handicapped, Poles, Gypsies, homosexuals, Jehovah's Witnesses, prisoners of war, and political dissidents, also suffered grievous oppression and death under Nazi tyranny.

(2) A key date in the history of the Holocaust is April 19, 1943, the beginning of the Warsaw ghetto uprising, when Jews, using homemade bombs and stolen or bartered weapons, resisted death camp deportation by the Nazis for 27 days. This date, which in the Hebrew calendar is the twenty-seventh day of Nisan, has been established by the United States congress as a national Holocaust remembrance day, and the week surrounding this date has been established as the Days of Remembrance.

(3) The legislature declares that the twenty-seventh day of the month of Nisan in the Hebrew calendar shall be Holocaust remembrance day, and that the period beginning on the Sunday before that day through the following Sunday shall be the Days of Remembrance in this state, in memory of the victims of the Holocaust, and in honor of the survivors, as well as the rescuers and liberators.

435.312 Holocaust remembrance; reflection.

Sec. 2. The legislature encourages individuals, educational institutions, and social, community, religious, labor, and business organizations to pause on Holocaust remembrance day and during the Days of Remembrance and reflect upon the terrible events of the Holocaust, so that as a society we will remain vigilant against hatred, persecution, and tyranny and actively rededicate ourselves to the principles of individual freedom in a just society.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 11]

(HB 5009)

AN ACT to amend 1953 PA 192, entitled "An act to create a county department of veterans' affairs in certain counties, and to prescribe its powers and duties; and to transfer the powers and duties of the soldiers' relief commission in such counties," by amending section 1 (MCL 35.621), as amended by 1996 PA 108.

The People of the State of Michigan enact:

35.621 County department of veterans' affairs; creation; administration; committee; appointment, qualifications, and terms of members; vacancies.

Sec. 1. The county board of commissioners may create a county department of veterans' affairs. The department shall be under the administration of a committee of 3 to 5 veterans, appointed by the county board of commissioners, who shall be residents of the county and who have served honorably on active duty in the United States armed forces or who served actively in the United States armed forces in a war or received an armed forces campaign or service medal, to be appointed upon the recommendation of the posts of each chartered veterans' organization within the county. If an opening on a committee of veterans occurs, the county board of commissioners shall provide notice of that opening to 1 or more newspapers within the county and to veteran service organizations within the county. Not more than 2 members shall be representative of a single war or conflict. Notwithstanding the provisions of any law of this state to the contrary, a member of the board of commissioners of a county shall be eligible for appointment. Members appointed by the board of commissioners shall be appointed for a term of 4 years each. However, the terms for members first appointed shall be staggered so that not more than 2 vacancies are scheduled to occur in a single year. Vacancies shall be filled in the same manner as original appointments for the unexpired terms.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 12]

(HB 5129)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1301a, 1303a, 1304, 1304a, 1305, 1307a, 1308, 1309, 1310, 1312, 1313, 1315, 1316, 1317, 1319, 1320, 1321, 1322, 1323, 1324, 1326, 1327, 1328, 1329, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1345, 1346, 1347, 1372, and 1375 (MCL 600.1301a, 600.1303a, 600.1304, 600.1304a, 600.1305, 600.1307a, 600.1308, 600.1309,

600.1310, 600.1312, 600.1313, 600.1315, 600.1316, 600.1317, 600.1319, 600.1320, 600.1321, 600.1322, 600.1323, 600.1324, 600.1326, 600.1327, 600.1328, 600.1329, 600.1331, 600.1332, 600.1333, 600.1334, 600.1335, 600.1336, 600.1337, 600.1338, 600.1339, 600.1340, 600.1341, 600.1342, 600.1343, 600.1345, 600.1346, 600.1347, 600.1372, and 600.1375), sections 1301a, 1304, 1310, 1312, and 1375 as amended by 1986 PA 104 and section 1307a as amended by 2002 PA 739; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.1301a Courts in which selection of juries governed by chapter; exceptions.

Sec. 1301a. (1) Except as provided in subsection (2), this chapter governs the selection of juries in the following courts:

(a) Circuit court.

(b) Probate court.

(c) District court.

(2) Sections 1310, 1311, 1312, 1321(1), 1322, 1323, 1330, 1338, and 1343 do not apply to a court that adopts a method of jury selection described in section 1371.

600.1303a Jury board; oath; filing.

Sec. 1303a. Before members of a jury board begin their duties, they shall take a constitutional oath of office before the chief circuit judge and file it with the county clerk.

600.1304 Selection of jurors; list.

Sec. 1304. The jury board shall select from a list that combines the driver's license list and the personal identification cardholder list the names of persons as provided in this chapter to serve as jurors.

600.1304a Use of electronic and mechanical devices by jury; other method.

Sec. 1304a. (1) The jury board may use electronic and mechanical devices in carrying out its duties under this chapter.

(2) The jury board may use the historic method of preparing separate slips of paper for the second jury list and drawing slips from a jury board box to determine a panel or array of jurors.

600.1305 Jury board; meetings; records; use as evidence.

Sec. 1305. The jury board shall meet annually in the month of May. The chief circuit judge shall fix the time and place of the annual meeting and may direct the board to meet at other times and places. The board may meet at other times and places necessary to carry out its duties. The secretary of the board shall keep a record of the proceedings of the board. The members of the board shall sign the record, attested by the secretary, which record shall then be evidence in all courts and places of the proceedings of the board.

600.1307a Qualifications of juror; exemption; effect of payment for jury service; "felony" defined.

Sec. 1307a. (1) To qualify as a juror a person shall:

(a) Be a citizen of the United States, 18 years of age or older, and a resident in the county for which the person is selected, and in the case of a district court in districts of the second and third class, be a resident of the district.

(b) Be able to communicate in the English language.

(c) Be physically and mentally able to carry out the functions of a juror. Temporary inability shall not be considered a disqualification.

(d) Not have served as a petit or grand juror in a court of record during the preceding 12 months.

(e) Not have been convicted of a felony.

(2) A person more than 70 years of age may claim exemption from jury service and shall be exempt upon making the request.

(3) For the purposes of this section and sections 1371 to 1376, a person has served as a juror if that person has been paid for jury service.

(4) For purposes of this section, "felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

600.1308 Jurors; estimate of number needed.

Sec. 1308. On or before each May 1, the chief judge of each court of record in the county shall estimate the number of jurors that will be needed by their courts for a 1-year period beginning the following September. This estimate shall be entered on the record of the court, and a copy of the estimate shall be certified by the clerk of the court and delivered to the board. In making the estimate, the judge shall consider the number of names available for the period for which the estimate is made.

600.1309 Jurors; list of those who have served.

Sec. 1309. The board shall secure from the clerk of each court of record in the county, and each clerk shall provide, a list of persons who have served as jurors, pursuant to this chapter, in their courts during the preceding 1 year.

600.1310 Voter registration lists and combined driver's license and personal identification cardholder list; procurement; alternatives; costs.

Sec. 1310. (1) The secretary of state shall transmit annually before April 15 to the clerk of each county at no expense a full, current, and accurate copy of a list that combines the driver's license list and personal identification cardholder list pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

(2) If an agency uses electronic or mechanical devices to carry out its duties, the agency may request and receive a copy of the combined driver's license and personal identification cardholder list on any electronically produced medium under specifications prescribed by the secretary of state. The secretary of state shall establish specifications standardizing the size, format, and content of media utilized to transmit information used for jury selection.

600.1312 Key number; first jury list; compilation.

Sec. 1312. The board shall apply the key number uniformly to the names on the list received pursuant to section 1310 and compile a list or card index, to be known as the first jury list, which shall include every name and only those names as the application of the key number has designated. The board shall do this as follows:

(a) Select by a random method a starting number between 0 and the key number.

(b) Count down the list the number of names to reach the starting number. That name shall be placed on the first jury list.

(c) Continue from that name counting down the list, beginning to count again with the number 1, until the key number is reached. That name shall be placed on the first jury list.

(d) Repeat the process provided in subdivision (c) until the whole list has been counted and the names placed on the first jury list.

(e) The board shall then remove from the first jury list the name of any person who its records show served, pursuant to the provisions of this chapter, as a petit or grand juror in any court of record in the county at any time in the preceding 1 year.

600.1313 Juror qualifications questionnaire; contents; completion; mailing; removal of deceased person from list.

Sec. 1313. (1) The board shall supply a juror qualifications questionnaire to persons on the first jury list. This questionnaire shall contain blanks for the information the board desires, concerning qualifications for, and exemptions from, jury service. Persons on the first jury list are required to return the questionnaire fully answered to the jury board within 10 days after it is received.

(2) In any county, the jury questionnaire described in this section and the written summons notice described in section 1332 may be provided together in the same mailing.

(3) If a qualifying questionnaire is returned with an indication by the United States postal service that the person to whom the questionnaire is addressed is deceased, the name of the person shall be removed from the first juror list and that name and circumstance may be forwarded to the local clerk.

600.1315 Juror qualifications questionnaires; retention; confidentiality.

Sec. 1315. The juror qualifications questionnaires shall be kept on file by the board for a period of 3 years but the chief circuit judge may order them to be kept on file for a longer period. The answers to the qualifications questionnaires shall not be disclosed except that the chief circuit judge may order that access be given to the questionnaires and the answers.

600.1316 Jurors; appearance before board; notice; evening sessions.

Sec. 1316. The chief circuit judge, or the board, may require any person on the first jury list to appear before a board member at a specified time, for the purpose of testifying under oath or affirmation concerning his or her qualification to serve as a juror, in addition to completing the questionnaire. Notice shall be given, personally or by mail, to a person required to appear not less than 7 days before he or she is to appear before the board. The board shall hold evening sessions as necessary for the examination of prospective jurors who are unable to attend at other times.

600.1317 Jurors; personal attendance excused.

Sec. 1317. The board may dispense with the personal attendance of a person notified to appear before the board when another person cognizant of facts which will qualify or disqualify the person from service or which prevent the person from appearing is produced and testifies in his or her stead or when a board member has personal knowledge of facts and enters them in the board member's report on that person's qualifications.

600.1319 Record of persons examined.

Sec. 1319. The board shall keep a record of the board member's report on each person examined, and a record showing the qualifications to serve as a juror of each person on the first jury list.

600.1320 Preliminary screening of prospective jurors; excused persons; removal of deceased person's name from list; hardship.

Sec. 1320. (1) The board shall make a preliminary screening of the qualifications and exemptions of prospective jurors and shall not include in the second jury list the names of persons it finds not qualified or exempt; but the court may decide upon the qualifications and exemptions of prospective jurors upon a written application and satisfactory legal proof at any time after the jurors attend court.

(2) If a prospective juror without legal disqualification or exemption applies to the board to be excused from jury service, the jury board may, with the written approval of the chief circuit judge, exclude his or her name from the second jury list when it appears that the interests of the public or of the prospective juror will be materially injured by his or her attendance or the health of the juror or that of a member of his or her family requires his or her absence from court.

(3) If the name of a person who is deceased is selected for jury service, the name shall be removed from the second jury list and that fact may be forwarded to the local clerk.

(4) The trial judge, at his or her discretion, may grant a deferral of jury service to a person if the person claims that serving on the date he or she is called creates a hardship. If the trial judge grants a deferral, the judge shall determine a future date on which the person may serve without hardship, and shall direct the board to call the person on that date.

600.1321 Second jury list; sealing; jurisdiction of district court district.

Sec. 1321. (1) The names of those persons on the first jury list whom the board accepts as persons qualified for and not exempt from jury service shall be compiled into a list to be known as the second jury list. The list shall remain sealed until otherwise ordered by the chief circuit judge.

(2) The board shall make an additional list consisting of the names on the second jury list segregated by the geographical area of the jurisdiction of each district court district. If there are not sufficient names on the segregated list for any district court district, the board shall apply again the key number to that district only and obtain as many additional jurors as needed for that district.

600.1322 Juror names; depositing; withdrawal; record.

Sec. 1322. The first deposit of names shall take place as soon as the second jury list is prepared. Subsequent deposits shall be made when the supply of names is exhausted. An earlier deposit may be ordered by the chief circuit judge. The board shall keep a record of the number of names deposited, and the number withdrawn, and upon request shall inform the chief circuit judge of the number of names remaining. Nothing in this section

affects the validity of a panel of jurors that was drawn for a term of court before the first deposit of names as provided in this section.

600.1323 Names not used; sealing.

Sec. 1323. If the names are not to be immediately used, they shall be sealed up by the board and remain in the custody of the board until additional names are needed or when ordered by the chief circuit judge.

600.1324 Jurors; selection; information; contents; district court district.

Sec. 1324. (1) From time to time, the chief judge of each court of record in the county shall order the board to select jurors for jury service. Each such order shall contain all of the following information:

(a) A time limit within which the selection shall be completed.

(b) The number of jurors to be selected for a panel.

(c) The number of panels to be selected.

(d) The court or courts in which each panel shall serve.

(e) The period of service of each panel, subject to section 1343.

(2) Upon the order of the chief circuit judge, jury panels or parts of jury panels selected for any court in the county may be used for jury selection in any court of record in the county, if jurors on the panel or part of a panel selected for such use are otherwise eligible to serve as jurors in the particular court.

(3) If a city located in more than 1 county is placed entirely within a single district of the district court pursuant to chapter 81, the supreme court by rule shall specify the procedure for compiling the second jury list for that district court district so as to include names and addresses of residents from the parts of the counties which comprise that district.

600.1326 Grand jurors; selection; term.

Sec. 1326. If a grand jury is ordered by the court, or required by statute, the board shall select the names of a sufficient number of persons, as determined by the chief circuit judge, to serve as grand jurors in accordance with the provisions of section 11 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.11. The names shall be selected in the same manner and from the same source as petit jurors. The term of service of grand jurors shall be as prescribed by section 7a of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.7a.

600.1327 Jurors; selection; time; notice; witnesses.

Sec. 1327. The selection of jurors shall take place in public within the time limit fixed by the chief circuit judge and at a time and place designated by the board. At the time and place appointed, the clerk or the clerk's deputy and a judge or an elected official other than the clerk, as designated by the chief judge, shall attend to witness and assist in the selection of jurors.

600.1328 Jurors; selection; procedure.

Sec. 1328. The board shall proceed in the selection of jurors in a random manner as ordered by the chief circuit judge as provided in this section. A board member or an employee of the board shall keep a record of the selection process, listing the names of

jurors selected. If the name of a person is selected who is not qualified to serve as a juror to the knowledge of any member of the board, an entry of this fact shall be made on the record and that person shall be excused. A record of the selection process shall then be signed by the board member and filed in the office of the board. The signature constitutes a certificate that the record is correct and that all provisions of law have been complied with.

600.1329 Selection of jurors; legality; challenges; grounds.

Sec. 1329. (1) The legality or regularity of the selection of jurors shall not be questioned if the record of the selection is properly signed. If the name of any person not qualified to serve as a juror is included in the names selected, this fact shall not be a ground of challenge to the array, but only a ground of personal challenge to the person shown to be so disqualified.

(2) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that the person who selected them was a party or interested in the cause or was counsel or attorney for, or related to, either party in the cause.

(3) If the jurors were selected in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that they were summoned by the sheriff who was a party or interested in the cause, or related to either party in the cause, unless it is alleged in the challenge and satisfactorily shown that some of the jurors selected were not summoned and that this omission was intentional.

600.1331 Lists of jurors; delivery to clerk.

Sec. 1331. The board shall deliver to the clerk lists containing the names and addresses of the jurors selected.

600.1332 Jurors; summons for service; method; record; evidence.

Sec. 1332. The clerk, jury board, or sheriff shall summon jurors for court attendance at such times and in such manner as directed by the chief judge or by the judge to whom the action in which jurors are being called for service is assigned. For a juror's first required court appearance, service shall be by a written notice addressed to the juror at the juror's place of residence as shown by the records of the board, which notice may be by ordinary mail or by personal service. For subsequent service notice may be in any manner directed by the judge. The officer giving notice to jurors shall keep a record of the service of the notice and shall make a return if directed by the court. The return shall be presumptive evidence of the fact of service.

600.1333 Jurors; excuse or postponement of services; application.

Sec. 1333. A person who is notified to attend as a juror may apply to the chief judge of the court to be excused or have his or her term of service postponed on any ground provided in this chapter. He or she may apply in person or by a person capable of making the necessary proof of his or her claim. An entry of the action of the chief judge upon the application and of the reason for that action shall be made on the records of the court.

600.1334 Jurors; temporary excuse; duty to report.

Sec. 1334. (1) The chief judge may excuse any juror or jurors from attendance without pay for any portion of the term. The chief judge shall excuse jurors from attendance on days when it is not expected that they will be required. The chief judge may postpone the service of a juror to a later term of court if the juror has not been called for voir dire examination in any action.

(2) The judge presiding at the trial of an action may excuse jurors from attendance at that trial for cause.

600.1335 Grounds for excusing person from jury service; postponing jury service of student.

Sec. 1335. (1) The chief judge of the court to which a person is returned as a juror may excuse the person from serving when it appears that the interests of the public or of the individual juror will be materially injured by his or her attendance or the health of the juror or that of a member of his or her family requires his or her absence from court.

(2) The chief judge of the court to which a person is returned as a juror shall postpone the person's term of service until the end of the school year if the person is a full-time student enrolled in and attending high school.

600.1336 Jurors; excess; discharge; effect.

Sec. 1336. If the chief judge finds that the number of jurors in attendance is greater than that needed, the chief judge may order the panel or any part of the panel discharged for the balance of its term or excused until a day certain in the term. Any juror discharged, but not excused, under this section is considered to have served his or her term of service but shall receive compensation only for the time of his or her actual service on the panel.

600.1337 Jurors; unqualified or exempt; discharge.

Sec. 1337. When the court finds that a person in attendance at court as a juror is not qualified to serve as a juror, or is exempt and claims an exemption, the court shall discharge him or her from further attendance and service as a juror.

600.1338 Jurors; excused; removal of name from list.

Sec. 1338. When any person is excused from serving on the ground that he or she is exempt by law from serving on juries or is not qualified to serve as a juror, the clerk of the court shall remove the name of that person from the second jury list.

600.1339 Jurors; service postponed; disposition.

Sec. 1339. The chief judge shall report to the board the names of all jurors whose service has been postponed to a subsequent time, and the names shall be placed upon the list of jurors selected for that time.

600.1340 Report of court clerk.

Sec. 1340. The clerk of the court or the clerk's designee, within 10 days after the close of each term for which jurors have been selected, shall certify as follows:

(a) The name and residence of each juror who was excused or discharged by the court, with the reason for the excuse or discharge.

(b) The name and residence of each person notified who did not attend or serve.

(c) The name and residence of each person punished for contempt as provided in this chapter.

600.1341 Additional jurors; procedure.

Sec. 1341. The chief judge of a court may order additional jurors selected by the board for service during the period of service of a jury panel or a part of a panel. A judge of a court of record may order additional jurors selected by the board for immediate service in

a particular case. The order shall specify the number to be selected and the time and place of selection. If additional jurors are needed for immediate service in a particular case, any member of the jury board may conduct the selection if witnessed by the clerk or the clerk's deputy and by the judge ordering the selection. Jurors whose names are so selected shall be given notice to attend court in the manner that the court directs. Additional jurors so selected shall become members of the panel then serving unless otherwise directed by the chief judge.

600.1342 Jurors; new list; court order.

Sec. 1342. If the board fails to meet and return the second jury list at the time prescribed or if any list of jurors becomes exhausted or declared illegal, the chief circuit judge may order the board to meet and make a new list of jurors.

600.1343 Jurors; term of service.

Sec. 1343. The term of service of petit jurors shall be determined by local court rule but shall not exceed the term of court, unless at the end of this period a juror is serving in connection with an unfinished case, in which event the juror shall continue to serve, in that case only, until the case in which he or she is serving is finished. Once commenced, the term of service shall be continuous except as provided in sections 1334 to 1336.

600.1345 Attempts to influence board; report.

Sec. 1345. A board member shall report to the prosecuting attorney and the chief circuit judge the name of any person who in any manner seeks by request, hint, or suggestion to influence the board or its members in the selection of any juror.

600.1346 Acts punishable as contempts.

Sec. 1346. The following acts are punishable by the circuit court as contempts of court:

(a) Failing to answer the questionnaire provided for in section 1313.

(b) Failing to appear before the board or a member of the board, without being excused at the time and place notified to appear.

(c) Refusing to take an oath or affirmation.

(d) Refusing to answer questions pertaining to his or her qualifications as a juror, when asked by a member of the board.

(e) Failing to attend court, without being excused, at the time specified in the notice, or from day to day, when summoned as a juror.

(f) Giving a false certificate, making a false representation, or refusing to give information that he or she can give affecting the liability or qualification of a person other than himself or herself to serve as a juror.

(g) Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person, firm, or corporation for the purpose of enabling himself or herself or another person to evade service or to be wrongfully discharged, exempted, or excused from service as a juror.

(h) Tampering unlawfully in any manner with a jury list or the jury selection process.

(i) Willfully doing or omitting to do an act with the design to subvert the purpose of this act.

(j) Willfully omitting to put on the jury list the name of a person qualified and liable for jury duty.

(k) Willfully omitting to prepare or file a list or slip.

(*l*) Doing or omitting to do an act with the design to prevent the name of a person qualified and liable to serve as a juror from being placed on a jury list or from being selected for service as a juror.

(m) Willfully placing the name of a person upon a list who is not qualified as a juror.

600.1347 Jurors; bribery; penalty; embracery; civil liability.

Sec. 1347. (1) A person selected or summoned as a juror who takes anything to give his or her verdict or receives any gift or gratuity from any party to an action for the trial of which he or she has been selected or summoned is liable to the party aggrieved for actual damages sustained plus 10 times the amount or value of the thing which he or she has taken, in addition to any criminal punishment to which he or she may be subject by law.

(2) An embraceor who procures a person selected or summoned as a juror to take gain or profit as prohibited under subsection (1) is liable to the aggrieved party for the actual damages sustained plus 10 times the amount or value of the thing which was taken.

600.1372 Applicability of MCL 600.1371 to 600.1376; adoption of 1 day, 1 trial jury system.

Sec. 1372. (1) Sections 1371 to 1376 apply only to those districts of the district court, circuits of the circuit court, and county or probate court districts of the probate court that adopt the 1 day, 1 trial jury system.

(2) Any court in this state may adopt a 1 day, 1 trial jury system.

600.1375 Combined driver's license and personal identification cardholder list; first jury list; costs.

Sec. 1375. (1) The secretary of state shall transmit annually, before April 15, to the clerk of each county a full, current, and accurate copy of a list that combines the driver's license and personal identification cardholder lists pertaining to persons residing in the county. At the request of the board before March 1, the secretary of state shall transmit only a first jury list consisting of the names and addresses of persons selected at random, based on the total number of jurors required as submitted to the secretary of state by the board, using electronic or other mechanical devices. Upon request, the secretary of state shall furnish additional lists to any other federal, state, or local governmental agency, other than the clerk of each county, for the purpose of jury selection. An agency which requests and receives a list shall reimburse the secretary of state for actual costs incurred in the preparation and transmittal of the list and all reimbursements shall be deposited in the state general fund.

(2) If an agency uses electronic or mechanical devices to carry out its duties, the agency may request and receive a copy of the combined driver's license and personal identification cardholder list on computer tape or another electronically produced medium under specifications prescribed by the secretary of state. The secretary of state shall establish specifications standardizing the size, format, and content of computer tapes and other media utilized to transmit information used for jury selection.

Repeal of MCL 600.1374.

Enacting section 1. Section 1374 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1374, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect June 1, 2004.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 13]

(HB 5179)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending section 662 (MCL 168.662), as amended by 1999 PA 216.

The People of the State of Michigan enact:

168.662 Designating place of holding election in city, village, or township; polling places; use of publicly owned or controlled buildings; rental or erection of buildings; facilities; central polling places; abolishment; compliance with voting accessibility.

Sec. 662. (1) The legislative body in each city, village, and township shall designate and prescribe the place or places of holding an election for a city, village, or township election, and shall provide a suitable polling place in or for each precinct located in the city, village, or township for use at each election. Except as otherwise provided in this section, school buildings, fire stations, police stations, and other publicly owned or controlled buildings shall be used as polling places. If it is not possible or convenient to use a publicly owned or controlled building as a polling place, the legislative body of the city, township, or village may use as a polling place a building owned or controlled by an organization that is exempt from federal income tax as provided by section 501(c) other than 501(c)(4), (5), or (6) of the internal revenue code of 1986, or any successor statute. The legislative body of a city, township, or village shall not designate as a polling place a building that is owned by a person who is a sponsor of a political committee or independent committee. A city, township, or village shall not use as a polling place a building that does not meet the requirements of this section. As used in this subsection, "sponsor of a political committee or independent committee" means a person who is described as being a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224, and includes a subsidiary of a corporation or a local of a labor organization, if the corporation or labor organization is considered a sponsor under section 24(3) of the Michigan campaign finance act, 1976 PA 388, MCL 169.224.

(2) The legislative body in each city, village, and township shall make arrangements for the rental or erection of suitable buildings for use as polling places if publicly owned or controlled buildings are not available, and shall have the polling places equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation. The legislative body may establish a central polling place or places for 6 precincts or less if it is possible and convenient for the electors to vote at the central polling place. The legislative body may abolish other polling places not required as a result of the establishment of a central polling place.

(3) The legislative body of a city, village, or township may establish a polling place at a for profit or nonprofit residence or facility in which 150 persons or more aged 62 or older reside or at an apartment building or complex in which 150 persons or more reside. A township board may provide polling places located within the limits of a city that has been incorporated from territory formerly a part of the township, and the electors of the township may cast their ballots at those polling places. If 2 contiguous townships utilize a combined township hall or other publicly owned or controlled building within 1 of the township's boundaries and outside of the other township's boundaries, and there is not another publicly owned or controlled building or a building owned or controlled by an organization that is exempt from federal income tax, as provided by section 501(c), other than 501(c)(4), (5), or (6), of the internal revenue code of 1986, available or suitable for a polling place within the other township, then each township board may provide a polling place in that publicly owned building for 1 or more election precinct.

(4) The legislative body of a city, village, or township shall not establish, move, or abolish a polling place less than 60 days before an election unless necessary because a polling place has been damaged, destroyed, or rendered inaccessible or unusable as a polling place.

(5) The legislative body of a city, village, or township shall ensure that a polling place established under this section complies with the voting accessibility for the elderly and handicapped act, 42 USC 1973ee to 1973ee-6.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 14]

(SB 826)

AN ACT to repeal 1903 LA 540, entitled "An act to establish a board of county auditors for the county of Saginaw and to prescribe their powers and duties.".

The People of the State of Michigan enact:

Repeal of 1903 LA 540.

Enacting section 1. 1903 LA 540 is repealed.

This act is ordered to take immediate effect.
Approved February 26, 2004.
Filed with Secretary of State February 26, 2004.

[No. 15]

(SB 801)

AN ACT to amend 1899 PA 44, entitled "An act to provide for the publication and distribution of publications, laws, and documents, reports of the several officers, boards of officers and public institutions of this state now or hereafter to be published; to provide for the replacing of publications lost by fire or otherwise; to provide for the publication and distribution of the Michigan manual; to provide for duties of certain state and local government departments and agencies; to establish certain funds; and to provide for certain penalties and remedies," by amending section 2 (MCL 24.2), as amended by 1995 PA 179.

The People of the State of Michigan enact:

24.2 Public and local acts; publication; publication of additional copies; deposit of copies with department of management and budget; reprints of laws; publishing laws relating to revenues of state; "publication" or "published" defined.

Sec. 2. (1) The legislative service bureau, at the direction of the legislative council, shall publish at least 1 print copy of the publication containing the public and local acts of each session of the legislature. The legislative service bureau shall also make the publication containing the public and local acts of each session of the legislature available on the internet.

(2) There may be published additional copies of the public and local acts as the legislative service bureau, upon the direction of the legislative council, considers necessary. Unless otherwise directed by the legislative service bureau, these copies shall be deposited with the department of management and budget for sale and future distribution.

(3) The legislative service bureau may prepare, at not less than the actual cost, reprints of laws upon particular subjects for printing and distribution. The department of treasury shall publish and distribute all pamphlets of the general tax law or of all other laws relating to the revenues of the state.

(4) As used in this section, "publication" or "published" means the production and dissemination of information in print, microfilm, microfiche, or electronic form.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 16]

(SB 275)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent

physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 6 (MCL 125.2686), as amended by 2003 PA 93.

The People of the State of Michigan enact:

125.2686 Renaissance zone review board; duties; prohibitions; modifications.

Sec. 6. (1) The board shall review all recommendations submitted by the review board and determine which applications meet the criteria contained in section 7.

(2) The board shall do all of the following:

(a) Designate renaissance zones.

(b) Subject to subsection (3), approve or reject the duration of renaissance zone status.

(c) Subject to subsection (3), approve or reject the geographic boundaries and the total area of the renaissance zone as submitted in the application.

(3) The board shall not alter the geographic boundaries of the renaissance zone or the duration of renaissance zone status described in the application unless the qualified local governmental unit or units and the local governmental unit or units in which the renaissance zone is to be located consent by resolution to the alteration.

(4) The board shall not designate a renaissance zone under section 8 before November 1, 1996 or after December 31, 1996.

(5) The designation of a renaissance zone under this act shall take effect on January 1 in the year following designation. However, for purposes of the taxes exempted under section 9(2), the designation of a renaissance zone under this act shall take effect on December 31 in the year of designation.

(6) The board shall not designate a renaissance zone under section 8a after December 31, 2002.

(7) Through December 31, 2002, a qualified local governmental unit in which a renaissance zone was designated under section 8 or 8a may modify the boundaries of that renaissance zone to include contiguous parcels of property as determined by the qualified local governmental unit and approval by the review board. The additional contiguous parcels of property included in a renaissance zone under this subsection do not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcels of property shall become part of the original renaissance zone on the same terms and conditions as the original designation of that renaissance zone.

(8) Notwithstanding any other provisions of this act, before July 1, 2004, a qualified local governmental unit in which a renaissance zone was designated under section 8a(1) as a renaissance zone located in a rural area may modify the boundaries of that renaissance zone to include a contiguous parcel of property as determined by the qualified local governmental unit. The contiguous parcel of property shall only include property that is less than .5 acres in size and that the qualified local governmental unit previously sought to have included in the zone by submitting an application in February 2002 that was not acted upon by the review board. The additional contiguous parcel of property included in a renaissance zone under this subsection does not constitute an additional distinct geographic

area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcel of property shall become part of the original renaissance zone on the same terms and conditions as the rest of the property in that renaissance zone.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 17]

(SB 780)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," by amending section 2 (MCL 125.2152), as amended by 2003 PA 20.

The People of the State of Michigan enact:

125.2152 Definitions.

Sec. 2. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a local development finance authority created pursuant to this act.

(d) "Authority district" means an area or areas within which an authority exercises its powers.

(e) "Board" means the governing body of an authority.

(f) "Business development area" means an area designated as a certified industrial park under this act prior to the effective date of the amendatory act that added this

subdivision, or an area designated in the tax increment financing plan that meets all of the following requirements:

(*i*) The area is zoned to allow its use for eligible property.

(*ii*) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(g) "Business incubator" means real and personal property that meets all of the following requirements:

(*i*) Is located in a certified technology park.

(*ii*) Is subject to an agreement under section 12a.

(*iii*) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (p)(*iii*).

(h) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (cc), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(i) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(j) "Certified technology park" means that portion of the authority district designated by a written agreement entered into pursuant to section 12a between the authority, the municipality, and the Michigan economic development corporation.

(k) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(*l*) "Development plan" means that information and those requirements for a development set forth in section 15.

(m) "Development program" means the implementation of a development plan.

(n) "Eligible advance" means an advance made before August 19, 1993.

(o) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(p) "Eligible property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(*i*) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(*ii*) Agricultural processing.

(*iii*) A high technology activity.

(*iv*) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.

(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(*v*) A business incubator.

(q) "Fiscal year" means the fiscal year of the authority.

(r) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(s) "High technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(t) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (cc).

(u) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(v) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(w) "Municipality" means a city, village, or urban township.

(x) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(y) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(z) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*) or (*iii*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority

before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An ongoing management or professional services contract with the governing body of a county that was entered into before March 1, 1994 and that was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(aa) "Public facility" means 1 or more of the following:

(*i*) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph shall be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge shall be continuously open to public access. A public facility shall be located on public property or in a public, utility, or transportation easement or right-of-way.

(*ii*) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(*iii*) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (*i*) and (*iv*), including, but not limited to, architect's, engineer's, legal, and accounting fees as permitted by the district's development plan.

(*iv*) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(*v*) All of the following costs approved by the Michigan economic development corporation:

(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986 for a business incubator located in a certified technology park.

(B) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (p)(*iii*), that are owned by a public entity, and that are located within a certified technology park.

(*vi*) Operating and planning costs included in a plan pursuant to section 12(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

(bb) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (ee)(*ii*) and the distributions under section 11a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (ee)(*ii*) and the distributions under section 11a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(cc) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(dd) "State fiscal year" means the annual period commencing October 1 of each year.

(ee) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions, other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts, upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), for the following purposes:

(A) To repay eligible advances, eligible obligations, and other protected obligations.

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park to the extent the public facilities have been included in an agreement under section 12a(3), not to exceed 50%, as determined by the state treasurer,

of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment financing authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this act.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 13(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

(ff) "Urban township" means a township that meets 1 or more of the following:

(*i*) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(*ii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(*iii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized value for all real and personal property located in the township of more than $200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

(*iv*) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

(*v*) Meets all of the following requirements:

(A) Is located in a county with a population of 1,000,000 or more.

(B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.

(C) Has a master plan in effect.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 18]

(HB 5183)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within

certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," (MCL 400.1 to 400.119b) by adding section 18e.

The People of the State of Michigan enact:

400.18e State plan for foster care; focus groups; establishment; funds.

Sec. 18e. (1) The family independence agency shall establish and administer a state plan for foster care according to the provisions of part E of title IV of the social security act, 42 USC 670 to 679b. The state plan shall include programs and services that promote, implement, and support foster care focus groups. When developing and annually reviewing the state plans to carry out foster care policy and services, the family independence agency shall utilize input from locally-based foster care focus groups.

(2) Foster care focus groups shall be composed of youth in foster care or independent living programs, youth previously in foster care, foster parents or relatives caring for youth in foster care, and adults previously in foster care or independent living programs. The majority of the focus group consists of youth in foster care or independent living programs.

(3) In order to inform the legislature, the executive office, the judiciary, and the public of the needs and interests of youth in foster care, foster parents, and relatives caring for youth in foster care, the foster care focus groups are encouraged to be established in both of the following:

(a) Licensed child placing agencies with which the family independence agency contracts for youth foster care services that have an annual average daily foster care caseload of 150 or more cases or that derives more than 50% of its operating budget from contracts with the family independence agency for youth foster care services.

(b) Counties in which the family independence agency has an annual average daily foster care caseload of 150 or more cases.

(4) State and federal funds appropriated to implement state plans in compliance with part E of title IV of the social security act, 42 USC 670 to 679b and state laws may be used to meet the provisions of this section.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 19]

(HB 4887)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways

of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 2 (MCL 257.2), as amended by 1997 PA 8.

The People of the State of Michigan enact:

257.2 "Authorized emergency vehicle" defined.

Sec. 2. "Authorized emergency vehicle" means any 1 of the following:

(a) Vehicles of the fire department, police vehicles, ambulances, or privately owned motor vehicles of volunteer or paid fire fighters if authorized by the chief of an organized fire department, or privately owned motor vehicles of volunteer or paid members of a life support agency licensed by the department of consumer and industry services if authorized by the life support agency.

(b) For purposes of section 698(5)(c) during an emergency, a vehicle owned and operated by a federally recognized nonprofit charitable organization that is used exclusively for assistance during that emergency.

(c) For purposes of section 653a, a road service vehicle giving a visual signal by means of a flashing, rotating, or oscillating red or amber light. As used in this subdivision, "road service vehicle" means a vehicle that is clearly marked and readily recognizable as a vehicle used to assist disabled vehicles.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after it is enacted.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 20]

(SB 681)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations;

to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 11a to chapter VI.

The People of the State of Michigan enact:

CHAPTER VI

766.11a Expert testimony; conduct by telephonic, voice, or video conferencing.

Sec. 11a. On motion of either party, the magistrate may permit the testimony of an expert witness or, upon a showing of good cause, any witness to be conducted by means of telephonic, voice, or video conferencing.

This act is ordered to take immediate effect.
Approved March 4, 2004.
Filed with Secretary of State March 4, 2004.

[No. 21]

(SB 512)

AN ACT to amend 1986 PA 255, entitled "An act to regulate the sale and providing of certain funeral goods or funeral services; to regulate the use of funds received by sellers and providers of funeral goods or services; to prescribe powers and duties of the departments of licensing and regulation, mental health, and social services and certain other state and local officers; to provide for the promulgation of rules and establishment of fees; and to provide certain penalties and remedies," by amending the title and sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, 21, 22, 23, and 24 (MCL 328.211, 328.213, 328.214, 328.215, 328.216, 328.217, 328.218, 328.219, 328.220, 328.221, 328.222, 328.223, 328.225, 328.226, 328.228, 328.229, 328.230, 328.231, 328.232, 328.233, and 328.234), section 19 as amended by 2002 PA 325.

The People of the State of Michigan enact:

TITLE

An act to regulate the sale and providing of funeral and cemetery merchandise and services and other related interests; to regulate the use of funds received by sellers and providers of certain merchandise, funeral and cemetery services, land or interests in land, and related other interests; to prescribe certain powers and duties of certain departments and certain other state and local officers; to provide for the promulgation of rules and establishment of fees; and to provide for penalties and remedies.

328.211 Short title.

Sec. 1. This act shall be known and may be cited as the "prepaid funeral and cemetery sales act".

328.213 Definitions; B to D.

Sec. 3. As used in this act:

(a) "Burial right" means a right of earth interment.

(b) "Casket" means any box or container consisting of 1 or more parts in which a dead human body is placed before interment, entombment, or cremation that may or may not be permanently interred, entombed, or cremated with the dead human body. Casket includes a permanent interment or entombment receptacle designed or intended for use without a vault.

(c) "Catafalque" means an ornamental or decorative object or structure placed beneath, over, or around a casket, vault, or a dead human body before final disposition of the dead human body.

(d) "Cemetery" means 1, or a combination of more than 1, of the following:

(*i*) A burial ground for earth interments.

(*ii*) A mausoleum for crypt entombments.

(*iii*) A crematory for the incineration of human remains.

(*iv*) A columbarium for the inurnment of cremated remains.

(e) "Cemetery burial vault or other outside container" means a box or container used solely at the place of interment to permanently surround or enclose a casket and to support the earth above the casket after burial. Cemetery burial vault or other outside container does not include a catafalque, a combination unit, or any product designed or intended to be used with a catafalque or combination unit.

(f) "Cemetery merchandise" means merchandise described in section 4(1)(k)(*i*).

(g) "Cemetery services" means cremations, grave openings and closings, and installation of grave memorials.

(h) "Columbarium" means a building or other aboveground structure that is affixed to land and is a permanent repository for cremated human remains.

(i) "Combination unit" means any product consisting of a unit or a series of units designed or intended to be used together as both a casket and as a permanent burial receptacle.

(j) "Consideration" or "contract price" means money and other property to be paid as total compensation to a contract seller or provider for the funeral or cemetery services or merchandise, or both, to be performed or furnished under a prepaid contract, late payment penalties, payments required to be made to a governmental agency at the time the contract is entered into, and income earned on the funds. Money paid for the services to be performed under a prepaid contract may be paid in a lump sum or in installments.

(k) "Contract beneficiary" means an individual specified or implied in a prepaid contract for whom the funeral or cemetery services or merchandise shall be performed or furnished after death.

(*l*) "Contract buyer" means an individual, including a contract beneficiary, who purchases merchandise or funeral or cemetery services pursuant to a prepaid contract.

(m) "Contract seller" means a person who sells, makes available, or provides prepaid contracts.

(n) "Crypt" means a chamber in a mausoleum of sufficient size to entomb the uncremated remains of a deceased person.

(o) "Department" means the department of labor and economic growth.

328.214 Definitions; D to M.

Sec. 4. (1) As used in this act:

(a) "Depository" means a state or nationally chartered bank or state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government under the laws of this state or the United States. Depository includes the trust department, if any, of an entity referred to in this subsection.

(b) "Detroit consumer price index" means the index for all urban wage earners for the Detroit statistical area from the United States department of labor, bureau of labor statistics.

(c) "Escrow agent" means a person who holds, invests, and disburses principal and income from the funds received under a prepaid contract.

(d) "Funds" means all money or other consideration actually received from a contract buyer by a contract seller or provider or an assignee from the contract buyer in connection with any aspect of the sale of a prepaid contract, including finance charges, but does not include late payment penalties, payments required to be made to a governmental agency at the time the contract is entered into, or a commission authorized by section 12(1).

(e) "Funeral services" means services customarily performed by a mortuary science licensee who is licensed pursuant to article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812. Funeral services include, but are not limited to, care of dead human remains, embalming, preparation of dead human remains for final disposition, professional services relating to a funeral or an alternative to a funeral or final disposition of dead human remains, transportation of dead human remains, limousine services, use of facilities or equipment for viewing dead human remains, visitation, memorial services, or services which are used in connection with a funeral or alternative to a funeral, coordinating or conducting funeral rites or ceremonies, cremations, and other services provided in connection with a funeral, alternative to a funeral, or final disposition of dead human remains.

(f) "Grave memorial" means a stone or other structure or item used for the purpose of memorializing a decedent and placed on or in proximity to a place of burial, interment, or entombment of a casket, catafalque, or vault or on or in proximity to a place of inurnment.

(g) "Guaranteed price contract" means a prepaid contract under which funds received are held pursuant to an escrow agreement. A guaranteed price contract has a guaranteed fixed price for which specified merchandise or funeral or cemetery services are required to be sold to or made available for a contract buyer or for a contract beneficiary, regardless of the cost or value of the merchandise or funeral or cemetery services at the time of death of the contract beneficiary. Under the guaranteed price contract, additional consideration is not charged for the originally contracted for merchandise or funeral or cemetery services at the time of delivery of the merchandise or funeral and cemetery services.