The People of the State of Michigan enact:

324.3112a Discharge of untreated sewage from sewer system; notification; duties of municipality; legal action by state not limited; penalties and fines; definitions.

Sec. 3112a. (1) Except for sewer systems described in subsection (8), if untreated sewage or partially treated sewage is directly or indirectly discharged from a sewer system onto land or into the waters of the state, the person responsible for the sewer system shall immediately, but not more than 24 hours after the discharge begins, notify the department; local health departments as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105; a daily newspaper of general circulation in the county or counties in which a municipality notified pursuant to subsection (4) is located; and a daily newspaper of general circulation in the county in which the discharge occurred or is occurring of all of the following:

(a) Promptly after the discharge starts, by telephone or in another manner required by the department, that the discharge is occurring.

(b) At the conclusion of the discharge, in writing or in another manner required by the department, all of the following:

(*i*) The volume and quality of the discharge as measured pursuant to procedures and analytical methods approved by the department.

(*ii*) The reason for the discharge.

(*iii*) The waters or land area, or both, receiving the discharge.

(*iv*) The time the discharge began and ended as measured pursuant to procedures approved by the department.

(*v*) Verification of the person's compliance status with the requirements of its national pollutant discharge elimination system permit or groundwater discharge permit and applicable state and federal statutes, rules, and orders.

(2) Upon being notified of a discharge under subsection (1), the department shall promptly post the notification on its website.

(3) Each time a discharge to surface waters occurs under subsection (1), the person responsible for the sewer system shall test the affected waters for E. coli to assess the risk to the public health as a result of the discharge and shall provide the test results to the affected local county health departments and to the department. The testing shall be done at locations specified by each affected local county health department but shall not exceed 10 tests for each separate discharge event. The requirement for this testing may be waived by the affected local county health department if the affected local county health department determines that such testing is not needed to assess the risk to the public health as a result of the discharge event.

(4) A person responsible for a sewer system that may discharge untreated sewage or partially treated sewage into the waters of the state shall annually contact each municipality whose jurisdiction contains waters that may be affected by the discharge. If those contacted municipalities wish to be notified in the same manner as provided in subsection (1), the person responsible for the sewer system shall provide that notification.

(5) A person who is responsible for a discharge of untreated sewage or partially treated sewage from a sewer system into the waters of the state shall comply with the requirements of its national pollutant discharge elimination system permit or groundwater discharge permit and applicable state and federal statutes, rules, and orders.

(6) This section does not authorize the discharge of untreated sewage or partially treated sewage into the waters of the state or limit the state from bringing legal action as otherwise authorized by this part.

(7) The penalties and fines provided for in section 3115 apply to a violation of this section.

(8) For sewer systems that discharge to the groundwater via a subsurface disposal system, that do not have a groundwater discharge permit issued by the department, and the discharge of untreated sewage or partially treated sewage is not to surface waters, the person responsible for the sewer system shall notify the local health department in accordance with subsection (1)(a) and (b), but the requirements of subsections (2), (3), (4), and (5) do not apply.

(9) As used in this section:

(a) “Partially treated sewage” means any sewage, sewage and storm water, or sewage and wastewater, from domestic or industrial sources that meets 1 or more of the following:

(*i*) Is not treated to national secondary treatment standards for wastewater or that is treated to a level less than that required by the person’s national pollutant discharge elimination system permit.

(*ii*) Is treated to a level less than that required by the person’s groundwater discharge permit.

(*iii*) Is found on the ground surface.

(b) “Sewer system” means a public or privately owned sewer system designed and used to convey or treat sanitary sewage or sanitary sewage and storm water. Sewer system does not include an on-site wastewater treatment system serving 1 residential unit or duplex.

(c) “Surface water” means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

(*i*) The Great Lakes and their connecting waters.

(*ii*) Inland lakes.

(*iii*) Rivers.

(*iv*) Streams.

(*v*) Impoundments.

(*vi*) Open drains.

(*vii*) Other surface bodies of water.

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

[No. 73]

(HB 5087)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1179 (MCL 380.1179), as added by 2000 PA 10.

The People of the State of Michigan enact:

380.1179 Use of inhaler permitted; conditions; liability; extra inhaler; notice to classroom teachers; definitions.

Sec. 1179. (1) If the conditions prescribed in subsection (2) are met, notwithstanding any school or school district policy to the contrary, a pupil of a public school or nonpublic school may possess and use 1 or more of the following at school, on school-sponsored transportation, or at any activity, event, or program sponsored by or in which the pupil's school is participating:

(a) A metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms or for use before exercise to prevent the onset of asthmatic symptoms.

(b) An epinephrine auto-injector or epinephrine inhaler to treat anaphylaxis.

(2) Subsection (1) applies to a pupil if all of the following conditions are met:

(a) The pupil has written approval to possess and use the inhaler or epinephrine auto-injector as described in subsection (1) from the pupil's physician or other health care provider authorized by law to prescribe an inhaler or epinephrine auto-injector and, if the pupil is a minor, from the pupil's parent or legal guardian.

(b) The principal or other chief administrator of the pupil's school has received a copy of each written approval required under subdivision (a) for the pupil.

(c) There is on file at the pupil's school a written emergency care plan that contains specific instructions for the pupil's needs, that is prepared by a physician licensed in this state in collaboration with the pupil and the pupil's parent or legal guardian, and that is updated as necessary for changing circumstances.

(3) A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being prohibited by an employee of the school or school district from using an inhaler or epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) had not been satisfied. A school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a pupil being permitted by an employee of the school or school district to use or possess an inhaler or epinephrine auto-injector because of the employee's reasonable belief formed after a reasonable and ordinary inquiry that the conditions prescribed in subsection (2) had been satisfied. This subsection does not eliminate, limit, or reduce any other immunity or defense that a school district, nonpublic school, member of a school board, director or officer of a nonpublic school, or employee of a school district or nonpublic school may have under section 1178 or other state law.

(4) As part of its general powers, a school district may request a pupil's parent or legal guardian to provide an extra inhaler or epinephrine auto-injector to designated school

personnel for use in case of emergency. A parent or legal guardian is not required to provide an extra inhaler or epinephrine auto-injector to school personnel.

(5) A principal or other chief administrator who is aware that a pupil is in possession of an inhaler or epinephrine auto-injector pursuant to this section shall notify each of the pupil's classroom teachers of that fact and of the provisions of this section.

(6) As used in this section:

(a) "School board" includes a school board, intermediate school board, or the board of directors of a public school academy.

(b) "School district" includes a school district, intermediate school district, or public school academy.

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

[No. 74]

(SB 635)

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 21311 (MCL 333.21311), as amended by 1984 PA 311.

The People of the State of Michigan enact:

333.21311 License required; use of "home for aged" or similar term or abbreviation; minimum age for admission; waiver of age limitation; documentation; determination by director.

Sec. 21311. (1) A home for the aged shall be licensed under this article.

(2) "Home for the aged" or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless the health facility or agency is licensed as a home for the aged by the department under this article.

(3) Except as otherwise provided in this subsection, a home for the aged shall not admit an individual under 60 years of age. Upon the request of a home for the aged and subject to subsection (4), the director shall waive the age limitation imposed by this subsection if the individual, the individual's guardian or other legal representative, if appointed, and the owner, operator, and governing body of the home for the aged, upon consultation with the individual's physician, agree on each of the following:

(a) The home for the aged is capable of meeting all of the individual's medical, social, and other needs as determined in the individual's plan of service.

(b) The individual will be compatible with the other residents of that home for the aged.

(c) The placement in that home for the aged is in the best interests of the individual.

(4) The owner, operator, and governing body of the home for the aged shall submit, with its request for a waiver, documentation to the director that supports each of the points of agreement necessary under subsection (3). Within 5 days after receipt of the information required under this subsection, the director shall determine if that documentation collectively substantiates each of the points of agreement necessary under subsection (3) and approve or deny the waiver. If denied, the director shall send a written notice of the denial and the reasons for denial to the requesting party.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 75]

(SB 1014)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 36202 (MCL 324.36202), as added by 2000 PA 262.

The People of the State of Michigan enact:

324.36202 Agricultural preservation fund; creation; disposition; money remaining in fund; expenditures.

Sec. 36202. (1) The agricultural preservation fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including federal funds, other state revenues, gifts, bequests, and other donations. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) Money in the fund may be expended, upon appropriation, following approval of the board and the commission, as follows:

(a) Not more than $900,000.00 annually for the administrative costs of the department and the board in implementing this part and part 361. However, if deposits into the fund during any given fiscal year exceed $11,250,000.00, up to 8% of the deposits may be expended for administrative costs pursuant to this subdivision.

(b) After expenditures for the administrative costs under subdivision (a), money in the fund may be used to provide grants to local units of government pursuant to section 36203.

(c) After expenditures under subdivisions (a) and (b) have been made, if the amount of money remaining in the fund exceeds $5,000,000.00, money in the fund may be used pursuant to part 361 for the purchase of development rights to farmland or the acquisition of agricultural conservation easements.

(5) Expenditures of money in the fund as provided in this part are consistent with the state's interest in preserving farmland and are declared to be for an important public purpose.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 76]

(SB 1016)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1539 (MCL 380.1539), as added by 1988 PA 339.

The People of the State of Michigan enact:

380.1539 Teacher-administrator preparation and certification fund; establishment; administration; deposit of fees; receipt of revenue; expenditures; carryover of unexpended money; transfer to general fund.

Sec. 1539. (1) A teacher-administrator preparation and certification fund is established in the department of treasury to be administered by the department of education.

(2) The department of education shall receive and forward to the state treasurer for deposit in the teacher-administrator preparation and certification fund all fees collected under section 1538. The teacher-administrator preparation and certification fund may receive as revenue money from any other source, as appropriated by the legislature.

(3) The revenue in the teacher-administrator preparation and certification fund shall be expended for the operation of the teacher preparation and certification program and the administrator preparation and certification program and for teacher and administrator professional development and other quality-related activities.

(4) Money in the teacher-administrator preparation and certification fund that is unexpended at the end of the state fiscal year shall be carried over to the succeeding state fiscal year, shall not revert to the general fund, and shall be expended as provided in subsection (3).

(5) For the state fiscal year ending September 30, 2004, $1,000,000.00 is transferred from the teacher-administrator preparation and certification fund to the unappropriated balance of the general fund for the state fiscal year ending September 30, 2004.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 77]

(SB 1019)

AN ACT to amend 1971 PA 140, entitled “An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties,” by amending sections 11 and 13 (MCL 141.911 and 141.913), as amended by 2003 PA 168.

The People of the State of Michigan enact:

141.911 Payments to counties from state income tax collections; time and basis; payments to counties based on sales tax collections.

Sec. 11. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of management and budget shall cause to be paid during each August, November, February, and May, to counties on a per capita basis the collections from the state income tax as certified by the department of treasury for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to and retention by counties.

(2) For state fiscal years beginning after September 30, 1992 and ending before October 1, 1996, the collections from the state income tax otherwise available for distribution to counties in November for the quarter period ending the prior September 30 shall be increased by $35,900,000.00 and the collections from the state income tax otherwise available for distribution to counties in August for the quarter period ending the prior June 30 shall be decreased by $35,900,000.00.

(3) For the 1996-1997 and 1997-1998 state fiscal years, the department of treasury shall cause to be paid to counties on a per capita basis an amount equal to 24.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a. Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause to be paid to counties all of the following:

(a) Except as provided in subdivision (c), an amount equal to the amount the county was eligible to receive under section 12a in the 1997-1998 state fiscal year.

(b) Except as provided in subdivision (c), an amount equal to 25.06% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made minus the amount determined under subdivision (a) which shall be distributed on a per capita basis. If the amount appropriated under this section to counties is less than 25.06% of 21.3% of the sales tax rate of 4%, any reduction made necessary by this appropriation in distributions to counties shall first be applied to the distribution under this subdivision.

(c) For the 2002-2003 state fiscal year only, each county shall receive the lesser of 96.5%, or the percentage determined under this subdivision, of the amount that the county would have received if the total available for distribution under subdivisions (a) and (b) were $211,549,002.00. The total amount available for distribution to all counties under this subdivision shall not exceed $204,144,787.00. For the 2002-2003 state fiscal year, the percentage under this subdivision shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, each county shall receive the lesser of 92%, or the percentage determined under this subdivision, of the amount distributed to the county under this subsection for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subdivision shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08.

(4) After September 30, 2007, 25.06% of 21.3% of the sales tax collections at a rate of 4% shall be distributed to counties as provided by law.

(5) The payments under subsection (3) shall be made from revenues collected during the state fiscal year in which the payments are made and shall be made during each October, December, February, April, June, and August. Payments shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a. For state fiscal years after the 1995-1996 state fiscal year, the collections from the sales tax otherwise available for distribution to counties under subsection (3) in December shall be increased by $17,000,000.00 and the collections from the sales tax otherwise available for distribution to counties under subsection (3) in April shall be decreased by $17,000,000.00.

(6) The department of treasury may withhold all or a portion of payments under this section to a county that has not timely furnished the statement required under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751, or distributed an industrial facilities tax as required under 1974 PA 198, MCL 207.551 to 207.572, or the specific tax as required under section 21b of the enterprise zone act, 1985 PA 224, MCL 125.2121b. Before withholding all or a portion of the payments under this section to a county, the

department shall inform the county in writing of the intent to withhold payments and offer an opportunity for an informal conference on the matter.

141.913 Payments to cities, villages, and townships from state income tax and single business tax; payments based on sales tax collections; population more than or less than 750,000; limitations; distributions; payment dates; annual appropriation by legislature; withholding payments.

Sec. 13. (1) This subsection and subsection (2) apply to distributions to cities, villages, and townships during the state fiscal years before the 1996-1997 state fiscal year of collections from the state income tax and single business tax. Except as otherwise provided in subsection (2), the department of treasury shall cause to be paid to each city, village, and township its share, computed in accordance with the tax effort formula, of the following revenues:

(a) During each August, November, February, and May, the collections from the state income tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(b) The amount of the collections from the single business tax available for distribution to cities, villages, and townships under former section 136 of the single business tax act, 1975 PA 228.

(2) The amount of collections of the state income tax otherwise available for distribution to cities, villages, and townships in November, February, and May, computed in accordance with the tax effort formula, shall be increased by $22,600,000.00. The amount of collections otherwise available for distribution to cities, villages, and townships in August, computed in accordance with the tax effort formula, shall be decreased by $67,800,000.00.

(3) This subsection applies to distributions to cities, villages, and townships for the 1996-1997 state fiscal year. The department shall cause to be paid in accordance with the tax effort formula an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a.

(4) The department of treasury shall cause to be paid during the 1997-1998 state fiscal year an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a, both of the following:

(a) To each city, village, and township, the amount of collections distributed under subsection (3) to cities, villages, and townships for the 1996-1997 state fiscal year or its pro rata share of the collections if the collections are less than the amount of collections distributed under subsection (3) for the 1996-1997 state fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed using the tax effort formula.

(b) To each city, village, and township its share of the collections to the extent the total collections available for distribution under this subsection exceed the amount distributed to cities, villages, and townships under subdivision (a) for the fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed on a per capita basis.

(5) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause distributions determined under subsections (6) to (13) to be paid to each city, village, and township from an amount equal to 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made. After September 30, 2007, 74.94% of 21.3% of sales tax collections at a rate of 4% shall be distributed to cities, villages, and townships as provided by law.

(6) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, except for the 2002-2003 and 2003-2004 state fiscal years, and except as otherwise provided in subsection (15), the department of treasury shall cause to be paid $333,900,000.00 to a city with a population of 750,000 or more as the total combined distribution under this act and section 10 of article IX of the state constitution of 1963 as annualized for any period of less than 12 months to that city. For the 2002-2003 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of $322,213,500.00 or $333,900,000.00 multiplied by the percentage as determined under this subsection. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 92%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08.

(7) Except as otherwise provided in this subsection, distributions under subsections (8) to (13) to cities, villages, and townships with populations of less than 750,000 shall be made from the amount available for distribution under this section that remains after the distribution under subsection (6) is made. For the 2002-2003 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive the lesser of 96.5%, or the percentage determined under this subsection, of the amount that the city, village, or township would have received if the total available for distribution under subsections (8) to (13) were $363,069,728.00 and the total available for distribution under section 10 of article IX of the state constitution of 1963 were $607,125,488.00. The total amount available for distribution to all cities, villages, and townships under this subsection shall not exceed $936,238,383.00. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive an amount equal to the lesser of 92%, or the percentage determined under this subsection, of the amount distributed to the city, village, or township under this subsection and section 10 of article IX of the state constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08. The amount of the adjustment under this subsection shall be accomplished by reducing the payments under subsections (8) to (13), and payments under section 10 of article IX shall not be reduced based on any adjustments made under this subsection.

(8) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, for cities, villages, and townships with populations of less than 750,000, subject to the limitations under this section, a taxable value payment shall be made to each city, village, and township determined as follows:

(a) Determine the per capita taxable value for each city, village, and township by dividing the taxable value of that city, village, or township by the population of that city, village, or township.

(b) Determine the statewide per capita taxable value by dividing the total taxable value of all cities, villages, and townships by the total population of all cities, villages, and townships.

(c) Determine the per capita taxable value ratio for each city, village, and township by dividing the statewide per capita taxable value by the per capita taxable value for that city, village, or township.

(d) Determine the adjusted taxable value population for each city, village, and township by multiplying the per capita taxable value ratio as determined under subdivision (c) for that city, village, or township by the population of that city, village, or township.

(e) Determine the total statewide adjusted taxable value population which is the sum of all adjusted taxable value population for all cities, villages, and townships.

(f) Determine the taxable value payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and dividing that result by the total statewide adjusted taxable value population as determined under subdivision (e).

(g) Determine the taxable value payment for each city, village, and township by multiplying the result under subdivision (f) by the adjusted taxable value population for that city, village, or township.

(9) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section and except as provided in subsection (14), a unit type population payment shall be made to each city, village, and township with a population of less than 750,000 determined as follows:

(a) Determine the unit type population weight factor for each city, village, and township as follows:

(*i*) For a township with a population of 5,000 or less, the unit type population weight factor is 1.0.

(*ii*) For a township with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.2.

(*iii*) For a township with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 1.44.

(*iv*) For a township with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 1.73.

(*v*) For a township with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 2.07.

(*vi*) For a township with a population of more than 80,000, the unit type population weight factor is 2.49.

(*vii*) For a village with a population of 5,000 or less, the unit type population weight factor is 1.5.

(*viii*) For a village with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.8.

(*ix*) For a village with a population of more than 10,000, the unit type population weight factor is 2.16.

(*x*) For a city with a population of 5,000 or less, the unit type population weight factor is 2.5.

(*xi*) For a city with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 3.0.

(*xii*) For a city with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 3.6.

(*xiii*) For a city with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 4.32.

(*xiv*) For a city with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 5.18.

(*xv*) For a city with a population of more than 80,000 but less than 160,001, the unit type population weight factor is 6.22.

(*xvi*) For a city with a population of more than 160,000 but less than 320,001, the unit type population weight factor is 7.46.

(*xvii*) For a city with a population of more than 320,000 but less than 640,001, the unit type population weight factor is 8.96.

(*xviii*) For a city with a population of more than 640,000, the unit type population weight factor is 10.75.

(b) Determine the adjusted unit type population for each city, village, and township by multiplying the unit type population weight factor for that city, village, or township as determined under subdivision (a) by the population of the city, village, or township.

(c) Determine the total statewide adjusted unit type population, which is the sum of the adjusted unit type population for all cities, villages, and townships.

(d) Determine the unit type population payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and then dividing that result by the total statewide adjusted unit type population as determined under subdivision (c).

(e) Determine the unit type population payment for each city, village, and township by multiplying the result under subdivision (d) by the adjusted unit type population for that city, village, or township.

(10) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section, a yield equalization payment shall be made to each city, village, and township with a population of less than 750,000 sufficient to provide the guaranteed tax base for a local tax effort not to exceed 0.02. The payment shall be determined as follows:

(a) The guaranteed tax base is the maximum combined state and local per capita taxable value that can be guaranteed in a state fiscal year to each city, village, and township for a local tax effort not to exceed 0.02 if an amount equal to 74.94% of 21.3% of the state sales tax at a rate of 4% is distributed to cities, villages, and townships whose per capita taxable value is below the guaranteed tax base.

(b) The full yield equalization payment to each city, village, and township is the product of the amounts determined under subparagraphs (*i*) and (*ii*):

(*i*) An amount greater than zero that is equal to the difference between the guaranteed tax base determined in subdivision (a) and the per capita taxable value of the city, village, or township.

(*ii*) The local tax effort of the city, village, or township, not to exceed 0.02, multiplied by the population of that city, village, or township.

(c) The yield equalization payment is the full yield equalization payment divided by 3.

(11) For state fiscal years after the 1997-1998 state fiscal year, distributions under this section for cities, villages, and townships with populations of less than 750,000 shall be determined as follows:

(a) For the 1998-1999 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(b) For the 1999-2000 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(c) For the 2000-2001 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(d) For the 2001-2002 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(e) For the 2002-2003 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(f) For the 2003-2004 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(g) For the 2004-2005 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(h) For the 2005-2006 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(i) For the period of October 1, 2006 through September 30, 2007, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(12) Except as otherwise provided in this subsection, the total payment to any city, village, or township under this act and section 10 of article IX of the state constitution of 1963 shall not increase by more than 8% over the amount of the payment under this act and section 10 of article IX of the state constitution of 1963 in the immediately preceding state fiscal year. From the amount not distributed because of the limitation imposed by this subsection, the department shall distribute an amount to certain cities, villages, and townships such that the percentage increase in the total payment under this act and section 10 of article IX of the state constitution of 1963 from the immediately preceding state fiscal year to each of those cities, villages, and townships is equal to, but does not exceed, the percentage increase from the immediately preceding state fiscal year of any city, village, or township that does not receive a distribution under this subsection. This subsection does not apply for state fiscal years after the 2000 federal decennial census becomes official to a city, village, or township with a 10% or more increase in population from the official 1990 federal decennial census to the official 2000 federal decennial census.

(13) The percentage allocations to distributions under subsections (8) to (10) pursuant to subsection (11) shall be calculated as if, in any state fiscal year, the amount appropriated under this section for distribution to cities, villages, and townships is 74.94% of 21.3% of the sales tax at a rate of 4%. If the amount appropriated under this section to cities, villages, and townships is less than 74.94% of 21.3% of the sales tax at a rate of 4%, any reduction made necessary by this appropriation in distributions to cities, villages, and townships shall first be applied to the distribution under subsections (8) to (10) and any remaining amount shall be applied to the other distributions under this section.

(14) A township that provides for or makes available fire, police on a 24-hour basis either through contracting for or directly employing personnel, water to 50% or more of its residents, and sewer services to 50% or more of its residents and has a population of 10,000 or more or a township that has a population of 20,000 or more shall use the unit type population weight factor under subsection (9)(a) for a city with the same population as the township.

(15) For a state fiscal year in which the sales tax collections decrease from the sales tax collections for the immediately preceding state fiscal year, the department shall reduce the amount to be distributed to a city with a population of 750,000 or more under subsection (6) by an amount determined by subtracting the amount the city is eligible for under section 10 of article IX of the state constitution of 1963 for the state fiscal year from $333,900,000.00 and multiplying that result by the same percentage as the percentage decrease in sales tax collections for that state fiscal year as compared to sales tax collections for the immediately preceding state fiscal year. This subsection does not apply to the 2002-2003 and 2003-2004 state fiscal years.

(16) Notwithstanding any other provision of this section for the 1998-1999 state fiscal year, the total combined amount received by each city, village, and township under this section and section 10 of article IX of the state constitution of 1963 shall not be less than the combined amount received under this section, section 12a, and section 10 of article IX of the state constitution of 1963 in the 1997-1998 state fiscal year. The increase, if any, for

each city, village, and township from the 1997-1998 state fiscal year, other than a city that receives a distribution under subsection (6), shall be reduced by a uniform percentage to the extent necessary to fund distributions under this subsection.

(17) The payments under subsections (3), (4), and (5) shall be made during each October, December, February, April, June, and August. Payments under subsections (3), (4), and (5) shall be based on collections from the sales tax at the rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only, the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a.

(18) Payments under this section shall be made from revenues collected during the state fiscal year in which the payments are made.

(19) Distributions provided for by this act are subject to an annual appropriation by the legislature.

(20) After the department has informed a city, village, or township in writing of the intent to withhold all or a portion of payments under this section and offered the affected city, village, or township an opportunity for an informal conference on the matter, the department of treasury may withhold all or a portion of payments under this section to a city, village, or township that has not distributed 1 or more of the following:

(a) An industrial facilities tax as required under 1974 PA 198, MCL 207.551 to 207.572.

(b) The specific tax as required under section 21b of the enterprise zone act, 1985 PA 224, MCL 125.2121b.

(c) Any portion of the state education tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or of property taxes levied for any purpose by a local or intermediate school district under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, determined by the state tax commission to have been wrongfully captured and retained to implement a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 78]

(SB 106)

AN ACT to designate an official state symbol for clean water in this state.

The People of the State of Michigan enact:

2.18 State symbol for clean water.

Sec. 1. The American lotus blossom (Nelumbo lutea) is designated as the official state symbol for clean water in this state.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 79]

(HB 4472)

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 9f (MCL 211.9f), as amended by 2000 PA 415.

The People of the State of Michigan enact:

211.9f Personal property of business; tax exemption; hearing; duration of exemption; approval or disapproval of resolution by state tax commission; definitions.

Sec. 9f. (1) The governing body of an eligible local assessing district may adopt a resolution to exempt from the collection of taxes under this act all new personal property owned or leased by an eligible business located in 1 or more eligible districts designated in the resolution. The clerk of the eligible local assessing district shall notify in writing the assessor of the local tax collecting unit in which the eligible district is located and the legislative body of each taxing unit that levies ad valorem property taxes in the eligible local assessing district in which the eligible district is located. Before acting on the resolution, the governing body of the eligible local assessing district shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing.

(2) The exemption under this section is effective on the December 31 immediately succeeding the adoption of the resolution by the governing body of the eligible local assessing district and shall continue in effect for a period specified in the resolution. A copy of the resolution shall be filed with the state tax commission. A resolution is not effective unless approved by the state tax commission as provided in subsection (3).

(3) Not more than 60 days after receipt of a copy of the resolution adopted under subsection (1), the state tax commission shall approve or disapprove the resolution. The state treasurer, with the written concurrence of the president of the Michigan strategic fund, shall advise the state tax commission as to whether exempting new personal property of the eligible business is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state.

(4) Notwithstanding the amendatory act that added section 2(1)(c), all of the following shall apply to an exemption under this section that was approved by the state tax commission on or before April 30, 1999, regardless of the effective date of the exemption:

(a) The exemption shall be continued for the term authorized by the resolution adopted by the governing body of the eligible local assessing district and approved by the state tax commission with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(b) The exemption shall not be impaired or restricted with respect to buildings and improvements constructed on leased real property during the term of the exemption if the value of the real property is not assessed to the owner of the buildings and improvements.

(5) As used in this section:

(a) "Eligible business" means, effective August 7, 1998, a business engaged primarily in manufacturing, mining, research and development, wholesale trade, or office operations. Eligible business does not include a casino, retail establishment, professional sports stadium, or that portion of an eligible business used exclusively for retail sales. As used in this subdivision, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, and all property associated or affiliated with the operation of a casino, including, but not limited to, a parking lot, hotel, motel, or retail store.

(b) "Eligible district" means 1 or more of the following:

(*i*) An industrial development district as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.

(*ii*) A renaissance zone as that term is defined in the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(*iii*) An enterprise zone as that term is defined in the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(*iv*) A brownfield redevelopment zone as that term is designated under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(*v*) An empowerment zone designated under subchapter U of chapter 1 of the internal revenue code of 1986, 26 USC 1391 to 1397F.

(*vi*) An authority district or a development area as those terms are defined in the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(*vii*) An authority district as that term is defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(*viii*) A downtown district or a development area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

(c) "Eligible distressed area" means 1 of the following:

(*i*) That term as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

(*ii*) An area that contains an eligible business as described in section 8(5)(b)(*ii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(d) "Eligible local assessing district" means a city, village, or township that contains an eligible distressed area.

(e) "New personal property" means personal property that was not previously subject to tax under this act and that is placed in an eligible district after a resolution under subsection (1) is approved by the eligible local assessing district. As used in this subdivision, for exemptions approved by the state tax commission under subsection (3) after April 30, 1999, new personal property does not include buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 21, 2004.

[No. 80]

(HB 5445)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 37c (MCL 208.37c), as amended by 2003 PA 251.

The People of the State of Michigan enact:

208.37c Tax credit; authorization and amount determined by Michigan economic growth authority; limitation; certificate; contents; refund; payments to department where qualified new jobs removed from state; statement; limitation on credits claimed; certificate issued after December 31, 2009; distressed business; report; definitions.

Sec. 37c. (1) For tax years beginning after December 31, 1994 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority.

(2) The credit allowed under subsection (1) for an authorized business for the tax year as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, shall not exceed the payroll of the authorized business attributable to employees who perform qualified new jobs multiplied by the tax rate.

(3) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued a certificate to the taxpayer. The taxpayer shall attach the certificate to the return filed under this act on which a credit under this section is claimed.

(4) The certificate required by subsection (3) shall state all of the following:

(a) The taxpayer is an authorized business.

(b) The amount of the credit under this section for the authorized business for the designated tax year.

(c) The taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(d) For a taxpayer that claims a credit allowed under subsection (10), the taxpayer is a distressed business.

(5) If the credit allowed under subsection (1) exceeds the tax liability of the taxpayer for the tax year, the excess shall be refunded to the taxpayer.

(6) A taxpayer that claims a credit under subsection (1) or section 37d that has an agreement with the Michigan economic growth authority based on qualified new jobs as defined in section 3(n)(*ii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803, that removes from this state 51% or more of those qualified new jobs within 3 years after the first year in which the taxpayer claims a credit described in this subsection shall pay to the department no later than 12 months after those qualified new

jobs are removed from the state an amount equal to the total of all credits described in this subsection that were claimed by the taxpayer.

(7) If the Michigan economic growth authority or a designee of the Michigan economic growth authority requests that a taxpayer who claims the credit under this section get a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same number of new jobs used to calculate the credit under this section, the taxpayer shall get the statement and attach that statement to its annual return under this act on which the credit under this section is claimed.

(8) For a credit allowed under subsection (1), an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit for each tax year for each expansion or location evidenced by a written agreement whether or not a combined or consolidated return is filed.

(9) A credit shall not be claimed by a taxpayer under subsection (1) if the taxpayer's initial certification as required in subsection (3) is issued after December 31, 2009.

(10) In addition to the credit allowed under subsection (1), for tax years that begin after December 31, 2003 and before January 1, 2007, a taxpayer that is an authorized business and is a distressed business, with an initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, issued after December 31, 2003 and before January 1, 2005 may claim a credit equal to the sum of the following:

(a) Up to 50% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on qualified new jobs as defined in section 3(n)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(b) Up to 25% of the tax paid in the tax year under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, based on all jobs other than qualified new jobs as defined in section 3(n)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(11) An authorized business that is a distressed business shall apply to the Michigan economic growth authority, which shall determine the percentage under subsection (10) for that authorized business. The Michigan economic growth authority shall issue a certificate to the authorized business stating the percentage amount and the tax years to which that percentage applies not more than 30 days after receipt of an application under this subsection.

(12) If the credit allowed under subsection (10) for the tax year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 10 tax years or until the excess credit is used up, whichever occurs first.

(13) On or before September 1, 2004, the Michigan economic growth authority shall submit a report to the legislature that includes all of the following information related to credits allowed under subsections (10) and (11):

(a) The status of implementing the provisions of subsection (11) including development of the application form and the standards for determining the percentages for the credits under subsection (10).

(b) The number of authorized businesses that have applied for the credit.

(c) The number of certificates issued under subsection (11).

(14) As used in this section:

(a) "Authority" or "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(b) "Authorized business", "facility", "full-time job", "qualified high-technology business", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Payroll" means the total salaries and wages before deducting any personal or dependency exemptions.

(d) "Qualified new jobs" means 1 or more of the following:

(*i*) For a credit allowed under subsection (1), the average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in this state prior to the expansion or location as that is determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(*ii*) After July 1, 2000 for a credit allowed under subsection (1), the average number of full-time jobs at a facility created by an eligible business within 120 days before becoming an authorized business, that is in excess of the average number of full-time jobs that the business maintained in this state 120 days before becoming an authorized business, as determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(*iii*) For credits allowed under subsection (10), that term as defined in section 3(n)(*iii*) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(e) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, for the tax year in which the tax year of the taxpayer for which the credit is being computed begins.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 22, 2004.

[No. 81]

(SB 824)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 3 and 8 (MCL 207.803 and 207.808), as amended by 2003 PA 248.

The People of the State of Michigan enact:

207.803 Definitions.

Sec. 3. As used in this act:

(a) "Affiliated business" means a business that is 100% owned and controlled by an associated business.

(b) "Associated business" means a business which owns at least 50% of and controls, directly or indirectly, an authorized business.

(c) "Authorized business" means 1 of the following:

(*i*) A single eligible business with a unique federal employer identification number which has met the requirements of section 8 and with which the authority has entered into a written agreement for a tax credit under section 9.

(*ii*) A single eligible business with a unique federal employer identification number which has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by an associated or affiliated business.

(*iii*) A single eligible business with a unique federal employer identification number which has met the requirements of section 8, except as provided in this subparagraph, and with which the authority has entered into a written agreement for a tax credit under section 9. An eligible business is not required to create qualified new jobs or maintain retained jobs if qualified new jobs are created or retained jobs are maintained by a subsidiary business which withholds income and social security taxes, or an employee leasing company or professional employer organization that has entered into a contractual service agreement with the authorized business in which the employee leasing company or professional employer organization withholds income and social security taxes on behalf of the authorized business.

(d) "Authority" means the Michigan economic growth authority created under section 4.

(e) "Business" means proprietorship, joint venture, partnership, limited liability partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company, or any other organization.

(f) "Distressed business" means a business that meets all of the following as verified by the Michigan economic growth authority:

(*i*) Four years immediately preceding the application to the authority under this act, the business had 150 or more full-time jobs in this state.

(*ii*) Within the immediately preceding 4 years, there has been a reduction of not less than 30% of the number of full-time jobs in this state during any consecutive 3-year period. The highest number of full-time jobs within the consecutive 3-year period shall be used in order to determine the percentage reduction of full-time jobs in this subparagraph.

(*iii*) Is not a seasonal employer as defined in section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(g) "Eligible business" means a distressed business or business that proposes to maintain retained jobs after December 31, 1999 or to create qualified new jobs in this state after April 18, 1995 in manufacturing, mining, research and development, wholesale and trade, or office operations or a business that is a qualified high-technology business. An eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales. Professional sports stadium does not include a sports stadium in existence on June 6, 2000 that is not used by a professional sports team on the date that an application related to that professional sports stadium is filed under section 8.

(h) "Facility" means a site or sites within this state in which an authorized business or subsidiary businesses maintains retained jobs or creates qualified new jobs. A facility does not include a site that was a vaccine laboratory owned by this state on April 1, 1995.

(i) "Full-time job" means a job performed by an individual who is employed by an authorized business or an employee leasing company or professional employer organization on behalf of the authorized business for consideration for 35 hours or more each week and for which the authorized business or an employee leasing company or professional employer organization on behalf of the authorized business withholds income and social security taxes.

(j) “Local governmental unit” means a county, city, village, or township in this state.

(k) “High-technology activity” means 1 or more of the following:

(*i*) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(*ii*) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(*iii*) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning as defined in section 16274 of the public health code, 1978 PA 368, MCL 333.16274, or stem cell research with embryonic tissue.

(*iv*) Electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

(*v*) Engineering or laboratory testing related to the development of a product.

(*vi*) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(*vii*) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(*viii*) Product research and development.

(*ix*) Advanced vehicles technology that is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. For purposes of this act:

(A) “Electric vehicle” means a road vehicle that draws propulsion energy only from an on-board source of electrical energy.

(B) “Hybrid vehicle” means a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(*x*) Tool and die manufacturing.

(*l*) “New capital investment” means 1 or more of the following:

(*i*) New construction. As used in this subparagraph:

(A) “New construction” means property not in existence on the date the authorized business enters into a written agreement with the authority and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to section 27(2)(a) to (o) of the general property tax act, 1893 PA 206, MCL 211.27.

(B) “Replacement construction” means that term as defined in section 34d(1)(b)(*v*) of the general property tax act, 1893 PA 206, MCL 211.34d.

(*ii*) The purchase of new personal property. As used in this subparagraph, “new personal property” means personal property that is not subject to or that is exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, on the date the authorized business enters into a written agreement with the authority.

(m) "Qualified high-technology business" means a business that is either of the following:

(*i*) A business with not less than 25% of the total operating expenses of the business used for research and development in the tax year in which the business files an application under this act as determined under generally accepted accounting principles and verified by the authority.

(*ii*) A business whose primary business activity is high-technology activity.

(n) "Qualified new job" means 1 of the following:

(*i*) A full-time job created by an authorized business at a facility that is in excess of the number of full-time jobs the authorized business maintained in this state prior to the expansion or location, as determined by the authority.

(*ii*) For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by that eligible business in this state 120 days before the eligible business became an authorized business, as determined by the authority.

(*iii*) For a distressed business, a full-time job at a facility that is in excess of the number of full-time jobs maintained by that eligible business in this state on the date the eligible business became an authorized business.

(o) "Retained jobs" means the number of full-time jobs at a facility of an authorized business maintained in this state on a specific date as that date and number of jobs is determined by the authority.

(p) "Rural business" means an eligible business located in a county with a population of 75,000 or less.

(q) "Subsidiary business" means a business that is directly or indirectly controlled or at least 80% owned by an authorized business.

(r) "Written agreement" means a written agreement made pursuant to section 8.

207.808 Agreement for tax credit; determination; requirements; amount and duration of tax credits; additional requirements; authorization of business; criteria; limitation on new agreements; execution.

Sec. 8. (1) After receipt of an application, the authority may enter into an agreement with an eligible business for a tax credit under section 9 if the authority determines that all of the following are met:

(a) Except as provided in subsection (5), the eligible business creates 1 or more of the following within 12 months of the expansion or location as determined by the authority:

(*i*) A minimum of 75 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 150 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) A minimum of 5 qualified new jobs at the facility if the eligible business is a qualified high-technology business.

(*v*) A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(*i*) A minimum of 75 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 150 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(*v*) If the eligible business is a rural business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.

(c) Except as provided in subsection (5), in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the authority.

(d) Except as otherwise provided in this subdivision, the average wage paid for all retained jobs and qualified new jobs is equal to or greater than 150% of the federal minimum wage. However, if the eligible business is a qualified high-technology business, then the average wage paid for all qualified new jobs is equal to or greater than 400% of the federal minimum wage.

(e) Except for a qualified high-technology business, the expansion, retention, or location of the eligible business will not occur in this state without the tax credits offered under this act.

(f) Except for an eligible business described in subsection (5)(b)(*ii*), the local governmental unit in which the eligible business will expand, be located, or maintain retained jobs, or a local economic development corporation or similar entity, will make a staff, financial, or economic commitment to the eligible business for the expansion, retention, or location.

(g) The financial statements of the eligible business indicated that it is financially sound or has submitted a chapter 11 plan of reorganization to the bankruptcy court and that its plans for the expansion, retention, or location are economically sound.

(h) Except for an eligible business described in subsection (5)(c), the eligible business has not begun construction of the facility.

(i) The expansion, retention, or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(j) The tax credits offered under this act are an incentive to expand, retain, or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state.

(k) A cost/benefit analysis reveals that authorizing the eligible business to receive tax credits under this act will result in an overall positive fiscal impact to the state.

(*l*) If feasible, as determined by the authority, in locating the facility, the authorized business reuses or redevelops property that was previously used for an industrial or commercial purpose.

(m) If the eligible business is a qualified high-technology business described in section 3(m)(*i*), the eligible business agrees that not less than 25% of the total operating expenses of the business will be maintained for research and development for the first 3 years of the written agreement.

(2) If the authority determines that the requirements of subsection (1) or (5) have been met, the authority shall determine the amount and duration of tax credits to be authorized under section 9, and shall enter into a written agreement as provided in this section. The duration of the tax credits shall not exceed 20 years or for an authorized business that is a distressed business, 3 years. In determining the amount and duration of tax credits authorized, the authority shall consider the following factors:

(a) The number of qualified new jobs to be created or retained jobs to be maintained.

(b) The average wage level of the qualified new jobs or retained jobs relative to the average wage paid by private entities in the county in which the facility is located.

(c) The total capital investment or new capital investment the eligible business will make.

(d) The cost differential to the business between expanding, locating, or retaining new jobs in Michigan and a site outside of Michigan.

(e) The potential impact of the expansion, retention, or location on the economy of Michigan.

(f) The cost of the credit under section 9, the staff, financial, or economic assistance provided by the local government unit, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(3) A written agreement between an eligible business and the authority shall include, but need not be limited to, all of the following:

(a) A description of the business expansion, retention, or location that is the subject of the agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business and the loss or reduction of future credits under section 9.

(d) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the refund of credits received under section 9.

(e) A method for measuring full-time jobs before and after an expansion, retention, or location of an authorized business in this state.

(f) A written certification from the eligible business regarding all of the following:

(*i*) The eligible business will follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and that this process will be open to all Michigan residents and firms. The eligible business may not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(*ii*) The eligible business will make a good faith effort to employ, if qualified, Michigan residents at the facility.

(*iii*) The eligible business will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(*iv*) The eligible business is encouraged to make a good faith effort to utilize Michigan-based suppliers and vendors when purchasing goods and services.

(g) A condition that if the eligible business qualified under section 8(5)(b)(*ii*) and met the section 8(1)(g) requirement by filing a chapter 11 plan of reorganization, the plan must be approved by the bankruptcy court within 2 years of the date of the agreement or the agreement is rescinded.

(4) Upon execution of a written agreement as provided in this section, an eligible business is an authorized business.

(5) After receipt of an application, the authority may enter into a written agreement, which shall include a repayment provision of all or a portion of the credits under section 9 for a violation of the written agreement, with an eligible business that meets 1 or more of the following criteria:

(a) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(b) Meets either of the following criteria:

(*i*) Relocates production of a product to this state after the date of the application, makes capital investment of $500,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(*ii*) Maintains 150 retained jobs at a facility, maintains 1,000 or more full-time jobs in this state, and makes new capital investment in this state.

(*iii*) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of $150,000.00 per retained job maintained at that facility or $15,000,000.00 to be completed not later than December 31, 2006.

(c) Is a distressed business.

(6) The authority shall not execute more than 25 new written agreements each year for eligible businesses that are not qualified high-technology businesses, distressed businesses, or rural businesses. If the authority executes less than 25 new written agreements in a year, the authority may carry forward for 1 year only the difference between 25 and the number of new agreements executed in the immediately preceding year.

(7) The authority shall not execute more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural business. Only 5 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural businesses.

(8) The authority shall not execute more than 20 new written agreements each year for eligible businesses that are distressed businesses. The authority shall not execute more than 5 of the written agreements described in this subsection each year for distressed businesses that had 1,000 or more full-time jobs at a facility 4 years immediately preceding the application to the authority under this act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5445 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 21, 2004.
Filed with Secretary of State April 22, 2004.

Compiler's note: House Bill No. 5445, referred to in enacting section 1, was filed with the Secretary of State April 22, 2004, and became P.A. 2004, No. 80, Imd. Eff. Apr. 22, 2004.

[No. 82]

(SB 1013)

AN ACT to amend 1995 PA 29, entitled "An act concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 19 (MCL 567.239), as amended by 1997 PA 195, and by adding section 8b.

The People of the State of Michigan enact:

567.228b Demutualization of insurance company; property; presumption; report; definition.

Sec. 8b. (1) Property distributable in the course of the demutualization of an insurance company is presumed abandoned as follows:

(a) Any funds, 2 years after the date of the demutualization, if the funds remain unclaimed and the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(b) Any stock, 2 years after the date of the demutualization, if instruments or statements reflecting the distribution are either mailed to the owner and returned by the post office as undeliverable or not mailed to the owner because of an address on the books and records of the holder that is known to be incorrect and the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(2) A holder of unclaimed property described in subsection (1) shall file an initial 1-time report of unclaimed demutualization proceeds not later than September 1, 2004 for the 1-year period ending December 31, 2003.

(3) As used in this section, "demutualization" means the payment of consideration for the relinquishment of a mutual membership interest in a mutual insurance company,

regardless if undertaken in conjunction with a plan of demutualization, liquidation, merger, or other form of reorganization.

567.239 Notice; publication in newspaper; requirements.

Sec. 19. (1) The administrator shall cause a notice to be published not later than November 1 of the year immediately following the report required by section 18 in a newspaper of general circulation in the county of this state in which is located the last known address of any person named in the notice. If no address is listed or the address is outside this state, the notice shall be published in the county in which the holder of the property has its principal place of business within this state or another county as determined by the administrator.

(2) The published notice shall be entitled "notice of names of persons appearing to be owners of abandoned property" and contain all of the following:

(a) The names, in alphabetical order, of persons listed in the report and entitled to notice within the county as specified in subsection (1).

(b) A statement that information concerning the property may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator.

(c) A statement informing an owner of property held by the administrator on how to file a claim with the administrator to receive his or her property.

(3) The administrator is not required to publish in the notice any items of less than $50.00 unless the administrator considers their publication to be in the public interest.

(4) This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section 5.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 83]

(SB 1021)

AN ACT to amend 1986 PA 182, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and 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 the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," by amending sections 3 and 4 (MCL 38.1603 and 38.1604), section 3 as amended by 2000 PA 374, and by adding section 24a.

The People of the State of Michigan enact:

38.1603 Definitions; B to L.

Sec. 3. (1) "Banked leave time program" means the part B annual leave hours within the state's annual and sick leave program approved by a ruling of the internal revenue service on September 5, 2003, in which a pay reduction or other concessions are applied to a member in exchange for additional part B annual leave hours.

(2) "Credited service" means the sum of the prior service and membership service credited to a member's account.

(3) "Deferred member" means a member who separates from service with entitlement to a deferred retirement allowance as provided in section 30, but who is not a retirant.

(4) "Department" means the department of management and budget.

(5) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(6) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(7) "DROP participant" means an officer who participates in the deferred retirement option plan established in section 24a.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408(a), an individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408(b), an annuity plan described in section 403(a) of the internal revenue code, 26 USC 403(a), or a qualified trust described in section 401(a) of the internal revenue code, 26 USC 401(a), an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403(b), or an eligible plan under section 457(b) of the internal revenue code, 26 USC 457(b), which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into the eligible plan under section 457(b) of the internal revenue code, 26 USC 457(b), from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(9) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code, 26 USC 401(a)(9).

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of the distribution is paid to either of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408(a) or 408(b).

(*ii*) A qualified defined contribution plan as described in section 401(a) or 403(a) of the internal revenue code, 26 USC 401(a) or 403(a), that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable in gross income.

(10) “Final average compensation” means the average annual salary for the last 2 years of service with the department of state police for which the member was compensated as defined in subsection (13). In the case of a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Average annual salary includes only the following compensation items:

(a) Regular salary paid for the last 2 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(b) Overtime, shift differential, and shift differential overtime paid for the last 2 years of service.

(c) Gross pay adjustments paid affecting the last 2 years of service, including compensatory time and emergency response compensation.

(d) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(e) Deferred hours under Plan B of the fiscal years ending September 30, 1981, and September 30, 1982, that are paid at the time of retirement separation.

(f) Longevity pay equal to 2 full years.

(g) Bomb squad pay paid for the last 2 years of service.

(h) Post 29 freeway premium paid for the last 2 years of service.

(i) On-call pay paid for the last 2 years of service.

(j) Beginning October 1, 2003, the value of any unpaid furlough hours or the value of any unpaid hours exchanged for part B annual leave hours, calculated at the member’s then-current hourly rate or rates of pay, for a period during which a member is participating in the banked leave time program.

(11) “Furlough hours” means unworked hours incurred in conjunction with the banked leave time program.

(12) “Internal revenue code” means the United States internal revenue code of 1986.

(13) “Last 2 years of service” means the 2-year period immediately preceding the member’s last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted pursuant to section 29 or, if the officer participated in the deferred retirement option plan, the 2-year period immediately preceding participation in the deferred retirement option plan.

38.1604 Definitions; M to S.

Sec. 4. (1) “Member”, except where the context otherwise requires, means an employee of the Michigan department of state police who has subscribed to the constitutional oath of office.

(2) “Officer” means a nonexclusively represented member of the retirement system.

(3) "Retirant" means a member who separates from service and retires with a retirement allowance payable from the appropriate reserve of the retirement system.

(4) "Retirement allowance" means the annual amount, payable monthly, to which a retirant, retirement allowance beneficiary, or refund beneficiary is entitled pursuant to this act.

(5) "Retirement allowance beneficiary" means a person who is being paid or has entitlement to the payment of a retirement allowance in the event of the death of a member, deferred member, or retirant.

(6) "Retirement board" means the retirement board created in section 6.

(7) "Retirement system" means the system of benefits for members of the department of state police and their survivors and beneficiaries provided by this act.

(8) "Surviving spouse" means the spouse at the time of death of the member or retirant.

38.1624a Deferred retirement option plan.

Sec. 24a. (1) A deferred retirement option plan is established within the defined benefit plan that is part of the retirement system, and it is to be administered by the office of retirement services. Exclusively represented members of the retirement system may only participate in the deferred retirement option plan pursuant to notice from their collective bargaining agent that the agent agrees to the terms of the deferred retirement option plan. For each fiscal year that begins on or after October 1, 2004, the director of state police and the retirement board may elect to discontinue accepting applications for the deferred retirement option plan.

(2) An officer who has 25 years or more of credited service under this act or former act 1935 PA 251, or both, may elect to participate in the deferred retirement option plan by executing the application provided by the office of retirement services. Once the application is accepted by the office of retirement services, the officer's participation in the deferred retirement option plan is irrevocable and he or she becomes a DROP participant. The officer is solely responsible for any federal, state, or local tax due as a result of his or her participation in the deferred retirement option plan.

(3) Participation in the deferred retirement option plan does not guarantee continued employment. Except as otherwise provided in this section, an officer who elects to participate in the deferred retirement option plan will remain an active employee eligible to receive any applicable wage changes and benefits, will be subject to civil service rules and regulations, and will be subject to the policies and procedures of the department of state police and subject to removal by the governor, if applicable, in the same manner as if he or she had not elected to participate in the deferred retirement option plan.

(4) An officer shall indicate on the application for the deferred retirement option plan the number of years that the officer wants to participate in the deferred retirement option plan, up to a maximum of 6 years. As a condition for participation, the officer agrees to retire at the conclusion of his or her participation in the deferred retirement option plan.

(5) A deferred retirement option plan account shall be created in the accounting records of the retirement system for each DROP participant. Each deferred retirement option plan account shall earn interest at the rate of 3% per annum, prorated for any fraction of a year. The deferred retirement option plan account of a DROP participant shall be credited with the following percentage of his or her monthly retirement allowance as calculated pursuant to section 24 as if he or she had retired on the day prior to becoming a DROP participant:

(a) 100% if the officer remains in the deferred retirement option plan for 6 years.

(b) 90% if the officer remains in the deferred retirement option plan for 5 years but less than 6 years.

(c) 80% if the officer remains in the deferred retirement option plan for 4 years but less than 5 years.

(d) 70% if the officer remains in the deferred retirement option plan for 3 years but less than 4 years.

(e) 60% if the officer remains in the deferred retirement option plan for 2 years but less than 3 years.

(f) 50% if the officer remains in the deferred retirement option plan for 1 year but less than 2 years.

(g) 30% if the officer remains in the deferred retirement option plan for less than 1 year.

(6) A DROP participant shall not receive a monthly retirement allowance, as calculated pursuant to section 24, until termination of his or her deferred retirement option plan participation and commencement of retirement. A DROP participant shall not have any claim to any funds in his or her deferred retirement option plan account until he or she retires at the termination of his or her deferred retirement option plan participation.

(7) Upon termination of the deferred retirement option plan participation and commencement of retirement, the former DROP participant shall select 1 or more of the following options with regard to his or her deferred retirement option plan account:

(a) A total lump-sum distribution.

(b) A partial lump-sum distribution.

(c) A lump-sum direct rollover to another qualified plan if allowed by federal law and subject to the procedures of the retirement system.

(d) Maintain the funds in the account.

A former DROP participant shall remove all funds from his or her deferred retirement option plan account no later than April 1 following the later of the calendar year in which the DROP participant attains 70 years, 6 months of age or the calendar year in which the DROP participant is retired.

(8) If a DROP participant or former DROP participant dies before removing all funds from his or her deferred retirement option plan account, the former DROP participant's designated beneficiary shall receive any remaining balances. If the former DROP participant has not named a beneficiary for his or her deferred retirement option plan account, the amount in the deferred retirement option plan account shall be paid to the beneficiary of the former DROP participant's retirement allowance. If the former DROP participant has not named a beneficiary to his or her retirement allowance, the balance in the former DROP participant's account shall be paid to the former DROP participant's estate.

(9) If a DROP participant is found to be disabled under section 29, his or her participation in the deferred retirement option plan shall immediately cease and he or she shall be retired.

(10) The deferred retirement option plan shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to a governmental deferred retirement option plan. If there is a conflict between this subsection and another subsection of this section, this subsection prevails.

(11) A deferred retirement option plan shall not be implemented until the civil service commission adopts rules to regulate all of the following:

(a) A DROP participant's payment for sick leave, annual leave, longevity, and related items.

(b) A DROP participant's accrual of sick leave, annual leave, compensatory time, and related items.

(c) A DROP participant's payment of group insurance plan premiums.

(12) If the department receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, 26 USC 1 to 1789, then the portion that will cause the disqualification does not apply.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5279 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

Compiler's note: House Bill No. 5279, referred to in enacting section 1, was filed with the Secretary of State April 1, 2004, and became P.A. 2004, No. 50, Eff. Apr. 22, 2004.

[No. 84]

(HB 5365)

AN ACT to repeal 1905 LA 653, entitled "An act to provide the manner of voting by the members of the board of supervisors of Saginaw county.".

The People of the State of Michigan enact:

Repeal of 1905 LA 653.

Enacting section 1. 1905 LA 653 is repealed.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 85]

(HB 5641)

AN ACT to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 17 (MCL 46.17); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

46.17 County seat; removal; relocation.

Sec. 17. The county seat may be relocated to a new location if the removal and new location are approved by a 2/3 vote of the elected county board of commissioners and by the majority of the qualified electors within the county. The election required under this section shall be conducted under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

Repeal of MCL 46.18 and 46.19.

Enacting section 1. Sections 18 and 19 of 1851 PA 156, MCL 46.18 and 46.19, are repealed.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 86]

(SB 1032)

AN ACT to amend 1994 PA 55, entitled "An act to protect from public disclosure certain information obtained in research and related activities of public universities and colleges; and to prescribe certain duties of public universities and colleges," by amending the title and sections 1 and 2 (MCL 390.1551 and 390.1552) and by adding section 4a.

The People of the State of Michigan enact:

TITLE

An act to protect from public disclosure certain information obtained in research and related activities of public universities and colleges; to protect from public disclosure certain investment information received by a public university or college from an investment fiduciary or portfolio company; and to prescribe certain duties of public universities and colleges.

390.1551 Short title.

Sec. 1. This act shall be known and may be cited as the "confidential research and investment information act".

390.1552 Definitions.

Sec. 2. As used in this act:

(a) "Commercial information" means information regarding the purchase and sale of goods and services, including, but not limited to, information regarding marketing strategy, production data, assessments of goods and services, mineral exploration records, and compilations of data regarding commercial activity.

(b) "Financial information" means information regarding finances, including, but not limited to, assets, income, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

(c) "Intellectual property" means all original data, findings, or other products of the mind or intellect commonly associated with claims, interests, and rights that are protected under trade secret, patent, trademark, copyright, or unfair competition law.

(d) "Investment" means the utilization of money or other assets in the expectation of future returns in the form of income or capital gain.

(e) “Investment fiduciary” means a person who exercises any discretionary authority or control over an investment of a public university or college or renders investment advice for a public university or college for a fee or other direct or indirect compensation.

(f) “Investment information” means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause a portfolio company or an investment fiduciary significant competitive harm. Investment information includes, but is not limited to, financial performance data and projections, financial statements, list of coinvestors and their level of investment, product and market data, rent rolls, and leases.

(g) “Portfolio company” means an entity in which an investment fiduciary has made or considered an investment on behalf of a public university or college.

(h) “Public university or college” means a university, college, or community college established under section 5, 6, or 7 of article VIII of the state constitution of 1963.

(i) “Record” means all or part of a writing, as that term is defined in section 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

(j) “Trade secret” means information consisting of a valuable unpatented formula, pattern, device, or process, or other information that is used in a business and gives the possessor of the information a competitive advantage over those who do not know or use the information, and for which sufficient measures have been taken to guard the secrecy of the information and preserve its confidentiality, and that does not encompass information that is readily ascertainable by competitors or the general public without undue difficulty or hardship.

390.1554a Records received, prepared, used, or retained by investment fiduciary; confidentiality.

Sec. 4a. (1) Subject to subsection (2), a record received, prepared, used, or retained by an investment fiduciary in connection with an investment or potential investment of a public university or college that relates to investment information pertaining to a portfolio company in which the investment fiduciary has invested or has considered an investment that is considered by the portfolio company and acknowledged by the investment fiduciary as confidential, or that relates to investment information whether prepared by or for the investment fiduciary regarding loans and assets directly owned by the investment fiduciary and acknowledged by the investment fiduciary as confidential, is exempt from the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, if at least annually the public university or college provides to its governing board, and makes available to the public, a report of its investments that includes all of the following:

(a) The name of each portfolio company in which the public university or college invested during the reporting period.

(b) The aggregate amount of money invested by the public university or college in portfolio companies during the reporting period.

(c) The rate of return realized during the reporting period on the investments of the public university or college in portfolio companies.

(d) The source of any public funds invested by the public university or college in portfolio companies during the reporting period.

(2) If a record described in subsection (1) is an agreement or instrument to which an investment fiduciary is a party, only those parts of the record that contain investment

information are exempt from the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 87]

(SB 990)

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 section 5856 (MCL 600.5856), as amended by 1993 PA 78.

The People of the State of Michigan enact:

600.5856 Tolling of statute of limitations or repose.

Sec. 5856. The statutes of limitations or repose are tolled in any of the following circumstances:

(a) At the time the complaint is filed, if a copy of the summons and complaint are served on the defendant within the time set forth in the supreme court rules.

(b) At the time jurisdiction over the defendant is otherwise acquired.

(c) At the time notice is given in compliance with the applicable notice period under section 2912b, if during that period a claim would be barred by the statute of limitations or repose; but in this case, the statute is tolled not longer than the number of days equal to the number of days remaining in the applicable notice period after the date notice is given.

Applicability of act.

Enacting section 1. (1) Except as provided in subsection (2), this amendatory act applies to civil actions filed on or after the effective date of this amendatory act.

(2) This amendatory act does not apply to a cause of action if the statute of limitations or repose for that cause of action has expired before the effective date of this amendatory act.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 88]

(SB 612)

AN ACT to amend 1939 PA 3, entitled “An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,” by amending section 10a (MCL 460.10a), as amended by 2003 PA 214.

The People of the State of Michigan enact:

460.10a Alternative electric suppliers; orders establishing rates, terms, and conditions of service; licensing procedure; switching or billing for services without consent; code of conduct; appliance service program; orders issued before June 5, 2000; self-service power; affiliate wheeling; rights of parties to existing contracts and agreements; true-up adjustment; determination of net stranded costs; securitization charges; rates of returning customers.

Sec. 10a. (1) No later than January 1, 2002, the commission shall issue orders establishing the rates, terms, and conditions of service that allow all retail customers of an electric utility or provider to choose an alternative electric supplier. The orders shall provide for full recovery of a utility’s net stranded costs and implementation costs as determined by the commission.

(2) The commission shall issue orders establishing a licensing procedure for all alternative electric suppliers. To ensure adequate service to customers in this state, the commission shall require that an alternative electric supplier maintain an office within this state, shall assure that an alternative electric supplier has the necessary financial, managerial, and technical capabilities, shall require that an alternative electric supplier maintain records which the commission considers necessary, and shall ensure an alternative electric supplier’s accessibility to the commission, to consumers, and to electric utilities in this state. The commission also shall require alternative electric suppliers to agree that they will collect and remit to local units of government all applicable users, sales, and use taxes. An alternative electric supplier is not required to obtain any certificate, license, or authorization from the commission other than as required by this act.

(3) The commission shall issue orders to ensure that customers in this state are not switched to another supplier or billed for any services without the customer’s consent.

(4) No later than December 2, 2000, the commission shall establish a code of conduct that shall apply to all electric utilities. The code of conduct shall include, but is not limited to, measures to prevent cross-subsidization, information sharing, and preferential treatment, between a utility's regulated and unregulated services, whether those services are provided by the utility or the utility's affiliated entities. The code of conduct established under this subsection shall also be applicable to electric utilities and alternative electric suppliers consistent with section 10, this section, and sections 10b through 10cc.

(5) An electric utility may offer its customers an appliance service program. Except as otherwise provided by this section, the utility shall comply with the code of conduct established by the commission under subsection (4). As used in this section, "appliance service program" or "program" means a subscription program for the repair and servicing of heating and cooling systems or other appliances.

(6) A utility offering a program under subsection (5) shall do all of the following:

(a) Locate within a separate department of the utility or affiliate within the utility's corporate structure the personnel responsible for the day-to-day management of the program.

(b) Maintain separate books and records for the program, access to which shall be made available to the commission upon request.

(c) Not promote or market the program through the use of utility billing inserts, printed messages on the utility's billing materials, or other promotional materials included with customers' utility bills.

(7) All costs directly attributable to an appliance service program allowed under subsection (5) shall be allocated to the program as required by this subsection. The direct and indirect costs of employees, vehicles, equipment, office space, and other facilities used in the appliance service program shall be allocated to the program based upon the amount of use by the program as compared to the total use of the employees, vehicles, equipment, office space, and other facilities. The cost of the program shall include administrative and general expense loading to be determined in the same manner as the utility determines administrative and general expense loading for all of the utility's regulated and unregulated activities. A subsidy by a utility does not exist if costs allocated as required by this subsection do not exceed the revenue of the program.

(8) A utility may include charges for its appliance service program on its monthly billings to its customers if the utility complies with all of the following requirements:

(a) All costs associated with the billing process, including the postage, envelopes, paper, and printing expenses, are allocated as required under subsection (7).

(b) A customer's regulated utility service is not terminated for nonpayment of the appliance service program portion of the bill.

(c) Unless the customer directs otherwise in writing, a partial payment by a customer is applied first to the bill for regulated service.

(9) In marketing its appliance service program to the public, a utility shall do all of the following:

(a) The list of customers receiving regulated service from the utility shall be available to a provider of appliance repair service upon request within 2 business days. The customer list shall be provided in the same electronic format as such information is provided to the appliance service program. A new customer shall be added to the customer list within 1 business day of the date the customer requested to turn on service.

(b) Appropriately allocate costs as required under subsection (7) when personnel employed at a utility's call center provide appliance service program marketing information to a prospective customer.

(c) Prior to enrolling a customer into the program, the utility shall inform the potential customer of all of the following:

(*i*) That appliance service programs may be available from another provider.

(*ii*) That the appliance service program is not regulated by the commission.

(*iii*) That a new customer shall have 10 days after enrollment to cancel his or her appliance service program contract without penalty.

(*iv*) That the customer's regulated rates and conditions of service provided by the utility are not affected by enrollment in the program or by the decision of the customer to use the services of another provider of appliance repair service.

(d) The utility name and logo may be used to market the appliance service program provided that the program is not marketed in conjunction with a regulated service. To the extent that a program utilizes the utility's name and logo in marketing the program, the program shall include language on all material indicating that the program is not regulated by the commission. Costs shall not be allocated to the program for the use of the utility's name or logo.

(10) This section does not prohibit the commission from requiring a utility to include revenues from an appliance service program in establishing base rates. If the commission includes the revenues of an appliance service program in determining a utility's base rates, the commission shall also include all of the costs of the program as determined under this section.

(11) Except as otherwise provided in this section, the code of conduct with respect to an appliance service program shall not require a utility to form a separate affiliate or division to operate an appliance service program, impose further restrictions on the sharing of employees, vehicles, equipment, office space, and other facilities, or require the utility to provide other providers of appliance repair service with access to utility employees, vehicles, equipment, office space, or other facilities.

(12) The orders issued by the commission before June 5, 2000 that allow customers of an electric utility to choose an alternative electric supplier, including orders that determine and authorize recovery of net stranded costs and implementation costs and that confirm any voluntary commitments of electric utilities, are in compliance with this act and enforceable by the commission. An electric utility that has not had voluntary commitments to provide customer choice previously approved by orders of the commission shall file a restructuring plan to allow customers to choose an alternative electric supplier no later than the date ordered by the commission. The plan shall propose a methodology to determine the electric utility's net stranded costs and implementation costs.

(13) This act does not prohibit or limit the right of a person to obtain self-service power and does not impose a transition, implementation, exit fee, or any other similar charge on self-service power. A person using self-service power is not an electric supplier, electric utility, or a person conducting an electric utility business. As used in this subsection, "self-service power" means any of the following:

(a) Electricity generated and consumed at an industrial site or contiguous industrial site or single commercial establishment or single residence without the use of an electric utility's transmission and distribution system.

(b) Electricity generated primarily by the use of by-product fuels, including waste water solids, which electricity is consumed as part of a contiguous facility, with the use of an electric utility's transmission and distribution system, but only if the point or points of receipt of the power within the facility are not greater than 3 miles distant from the point of generation.

(c) A site or facility with load existing on June 5, 2000 that is divided by an inland body of water or by a public highway, road, or street but that otherwise meets this definition meets the contiguous requirement of this subdivision regardless of whether self-service power was being generated on June 5, 2000.

(d) A commercial or industrial facility or single residence that meets the requirements of subdivision (a) or (b) meets this definition whether or not the generation facility is owned by an entity different from the owner of the commercial or industrial site or single residence.

(14) This act does not prohibit or limit the right of a person to engage in affiliate wheeling and does not impose a transition, implementation, exit fee, or any other similar charge on a person engaged in affiliate wheeling. As used in this section:

(a) "Affiliate" means a person or entity that directly, or indirectly through 1 or more intermediates, controls, is controlled by, or is under common control with another specified entity. As used in this subdivision, "control" means, whether through an ownership, beneficial, contractual, or equitable interest, the possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity or the ownership of at least 7% of an entity either directly or indirectly.

(b) "Affiliate wheeling" means a person's use of direct access service where an electric utility delivers electricity generated at a person's industrial site to that person or that person's affiliate at a location, or general aggregated locations, within this state that was either 1 of the following:

(*i*) For at least 90 days during the period from January 1, 1996 to October 1, 1999, supplied by self-service power, but only to the extent of the capacity reserved or load served by self-service power during the period.

(*ii*) Capable of being supplied by a person's cogeneration capacity within this state that has had since January 1, 1996 a rated capacity of 15 megawatts or less, was placed in service before December 31, 1975, and has been in continuous service since that date. A person engaging in affiliate wheeling is not an electric supplier, an electric utility, or conducting an electric utility business when a person engages in affiliate wheeling.

(15) The rights of parties to existing contracts and agreements in effect as of January 1, 2000 between electric utilities and qualifying facilities, including the right to have the charges recovered from the customers of an electric utility, or its successor, shall not be abrogated, increased, or diminished by this act, nor shall the receipt of any proceeds of the securitization bonds by an electric utility be a basis for any regulatory disallowance. Further, any securitization or financing order issued by the commission that relates to a qualifying facility's power purchase contract shall fully consider that qualifying facility's legal and financial interests.

(16) The commission shall, after a contested case proceeding, issue annually an order approving for each electric utility a true-up adjustment to reconcile any overcollections or undercollections of the preceding 12 months to ensure the recovery of all amounts of net stranded costs. The rates for customers remaining with an incumbent electric utility will not be affected by the true-up process under this subsection. The commission shall review

the electric utility's stranded cost recovery charges and securitization charges implemented for the preceding 12 months, and adjust the stranded cost recovery charge, by way of supplemental surcharges or credits, to allow the netting of stranded costs.

(17) The commission shall consider the reasonableness and appropriateness of various methods to determine net stranded costs, including, but not limited to, all of the following:

(a) Evaluating the relationship of market value to the net book value of generation assets and purchased power contracts.

(b) Evaluating net stranded costs based on the market price of power in relation to prices assumed by the commission in prior orders.

(c) Any other method the commission considers appropriate.

(18) The true-up adjustment adopted under subsection (16) shall not result in a modification to the securitization charge. The commission shall not adjust or change in any manner securitization charges authorized by the commission in a financing order issued under section 10i as a result of its review and any action taken under subsection (16).

(19) After the time period described in section 10d(2), the rates for retail customers that remain with or leave and later return to the incumbent electric utility shall be determined in the same manner as the rates were determined before the effective date of this section.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 89]

(SB 1015)

AN ACT to amend 1986 PA 32, entitled "An act to provide for the establishment of emergency telephone districts; to provide for the installation, operation, modification, and maintenance of universal emergency number service systems; to provide for the imposition and collection of certain charges; to provide the powers and duties of certain state agencies, local units of government, public officers, telephone service suppliers, and others; to create an emergency telephone service committee; to provide remedies; to provide penalties; and to repeal certain parts of this act on specific dates," by amending section 408 (MCL 484.1408), as amended by 2003 PA 244.

The People of the State of Michigan enact:

484.1408 Service charge for CMRS connection.

Sec. 408. (1) Except as otherwise provided under subsection (3), starting January 1, 2004, a CMRS supplier or a reseller shall include a service charge of 52 cents per month for each CMRS connection that has a billing address in this state. The CMRS supplier or reseller shall list a service charge authorized under this section as a separate line item on each bill. The service charge shall be listed on the bill as the "operational 9-1-1 charge".

(2) Except as otherwise provided under subsection (3), a CMRS supplier may submit an invoice to the subcommittee created in section 410 for reimbursement from the CMRS emergency telephone fund for costs incurred in implementing the wireless emergency service order and this act. Within 90 days after the date the invoice is submitted to the

subcommittee, the subcommittee shall review the invoice and make a recommendation to the committee for the approval, in whole or in part, or denial of the invoice. The committee shall approve an invoice submitted under this subsection only if the invoice is for costs directly related to the providing and installing of equipment that implements the wireless emergency service order and this act. The committee shall authorize payment of the invoice in accordance with the recommendations of the subcommittee.

(3) Before July 1, 2004, all CMRS suppliers shall notify the committee in writing whether they will seek reimbursement from the CMRS emergency telephone fund for costs incurred until December 31, 2005 in implementing the wireless emergency service order and this act. If a CMRS supplier elects to seek reimbursement under this subsection, it shall continue to impose the 52 cents per month charge authorized under subsection (1) until December 31, 2005. After December 31, 2005, the CMRS supplier shall impose a service charge of 29 cents per month. A CMRS supplier that notifies the committee in writing that it will not seek reimbursement under this subsection shall impose a charge of 29 cents per month and not seek reimbursement from the fund for costs in implementing the wireless emergency service order and this act incurred after the date of its notice to the committee.

(4) The department of state police may receive funds from the CMRS emergency telephone fund for costs to administer this act or to operate a regional dispatch center that receives and dispatches 9-l-l calls. A breakdown of the costs funded under this subsection shall be included in the annual report required under section 412. Except as otherwise provided by this subsection, the costs funded under this subsection shall not exceed 1/2 of 1 cent of the monthly service charge collected under this section. If the department of state police establishes the position of E-911 coordinator, the costs funded under this subsection shall not exceed 1 cent of the monthly service charge collected under this section.

(5) Except as otherwise provided in this section, the money collected as the service charge under subsection (1) shall be deposited in the CMRS emergency telephone fund created in section 407 not later than 30 days after the end of the quarter in which the service charge was collected.

(6) All money collected and deposited in the CMRS emergency telephone fund created in section 407 shall be distributed as follows:

(a) Except as provided in subsection (9), 10 cents of each monthly service charge shall be disbursed equally to each county that has a final 9-1-1 plan in place that includes implementing the wireless emergency service order and this act. Money received by a county under this subdivision shall only be used to implement the wireless emergency service order and this act. Money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund.

(b) Except as provided in subsection (9), 15 cents of each monthly service charge shall be disbursed on a per capita basis to each county that has a final 9-1-1 plan in place that includes implementing the wireless emergency service order and this act. The committee shall certify to the department of treasury quarterly which counties have a final 9-1-1 plan in place. The most recent census conducted by the United States census bureau shall be used to determine the population of each county in determining the per capita basis in this subdivision. Money received by a county under this subdivision shall only be used to implement the wireless emergency service order and this act. Money expended under this subdivision for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund.

(c) One and one-half cents of each monthly service charge shall be available to PSAPs for training personnel assigned to 9-1-1 centers. A written request for money from the fund shall be made by a public safety agency or county to the committee. The committee shall semiannually authorize distribution of money from the fund to eligible public safety agencies or counties. A public safety agency or county that receives money under this subdivision shall create, maintain, and make available to the committee upon request a detailed record of expenditures relating to the preparation, administration, and carrying out of activities of its 9-1-1 training program. Money expended by an eligible public safety agency or county for a purpose considered unnecessary or unreasonable by the committee or the auditor general shall be repaid to the fund. Money shall be disbursed to an eligible public safety agency or county for training of PSAP personnel through courses certified by the commission on law enforcement standards only for either of the following purposes:

(*i*) To provide basic 9-1-1 operations training.

(*ii*) To provide in-service training to employees engaged in 9-1-1 service.

(d) As provided under subsections (2), (4), and (11).

(e) For fiscal year 2003-2004 only, an amount not to exceed $12,000,000.00 for the annual rental obligations of the state building authority under the bonds issued to finance the Michigan public safety communications system project.

(7) Money received by a county under subsection (6)(b) and (c) shall be distributed by the county to the primary PSAPs geographically located within the 9-1-1 service district by 1 of the following methods:

(a) As provided in the final 9-1-1 service plan.

(b) If distribution is not provided for in the 9-1-1 service plan under subdivision (a), then according to any agreement for distribution between a county and a public agency.

(c) If distribution is not provided for in the 9-1-1 service plan under subdivision (a) or by agreement between the county and public agency under subdivision (b), then according to the population within the geographic area for which the PSAP serves as primary PSAP.

(d) If a county has multiple emergency telephone districts, money for that county shall be distributed as provided in the emergency telephone districts' final 9-1-1 service plans.

(8) If a county with a final 9-1-1 plan in place does not accept 9-1-1 calls through the direct dispatch method, relay method, or transfer method from a CMRS user, the revenues available to the county under this section shall be disbursed to the public agency or county responsible for accepting and responding to those calls.

(9) In addition to the requirements of this subsection, a county is not eligible to receive disbursements under subsection (6)(a) or (b) unless the county is compliant with the wireless emergency service order and this act. A county shall be compliant with phase 1 implementation by June 30, 2004 and phase 2 implementation by June 30, 2005. A county that is not compliant with phase 1 implementation by June 30, 2004 and phase 2 implementation by June 30, 2005 shall use the disbursements received under subsection (6)(a) and (b) only for purposes of becoming compliant. A county that is not compliant with phase 1 implementation by December 31, 2004 and phase 2 implementation by December 31, 2005 is not eligible to receive disbursements under subsection (6)(a) and (b). Once the committee determines that a county that is not eligible to receive disbursements is compliant, the county shall begin receiving disbursements again under subsection (6)(a) and (b). As used in this subsection, "compliant" means the county has installed equipment

that is capable, and at a state of readiness, to deploy wireless service for all CMRS providers within a county's 9-1-1 service district or districts.

(10) From each service charge billed under subsection (1), each CMRS supplier or reseller who billed the customer shall retain 1/2 of 1 cent to cover the costs of billing and collection as the only reimbursement from this charge for billing and collection costs.

(11) Notwithstanding any other provision of this act, the commission, following a contested case, shall issue an order within 180 days of the effective date of the amendatory act that added this subsection establishing the costs that a local exchange provider may recover in terms of the costs related to the wireless emergency service order. Any cost reimbursement allowed under this subsection shall not include a cost that is not related to complying with the wireless emergency service order. After the commission has issued the order, a local exchange provider may submit an invoice to the commission for reimbursement from the CMRS emergency telephone fund for costs incurred that are allowed under the commission order. Within 45 days after the date an invoice is submitted to the commission, the commission shall make a recommendation to the committee for the approval, either in whole or in part, or the denial of the invoice. The committee shall authorize payment of an invoice in accordance with the commission's recommendation. As used in this subsection:

(a) "Commission" means the Michigan public service commission.

(b) "Local exchange provider" means a provider of regulated basic local exchange service as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(12) A CMRS supplier or reseller is not liable for an uncollected service charge billed under subsection (1) for which the CMRS supplier or reseller has billed the CMRS user. If only a partial payment of a bill is received by a CMRS supplier or reseller, the CMRS supplier or reseller shall credit the amount received as follows in priority order:

(a) For services provided.

(b) For the reimbursement under subsection (10).

(c) For the balance of the service charge.

(13) Amounts received under subsection (12)(c) shall be forwarded to the CMRS emergency telephone fund created in section 407. Any uncollected portion of the service charge that is not received shall be billed on subsequent billings and, upon receipt, amounts in excess of the reimbursement under subsection (10) shall be forwarded to the CMRS emergency telephone fund created in section 407. The service charge paid by a CMRS user is not subject to a state or local tax.

(14) A CMRS supplier or reseller shall implement the billing provisions of this section not later than October 26, 1999.

(15) The department of state police shall annually prepare a list of projects in priority order that the department of state police recommends for funding from the funds collected under former section 409(e). The legislature shall annually review and approve projects by law. If a project provides infrastructure or equipment for use by CMRS suppliers, the department of state police shall charge a reasonable fee for use of the infrastructure or equipment. Fees collected under this subsection shall be deposited in the fund.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 90]

(SB 560)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 3101 (MCL 324.3101), as amended by 2001 PA 114, and by adding sections 3122, 3123, and 3124.

The People of the State of Michigan enact:

324.3101 Definitions.

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

(*i*) Filtration.

(*ii*) The application of biocides or ultraviolet light.

(*iii*) Thermal methods.

(*iv*) Other treatment techniques approved by the department.

(d) "Department" means the department of environmental quality.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(f) "Great Lakes" means the Great Lakes and their connecting waters, including Lake St. Clair.

(g) "Group 1 facility" means a facility whose discharge is described by R 323.2218 of the Michigan administrative code.

(h) "Group 2 facility" means a facility whose discharge is described by R 323.2210(y), 323.2215, or 323.2216 of the Michigan administrative code.

(i) "Group 3 facility" means a facility whose discharge is described by R 323.2211 or 323.2213 of the Michigan administrative code.

(j) "Local unit" means a county, city, village, or township or an agency or instrumentality of any of these entities.

(k) "Municipality" means this state, a county, city, village, or township, or an agency or instrumentality of any of these entities.

(*l*) "Nonoceangoing vessel" means a vessel that is not an oceangoing vessel.

(m) "Oceangoing vessel" means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.

(n) "Sediments" means any matter settled out of ballast water within a vessel.

(o) "Sewage sludge" means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.

(p) "Sewage sludge derivative" means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.

(q) "Sewage sludge generator" means a person who generates sewage sludge that is applied to land.

(r) "Sewage sludge distributor" means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.

(s) "St. Lawrence waterway" means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.

(t) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

324.3122 Annual groundwater discharge permit fee; failure of department to grant or deny within certain time period; payment of fee by municipality; definitions.

Sec. 3122. (1) Until October 1, 2007, the department may levy and collect an annual groundwater discharge permit fee from facilities that discharge wastewater to the ground or groundwater of this state pursuant to section 3112. The fee shall be as follows:

(a) For a group 1 facility, $3,650.00.

(b) For a group 2 facility or a municipality of 1,000 or fewer residents, $1,500.00.

(c) For a group 3 facility, $200.00.

(2) Within 180 days after receipt of a complete application, the department shall either grant or deny a permit, unless the applicant and the department agree to extend this time period. If the department fails to make a decision on an application within the time period specified or agreed to under this subsection, the applicant shall receive a 15% annual discount on an annual groundwater discharge permit fee for a permit issued based upon that application. This subsection applies to permit applications received beginning October 1, 2005.

(3) If the person required to pay the annual groundwater discharge permit fee under subsection (1) is a municipality, the municipality may pass on the annual groundwater discharge permit fee to each user of the municipal facility.

(4) As used in this section, "group 1 facility", "group 2 facility", and "group 3 facility" do not include a municipality with a population of 1,000 or fewer residents.

324.3123 Groundwater discharge permit fees; invoices; late payment; action by attorney general.

Sec. 3123. (1) The department shall send invoices for the groundwater discharge permit fees under section 3122 to all permit holders by January 15 of each year. Fees will be charged for all facilities authorized as of December 15 of each calendar year. Payment shall be postmarked no later than March 1 of each year. Failure by the department to send an invoice by the deadline, or failure of a person to receive an invoice, does not relieve that person of his or her obligation to pay the annual groundwater discharge permit fee. If the department does not meet the January 15 deadline for sending invoices, the annual groundwater discharge permit fee is due not later than 45 days after receiving an invoice. The department shall forward money collected pursuant to this section to the state treasurer for deposit into the groundwater discharge permit fund established under section 3124.

(2) The department shall assess a penalty on all fee payments submitted under this section after the due date. The penalty shall be an amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due. Failure to timely pay a fee imposed by this section is a violation of this part and is cause for revocation of a permit issued under this part and may subject the discharger to additional penalties pursuant to section 3115.

(3) The attorney general may bring an action for the collection of the groundwater discharge permit fees imposed under this section.

324.3124 Groundwater discharge permit fund.

Sec. 3124. (1) The groundwater discharge permit fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the groundwater discharge permit fund. The state treasurer shall direct the investment of the groundwater discharge permit fund.

(2) Money in the groundwater discharge permit fund at the close of the fiscal year shall remain in the groundwater discharge permit fund and shall not lapse to the general fund.

(3) The state treasurer shall credit to the groundwater discharge permit fund the interest and earnings from groundwater discharge permit fund investments.

(4) The department shall expend money from the groundwater discharge permit fund, upon appropriation, only to implement the department's groundwater discharge program under this part. However, in any state fiscal year, the department shall not expend more than $2,000,000.00 of money from the fund.

(5) By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chair of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities during the previous fiscal year in administering the department's groundwater discharge program that were funded by the groundwater discharge permit fund. This report shall include, at a minimum, all of the following as they relate to the department:

(a) The number of full-time equated positions performing groundwater permitting, compliance, and enforcement activities.

(b) The number of applications received by the department, reported as the number of applications determined to be administratively incomplete and the number determined to be administratively complete.

(c) The number of applications for groundwater permits determined to be administratively complete for which a final action was taken by the department. The number of final actions shall be reported as the number of applications approved, the number of applications denied, and the number of applications withdrawn by the applicant.

(d) The percentage and number of applications determined to be administratively complete for which a final decision was made within the statutory time frame.

(e) The number of inspections conducted at groundwater facilities.

(f) The number of violation letters sent.

(g) The number of contested case hearings and civil actions initiated and completed, the number of voluntary consent orders and administrative orders entered or issued, and the amount of fines and penalties collected through such actions or orders.

(h) For each enforcement action that includes a penalty, a description of what corrective actions were required by the enforcement action.

(i) The number of groundwater complaints received, investigated, resolved, and not resolved by the department.

(j) The amount of revenue in the groundwater discharge permit fund at the end of the fiscal year.

This act is ordered to take immediate effect.
Approved April 22, 2004.
Filed with Secretary of State April 22, 2004.

[No. 91]

(SB 252)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 3103, 3112, 3113, 3115, 3118, and 3119 (MCL 324.3103, 324.3112, 324.3113, 324.3115, 324.3118, and 324.3119), section 3118 as amended by 1999 PA 35 and section 3119 as amended by 1999 PA 106, and by adding sections 3120 and 3121.

The People of the State of Michigan enact:

324.3103 Department of environmental quality; powers and duties generally; rules; other actions.

Sec. 3103. (1) The department shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state and the Great Lakes, which are or may be affected by waste disposal of any person. The department may make or cause to be made surveys, studies, and investigations of the uses of waters of the state, both surface and underground, and cooperate with other governments and governmental units and agencies in making the surveys, studies, and investigations. The department shall assist in an advisory capacity a flood control district that may be authorized by the legislature. The department, in the public interest, shall appear and present evidence, reports, and other testimony during the hearings involving the creation and organization of flood control districts. The department shall advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of a flood control district or intercounty drainage district.

(2) The department shall enforce this part and may promulgate rules as it considers necessary to carry out its duties under this part. However, notwithstanding any rule-promulgation authority that is provided in this part, the department shall not promulgate any additional rules under this part after December 31, 2006.

(3) The department may promulgate rules and take other actions as may be necessary to comply with the federal water pollution control act, chapter 758, 86 Stat. 816, 33 USC 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This part shall not be construed as authorizing the department to expend or to incur any obligation to expend any state funds for such purpose in excess of any amount that is appropriated by the legislature.

(4) Notwithstanding the limitations on rule promulgation under subsection (2), rules promulgated under this part before January 1, 2007 shall remain in effect unless rescinded.

324.3112 Permit to discharge waste into state waters; application determined as complete; condition of validity; modification, suspension, or revocation of permit; reissuance; application for new permit; notice; order; complaint; petition; contested case hearing; rejection of petition.

Sec. 3112. (1) A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department.

(2) An application for a permit under subsection (1) shall be submitted to the department. Within 30 days after an application for a new or increased use is received, the department shall determine whether the application is administratively complete. Within 90 days after an application for reissuance of a permit is received, the department shall determine whether the application is administratively complete. If the department determines that an application is not complete, the department shall notify the applicant in writing within the applicable time period. If the department does not make a determination as to whether the application is complete within the applicable time period, the application shall be considered to be complete.

(3) The department shall condition the continued validity of a permit upon the permittee's meeting the effluent requirements that the department considers necessary to prevent unlawful pollution by the dates that the department considers to be reasonable and necessary and to assure compliance with applicable federal law and regulations. If the department finds that the terms of a permit have been, are being, or may be violated, it may modify, suspend, or revoke the permit or grant the permittee a reasonable period of time in which to comply with the permit. The department may reissue a revoked permit upon a showing satisfactory to the department that the permittee has corrected the violation. A person who has had a permit revoked may apply for a new permit.

(4) If the department determines that a person is causing or is about to cause unlawful pollution of the waters of this state, the department may notify the alleged offender of its determination and enter an order requiring the person to abate the pollution or refer the matter to the attorney general for legal action, or both.