(*l*) "Power boiler" means a closed vessel in which steam or other vapor is generated at a pressure of more than 15 p.s.i.g. by the direct application of heat.

(m) "Process boiler" means a boiler operated at a pressure or temperature from which more than 10% of the boiler's capacity is used for direct steam humidification or direct process work.

(n) "Secondhand boiler" means a boiler which has changed ownership and location after initial use.

408.753 Board of boiler rules; creation; appointment, qualifications, and terms of members; removal of member; vacancy; election of officers; conducting business at public meeting; notice of meeting; quorum; effectiveness of approval, decision, or ruling; compensation and expenses.

Sec. 3. (1) There is created a board of boiler rules in the department of labor and economic growth. The board, in addition to the director, shall consist of 12 members, 11 of whom shall have substantial experience in the design, erection, fabrication, installation, operation, repair, or inspection of boilers, and 1 of whom shall represent the general public. Members shall be appointed by the governor with the advice and consent of the senate for terms of 4 years each. The governor may remove a member of the board for inefficiency or neglect of duty in office. Upon the death or incapacity of a member, the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which the predecessor was identified. Of the 12 appointed members, 2 shall be representatives of owners and users of boilers within this state, 1 shall represent owners and users of power boilers operating at 1,000 p.s.i.g. or more, 2 shall be representatives of organized labor in the state engaged in the erection, fabrication, installation, operation, or repair of boilers, 1 shall be a representative of water tube boiler manufacturers doing business within this state, 1 shall be a representative of fire tube boiler manufacturers doing business within this state, 1 shall be a representative of a boiler insurance company licensed to do business within this state, 1 shall be a representative of the mechanical contractors within this state having experience in the installation, piping, or operation of boilers, 1 shall be a representative of boiler repair contractors within this state in the business of repairing boilers by welding and riveting, 1 shall be a representative of the consulting engineers within this state having boiler experience, 1 shall be a representative of antique steam boiler owners and operators, and 1 shall be a representative of the general public.

(2) Annually, at the first meeting, the board shall elect a chairperson, vice-chairperson, and secretary. The business which the board of boiler rules may perform shall be conducted at a public meeting of the board of boiler rules held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall meet not less than quarterly or more frequently at the call of the chairperson or 4 members of the board with public notice of the time, date, and place of a meeting given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and 10 days' notification to board members.

(3) Seven members of the board shall constitute a quorum for the transaction of business. An approval, decision, or ruling of the board is not effective unless supported by a majority of the members present.

(4) The per diem compensation of the members of the board, other than the director, and the schedule for reimbursement of expenses, shall be established annually by the legislature.

408.757a Antique steam boilers; compliance with rules; inspection; certificate of inspection; exception.

Sec. 7a. (1) Antique steam boilers shall comply with the rules promulgated by the board and shall be inspected once every 3 years. An owner of an antique steam boiler may request an inspection more often than every 3 years. Antique steam boilers used for commercial purposes shall be inspected annually. A certificate of inspection shall be issued by the department of labor and economic growth upon compliance with the applicable rules.

(2) This act does not apply to miniature steam or marine engines used as a hobby.

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

[No. 104]

(HB 5026)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 411a (MCL 750.411a), as amended by 2002 PA 672.

The People of the State of Michigan enact:

750.411a False report of crime; violation; penalty; payment of costs by juvenile.

Sec. 411a. (1) Except as provided in subsection (2), a person who intentionally makes a false report of the commission of a crime, or intentionally causes a false report of the commission of a crime to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, is guilty of a crime as follows:

(a) If the report is a false report of a misdemeanor, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) If the report is a false report of a felony, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(2) A person shall not do either of the following:

(a) Knowingly make a false report of a violation or attempted violation of chapter XXXIII or section 327, 328, 397a, or 436 and communicate or cause the communication of the false report to any other person, knowing the report to be false.

(b) Threaten to violate chapter XXXIII or section 327, 328, 397a, or 436 and communicate or cause the communication of the threat to any other person.

(3) A person who violates subsection (2) is guilty of a felony punishable as follows:

(a) For a first conviction under subsection (2), by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) For a second or subsequent conviction under subsection (2), imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(4) The court may order a person convicted under subsection (2) to pay to the state or a local unit of government the costs of responding to the false report or threat including, but not limited to, use of police or fire emergency response vehicles and teams, pursuant to section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f, unless otherwise expressly provided for in this section.

(5) If the person ordered to pay costs under subsection (4) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(6) As used in this section:

(a) "Local unit of government" means:

(*i*) A city, village, township, or county.

(*ii*) A local or intermediate school district.

(*iii*) A public school academy.

(*iv*) A community college.

(b) "State" includes, but is not limited to, a state institution of higher education.

Effective date.

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

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

[No. 105]

(HB 5182)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 5714, 5735, and 5744 (MCL 600.5714, 600.5735, and 600.5744), section 5714 as amended by 1990 PA 310 and section 5735 as amended by 2001 PA 162.

The People of the State of Michigan enact:

600.5714 Summary proceedings to recover possession of premises; holding over by tenant or occupant of public housing or by tenant of mobile home park.

Sec. 5714. (1) A person entitled to premises may recover possession of the premises by summary proceedings in the following circumstances:

(a) When a person holds over premises after failing or refusing to pay rent due under the lease or agreement by which the person holds the premises within 7 days from the service of a written demand for possession for nonpayment of the rent due. For the purpose of this subdivision, rent due does not include any accelerated indebtedness by reason of a breach of the lease under which the premises are held.

(b) When a person holds over premises for 24 hours following service of a written demand for possession for termination of the lease pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or other person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. This subdivision applies only if a formal police report has been filed by the landlord alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subdivision, "controlled substance" means a substance or a counterfeit substance classified in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

(c) When a person holds over premises in 1 or more of the following circumstances:

(*i*) After termination of the lease, pursuant to a power to terminate provided in the lease or implied by law.

(*ii*) After the term for which the premises are demised to the person or to the person under whom he or she holds.

(*iii*) After the termination of the person's estate by a notice to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

(d) When the person in possession willfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered by the party seeking possession not earlier than 90 days before the institution

of proceedings under this chapter and when the person in possession neglects or refuses for 7 days after service of a demand for possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(e) When a person takes possession of premises by means of a forcible entry, holds possession of premises by force after a peaceable entry, or comes into possession of premises by trespass without color of title or other possessory interest.

(f) When a person continues in possession of premises sold by virtue of a mortgage or execution, after the time limited by law for redemption of the premises.

(g) When a person continues in possession of premises sold and conveyed by a personal representative under license from the probate court or under authority in the will.

(2) A tenant or occupant of housing operated by a city, village, township, or other unit of local government, as provided in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission or by law.

(3) A tenant of a mobile home park is not considered to be holding over under subsection (1)(b) or (c) unless the tenancy or lease agreement is terminated for just cause pursuant to chapter 57a.

600.5735 Summons; hearing.

Sec. 5735. (1) The court in which a summary proceeding is commenced shall issue a summons, which may be served on the defendant by any officer or person authorized to serve process of the court. The summons shall command the defendant to appear for trial in accordance with the provisions of subsection (2) unless by local court rule the provisions of subsection (4) have been made applicable.

(2) A summons issued under this section shall command the defendant to appear for trial as follows:

(a) Within 30 days of the issuance date of the summons in proceedings under section 5726, in which event the summons shall be served not less than 10 days before the date set for trial.

(b) Within 10 days of the issuance date of the summons in all other proceedings, in which event the summons shall be served not less than 3 days before the date set for trial.

(3) If a summons issued under this section is not served within the time provided by subsection (2), additional summons shall be issued at the plaintiff's request in the same manner and with the same effect as the original summons.

(4) Instead of the provisions of subsection (2), a court by local rule may provide for the application of this subsection to summary proceedings commenced in the court, in which event the summons shall command the defendant to appear as follows:

(a) Within 10 days after service of the summons upon the defendant in proceedings under section 5726.

(b) Within 5 days after service of the summons upon the defendant in all other proceedings.

(5) A summons issued under subsection (4) remains in effect until served or quashed or until the action is dismissed, but additional summons as needed for service may be issued at any time at the plaintiff's request.

(6) Except as otherwise provided by court rule, a summary proceeding shall be heard within 7 days after the defendant's appearance or trial date and shall not be adjourned

beyond that time other than by stipulation of the parties either in writing or on the record.

(7) An action to which section 5714(1)(b) applies shall be heard at the time of the defendant's appearance or trial date and shall not be adjourned beyond that time except for extraordinary reasons.

600.5744 Issuance of writ of restitution; conditions; foreclosure of equitable right of redemption.

Sec. 5744. (1) Subject to the time restrictions of this section, the court entering a judgment for possession in a summary proceeding shall issue a writ commanding the sheriff, or any other officer authorized to serve the process, to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

(2) On conditions determined by the court, a writ of restitution may be issued immediately after the entry of a judgment for possession when any of the following is pleaded and proved, with notice, to the satisfaction of the court:

(a) The premises are subject to inspection and certificate of compliance under the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, and the certificate or temporary certificate has not been issued and the premises have been ordered vacated.

(b) Forcible entry was made contrary to law.

(c) Entry was made peaceably but possession is unlawfully held by force.

(d) The defendant came into possession by trespass without color of title or other possessory interest.

(e) The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continuing injury to the premises and is neglecting or refusing either to deliver up possession after demand or to substantially restore or repair the premises.

(f) The action is an action to which section 5714(1)(b) applies.

(3) When a judgment for possession is based upon the forfeiture of an executory contract for the purchase of the premises, a writ of restitution shall not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months after the entry of judgment for possession if 50% or more of the purchase price has been paid.

(4) In all cases not controlled by subsection (2) or (3), a writ of restitution shall not be issued until the expiration of 10 days after the entry of the judgment for possession.

(5) If an appeal is taken or a motion for new trial is filed before the expiration of the period during which a writ of restitution shall not be issued and if a bond to stay proceedings is filed, the period during which the writ shall not be issued shall be tolled until the disposition of the appeal or motion for new trial is final.

(6) When a judgment for possession is for nonpayment of money due under a tenancy or for nonpayment of money required to be paid under or any other material breach of an executory contract for purchase of the premises, the writ of restitution shall not issue if, within the time provided, the amount stated in the judgment, together with the taxed costs, is paid to the plaintiff and other material breaches of the executory contract for purchase of the premises are cured.

(7) Issuance of a writ of restitution following entry of a judgment for possession because of the forfeiture of an executory contract for the purchase of the premises forecloses any equitable right of redemption that the purchaser has or could claim in the premises.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5197 of the 92nd Legislature is enacted into law.

Effective date.

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

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

Compiler's note: House Bill No. 5197, referred to in enacting section 1, was filed with the Secretary of State May 20, 2004, and became P.A. 2004, No. 106, Eff. Sept. 1, 2004.

[No. 106]

(HB 5197)

AN ACT to amend 1846 RS 66, entitled "Of estates in dower, by the curtesy, and general provisions concerning real estate," by amending section 34 (MCL 554.134), as amended by 1990 PA 311.

The People of the State of Michigan enact:

554.134 Termination of estate at will or by sufferance or tenancy from year to year.

Sec. 34. (1) Except as provided otherwise in this section, an estate at will or by sufferance may be terminated by either party by giving 1 month's notice to the other party. If the rent reserved in a lease is payable at periods of less than 3 months, the time of notice is sufficient if it is equal to the interval between the times of payment. Notice is not void because it states a day for the termination of the tenancy that does not correspond to the conclusion or commencement of a rental period. The notice terminates the tenancy at the end of a period equal in length to the interval between times of payment.

(2) If a tenant neglects or refuses to pay rent on a lease at will or otherwise, the landlord may terminate the tenancy by giving the tenant a written 7-day notice to quit.

(3) A tenancy from year to year may be terminated by either party by a notice to quit, given at any time to the other party. The notice shall terminate the lease at the expiration of 1 year from the time of the service of the notice.

(4) If a tenant holds over after a lease is terminated pursuant to a clause in the lease providing for termination because the tenant, a member of the tenant's household, or other person under the tenant's control has manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises, the landlord may terminate the tenancy by giving the tenant a written 24-hour notice to quit. This subsection applies only if a formal police report has been filed by the landlord alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subsection, "controlled substance" means a substance or a counterfeit substance classified in schedule 1,

2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5182 of the 92nd Legislature is enacted into law.

Effective date.

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

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

Compiler's note: House Bill No. 5182, referred to in enacting section 1, was filed with the Secretary of State May 20, 2004, and became P.A. 2004, No. 105, Eff. Sept. 1, 2004.

[No. 107]

(SB 307)

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," (MCL 380.1 to 380.1852) by adding section 1294.

The People of the State of Michigan enact:

380.1294 Parent involvement plan; adoption; distribution; review.

Sec. 1294. (1) Not later than January 1, 2005, the board of a school district or intermediate school district or the board of directors of a public school academy shall adopt and implement a parent involvement plan designed to encourage parental participation.

(2) The board or board of directors shall provide a copy of the parent involvement plan to the parent or legal guardian of each pupil. The board or board of directors may provide the copy of the policy by including the policy in its student handbook or a similar publication that is distributed to all pupils and parents.

(3) The board or board of directors shall provide a copy of the parent involvement plan to the department upon request by the department.

(4) The department shall review parental involvement practices that have been implemented by public schools in this state and elsewhere and shall post information at the department website about successful parental involvement policies and practices.

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

[No. 108]

(HB 5545)

AN ACT to amend 1993 PA 331, entitled "An act to provide for the levy and collection of a state education tax; to provide for the distribution of the tax; and to prescribe the duties of certain local officials and state officers," by amending section 5b (MCL 211.905b), as added by 2002 PA 244.

The People of the State of Michigan enact:

211.905b City or township in which no property taxes collected.

Sec. 5b. (1) This section applies only to a city or township, or that portion of a city or township, in which no property taxes, other than the tax levied under this act or village taxes, are levied in the summer of 2003 and any summer after 2003.

(2) A city or township shall collect the tax levied under this act unless, before November 1, 2002, the legislative body of the city or township adopts a resolution declining to collect the tax levied under this act and, for a township, the treasurer concurs in writing with that resolution. Before November 1, 2002, if the city or township adopts a resolution declining to collect the tax under this act and, for a township, the treasurer concurs in writing with that resolution, the appropriate assessing officer shall send a copy of that resolution and, for a township, that concurrence to the state treasurer and the treasurer of the county in which the city or township is located. In January 2004 and each January thereafter, the legislative body of a city or township that has declined to collect the tax under this subsection may by resolution adopted by a majority of the legislative body rescind the earlier decision to decline to collect the tax. The city or township shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax to the state treasurer and the treasurer of the county in which the city or township is located. If a city or township collects the tax levied under this act pursuant to this section, that city or township shall retain $2.50 for each parcel of property in that city or township on which the tax levied under this act is billed under this section from the tax collected under this act before transmitting the tax collected as provided in this act.

(3) A county that receives a copy of a resolution declining to collect the tax under this act and, for a township, a written concurrence as provided in subsection (2) shall collect the tax levied under this act pursuant to this section unless, before February 1, 2003, the county board of commissioners adopts a resolution declining to collect the tax levied under this act and the county treasurer concurs in writing with that resolution. Before February 1, 2003, if the county board of commissioners adopts a resolution declining to collect the tax under this act and the county treasurer concurs in writing with that resolution, the county treasurer shall send a copy of that resolution and that concurrence to the state treasurer. In February 2004 and each February thereafter, a county board of commissioners that has declined to collect the tax under this subsection may by resolution, with the written

concurrence of the county treasurer, rescind the earlier decision to decline to collect the tax. The county treasurer shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax and the written concurrence of the county treasurer to the state treasurer. If a county collects the tax levied under this act pursuant to this section, that county shall retain $2.50 for each parcel for property in that county on which the tax levied under this act is billed under this section from the tax collected under this act before transmitting the tax collected under this act to the state treasurer as provided in this act.

(4) If a city or township does not collect the tax levied under this act pursuant to subsection (2) and if a county does not collect the tax levied under this act pursuant to subsection (3), the state treasurer shall collect the tax under the provisions of the general property tax act. The collection of the tax levied under this act is not subject to 1941 PA 122, MCL 205.1 to 205.31. The tax levied under this act collected pursuant to this subsection is subject to a 1% administration fee.

(5) All of the following apply to the collection of the tax levied under this act by a county treasurer or the state treasurer:

(a) Not later than June 1, the township or city for which the tax is being collected shall deliver to the county treasurer or the state treasurer, as applicable, a certified copy of each assessment roll for taxable property located in the township or city. Each assessment roll shall include the taxable value of each parcel subject to the collection of the tax levied under this act. The county treasurer or state treasurer, as applicable, shall remit the necessary cost incident to the reproduction of the assessment roll to the township or city.

(b) Not later than June 30, the county treasurer or the state treasurer, as applicable, shall spread the millage levied under this act against the assessment roll and prepare the tax roll.

(c) The county treasurer or the state treasurer, as applicable, may impose all or a portion of the fees and charges authorized under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, on taxes paid before March 1. The county treasurer or the state treasurer, as applicable, shall retain the fees and charges imposed under this subdivision regardless of whether all or part of the fees and charges have been waived by the township or city.

(6) In relation to the assessment, spreading, and collection of taxes pursuant to this section, a county treasurer or the state treasurer, as applicable, shall have powers and duties similar to those prescribed by the general property tax act for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(7) A county treasurer or state treasurer collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

(8) If a county treasurer or the state treasurer collects the tax levied under this act pursuant to this section, all payments from this state for collecting the tax levied under this act in a summer levy, and all revenue generated by the administration fee, shall be deposited in a restricted account designated as the "state education tax collection account". The county treasurer or the state treasurer, as applicable, shall direct the investment of the account. The county treasurer or the state treasurer, as applicable, shall credit to the account interest and earnings from the account investments. Proceeds in that account shall only be used for the cost of collecting the tax levied under this act. For a county collecting the tax under this act, the county board of commissioners shall appropriate sufficient money from the account to the county treasurer to cover the cost of collecting the tax levied under this act.

(9) The tax levied under this act that is collected by a city pursuant to this section on a date other than a date it collects city taxes shall be subject to the same fees and charges a city may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a city may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. The tax levied under this act that is collected pursuant to this section on or before September 14 of each year by a city that collects school taxes on a date other than the date it collects city taxes shall be without interest, but the tax levied under this act that is collected after September 14 in each year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. All interest and penalties that are imposed prior to the date the tax levied under this act is returned as delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the city.

(10) The tax levied under this act that is collected by a township on or before September 14 in each year shall be without interest. The tax levied under this act that is collected after September 14 of any year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. The tax levied under this act that is collected by a township is subject to the same fees and charges the township may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a township may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. All interest and penalties that are imposed prior to the date the tax levied under this act is returned delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the township.

(11) For taxes levied after December 31, 2003, not later than June 1 of each year, the county treasurer shall deliver to the state treasurer a statement of the total amount of the state education tax levy of the prior year not returned delinquent that was collected by the county treasurer and collected and remitted to the county treasurer by each city or township treasurer, together with a statement for the county and for each city or township of the number of parcels from which the state education tax was collected, the number of parcels for which the state education tax was billed, and the total amount retained by the county treasurer and by the city or township treasurer as permitted by subsections (2) and (3).

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

[No. 109]

(HB 5093)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to

require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," by amending sections 17g, 23, 27, 33, and 67a (MCL 38.17g, 38.23, 38.27, 38.33, and 38.67a), sections 17g, 23, and 27 as amended by 1987 PA 241, section 33 as amended by 2002 PA 93, and section 67a as added by 1996 PA 487, and by adding section 27a.

The People of the State of Michigan enact:

38.17g Parental leave; purchase of service credit.

Sec. 17g. (1) A member who left or leaves service with the state or who left or leaves service for a reporting unit of the public school employees retirement system for purposes of parental leave, and returned or returns to service with the state without other intervening employment of more than 20 hours per week for each week for which service credit is claimed, may purchase service credit for the time period or periods during which the person was separated or on leave of absence from service with the state or separated or on leave of absence from a reporting unit of the public school employees retirement system because of parental leave, upon submitting an application described in subsection (5) and upon payment to the retirement system of an amount that is equal to the actuarial cost multiplied by the member's full-time or equated full-time fiscal year compensation for the fiscal year in which payment is made multiplied by each year and fraction of a year of service to be purchased, up to the maximum. For the purpose of computing payment under this subsection, the compensation amount used shall not be less than the highest full-time or equated full-time fiscal year compensation previously received by the member as a member of the system. The total service credited under this section shall not exceed 5 years. A member requesting purchase of service credit under this section shall certify to the retirement system the purpose for which the member took leave or was separated from service with the state.

(2) Service credit purchased under this section shall not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance is not payable, or if the member leaves service with the state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the retirement system, or if a person is not designated, then to the member's legal representative.

(4) A member who reduces hours of employment with the state for purposes of parental leave may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member requesting purchase of service credit under this section shall submit an application as prescribed by the retirement system in which the member shall certify the time period claimed for parental leave and the purpose of the parental leave. If a request for purchase of service credit under this section is a result of leave taken to care for the member's child by birth or adoption, then the member also shall submit a certified copy of a birth certificate or adoption document from the appropriate court.

(6) Parental leave is creditable under this act until the child, by birth or adoption, attains age 18 or is married, whichever occurs first.

(7) For purposes of this section, "parental leave" means either of the following:

(a) The presence of the member in the active participation or supervision in the day-to-day, ongoing care or maintenance of his or her child by birth or adoption, for which the member reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

(b) A member's pregnancy, whether brought to full term or not, childbirth, and recuperation, for which the member reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

38.23 Retirement for disability before attaining age 60; benefits.

Sec. 23. (1) Upon retirement for disability as provided in section 21, a member who is less than 60 years old shall receive a disability retirement allowance calculated under section 20(1). A disability retirement allowance payable under this subsection is payable beginning on the first day of the month following the date the member becomes totally incapacitated for state employment. A disability retirement allowance payable under this subsection shall not be paid before the first day of the month after the later of the following:

(a) Twelve months before the date the application for a disability retirement allowance was filed with the retirement system under section 21.

(b) The date the disability retirant's name last appeared on the state payroll with pay.

(2) Upon attaining age 60 years, a disability retirant under subsection (1) shall receive a retirement allowance calculated under section 20. For the purpose of calculating that retirant's retirement allowance, the retirant shall be given membership service credit for the period during which the retirant was receiving the disability retirement allowance provided for in subsection (1). If the computation results in a retirement allowance less than the disability retirement allowance provided in subsection (1), the retirant shall receive a retirement allowance equal to the disability retirement allowance provided in subsection (1). Upon attaining age 60, the retirant may elect an option provided for in section 31(1).

(3) During the period a disability retirant is receiving a disability retirement allowance under subsection (1), the retirant's contributions to the employees' savings fund shall be suspended and the balance in the fund, that is credited to the retirant as of the date the disability retirement allowance begins, shall remain in the savings fund and shall be accumulated at regular interest. Upon attaining age 60 years, the disability retirant's accumulated contributions shall be transferred from the employees' savings fund to the pension reserve fund. If the disability retirant should die before attaining age 60 years, the accumulated contributions standing to the disability retirant's credit in the employees' savings fund shall be paid to the person or persons the disability retirant nominated by written designation executed and filed with the retirement system, or if there is not a designated person or persons surviving, then to the disability retirant's legal representative or estate.

(4) The disability retirement allowance payable to a disability retirant under this section shall not be less than $6,000.00 per year. A disability retirement allowance first payable to a disability retirant under this section shall not be more than an amount that when added to the worker's compensation benefits payable to the disability retirant exceeds the disability retirant's final compensation.

(5) If the disability retirant who retired under section 21 dies before reaching age 60, the retirement allowance payable to the beneficiary designated by the disability retirant shall be calculated as provided in section 20(1). For the purpose of calculating the retirement allowance payable to the beneficiary designated by the disability retirant, the

deceased retirant shall be given membership service credit for the period during which the retirant was receiving the disability retirement allowance provided for in subsection (1).

(6) The receipt of a disability retirement allowance under this section is subject to sections 33 and 34.

38.27 Death resulting from personal injury or disease arising out of and in course of state employment; survivor benefits.

Sec. 27. (1) Except as provided in subsections (3), (4), and (5), if a member dies as a result of a personal injury or disease arising out of and in the course of his or her employment with the state and the personal injury or disease resulting in death is found by the retirement board to have been the sole and exclusive result of employment with the state, the surviving spouse shall receive a retirement allowance calculated as if the deceased member had retired effective the day before the date of death, elected option A under section 31(1), and nominated his or her spouse as retirement allowance beneficiary. The retirement allowance shall be calculated based upon the amount of the deceased member's credited service. If the deceased member does not have the minimum number of years of credited service needed to vest in the retirement system, the amount of service necessary to reach that amount of credited service shall be granted.

(2) The retirement allowance payable to a surviving spouse under this section shall not be less than $6,000.00 per year. The retirement allowance first payable to a surviving spouse under subsection (1) shall not be more than an amount that, when added to the statutory worker's disability compensation benefits payable to the surviving spouse of the deceased member, equals the deceased member's final compensation.

(3) If the requirements of subsection (1) are met but the deceased member is survived by a spouse and a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be payable as follows:

(a) One-half to the surviving spouse.

(b) One-half to the surviving child or children under 21 years of age, in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any. When there are no surviving children entitled to a share of the retirement allowance under this subsection, the children's share shall revert to the surviving spouse.

(4) If the requirements of subsection (1) are met and the deceased member is not survived by a spouse but is survived by a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be paid to the surviving child or children in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any.

(5) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. The allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 31(1)(a), and nominated the sur-

viving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

38.27a Retirement allowances granted under MCL 38.27; adjustment.

Sec. 27a. (1) Beginning with retirement allowance payments due on or after June 1, 2004, retirement allowances granted under section 27 that began before the effective date of the amendatory act that added this section shall be adjusted as provided in this section.

(2) Except as otherwise provided in this section, a retirement allowance shall not be less than $6,000.00 per year.

(3) A portion of a retirement allowance payable to a surviving child or parent shall not be less than that portion of a retirement allowance that the child or parent was entitled to receive under section 27 before the effective date of the amendatory act that added this section.

38.33 Disability retirant under age 60; medical examination required; reduction of retirement allowance on account of gainful employment.

Sec. 33. (a) The retirement board may, and upon the application of anyone retired pursuant to section 21, 24, or 67a shall, require anyone retired under section 21, 24, or 67a who has not attained age 60 years to undergo a medical examination. The retirement board shall not require a person retired under section 21, 24, or 67a to undergo more than 1 medical examination in any calendar year. The examination is to be made by or under the direction of the medical advisor at the retirant's place of residence or other place mutually agreed upon. Should anyone retired under section 21, 24, or 67a who has not attained age 60 years refuse to submit to the medical examination, his or her disability retirement allowance or supplemental benefit provided for in section 67a may be discontinued until his or her withdrawal of the refusal. If the refusal continues for 1 year, all rights in and to his or her disability retirement allowance or supplemental benefit provided for in section 67a may be revoked by the retirement board. If upon the medical examination of a person retired under section 21, 24, or 67a, the medical advisor reports and his or her report is concurred in by the retirement board, that the person retired under section 21, 24, or 67a is physically capable of resuming employment, he or she shall be restored to active service with the state and his or her disability retirement allowance or supplemental benefit provided for in section 67a shall cease.

(b) If the secretary reports and certifies to the retirement board that a person retired under section 21, 24, or 67a is engaged in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her final compensation, and if the retirement board concurs in the report, then his or her retirement allowance shall be reduced to an amount which together with the amount earned by him or her shall equal his or her final compensation. Should the earnings of the person retired under section 21, 24, or 67a be later changed, the amount of his or her retirement allowance shall be further modified in like manner.

38.67a Duty disability retirement allowance; supplemental benefit; health insurance coverage.

Sec. 67a. (1) Except as otherwise provided in section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease shall be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, his or her department

head, or the state personnel director files an application on behalf of the member with the retirement board.

(b) The retirement board finds that the qualified participant's personal injury or disease is the natural and proximate result of the qualified participant's performance of duty.

(c) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the qualified participant should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) If the retirement board grants the application of the qualified participant under subsection (1), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided in section 23 as if the former qualified participant had retired under section 21, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(3) If a qualified participant dies as a result of a personal injury or disease arising out of and in the course of his or her employment with this state, or if a former qualified participant who retired under subsection (1) who dies before becoming age 60 and within 3 years after the former qualified participant's disability retirement from the same causes from which he or she separated, and such death or illness or injuries resulting in death are found by the retirement board to have been the sole and exclusive result of employment with this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 27 had the former qualified participant been considered retired under section 27, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 67.

(4) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a duty disability retirement allowance pursuant to subsection (1), (2), or (3), is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

(5) Except as otherwise provided in section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the qualified participant's performance of duty may be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, the qualified participant's department head, or the state personnel director files an application on behalf of the qualified participant with the retirement board.

(b) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the qualified participant should be retired.

(c) The qualified participant has been a state employee for at least 10 years.

(6) If the retirement board grants the application of the qualified participant under subsection (5), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided for in section 25 as if the qualified participant had retired under section 24. The supplemental benefit shall be offset by the value of the distribution of his

or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(7) If a qualified participant who has been a state employee for the number of years necessary to vest under Tier 1 dies as a result of causes occurring not in the performance of duty to this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 25 had the former qualified participant been considered retired under section 24, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(8) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a disability retirement allowance pursuant to subsection (4) or (5), is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

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

[No. 110]

(SB 778)

AN ACT to amend 1978 PA 566, entitled "An act to encourage the faithful performance of official duties by certain public officers and public employees; to prescribe standards of conduct for certain public officers and public employees; to prohibit the holding of incompatible public offices; and to provide certain judicial remedies," by amending section 3 (MCL 15.183), as amended by 2000 PA 455.

The People of the State of Michigan enact:

15.183 Public officer or employee as member of governing board of institution of higher education; member of school board as superintendent of schools; public officer or employee as member of board of tax increment finance authority, downtown development authority, or a local development finance authority; applicability; eligibility; conflict of interest; breach of duty; public officer or employee of community mental health services program.

Sec. 3. (1) Section 2 does not prohibit a public officer's or public employee's appointment or election to, or membership on, a governing board of an institution of higher education. However, a public officer or public employee shall not be a member of governing boards of more than 1 institution of higher education simultaneously, and a public officer or public employee shall not be an employee and member of a governing board of an institution of higher education simultaneously.

(2) Section 2 does not prohibit a member of a school board of 1 school district from being a superintendent of schools of another school district.

(3) Section 2 does not prohibit a public officer or public employee of a city, village, township, school district, community college district, or county from being appointed to

and serving as a member of the board of a tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, a local development finance authority under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or a brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(4) Section 2 does not do any of the following:

(a) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 25,000 from serving, with or without compensation, as emergency medical services personnel as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(b) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 25,000 from serving, with or without compensation, as a firefighter in that city, village, township, or county if that firefighter is not any of the following:

(*i*) A full-time firefighter.

(*ii*) A fire chief.

(*iii*) A person who negotiates with the city, village, township, or county on behalf of the firefighters.

(c) Limit the authority of the governing body of a city, village, township, or county having a population of less than 25,000 to authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government.

(5) This section does not relieve a person from otherwise meeting statutory or constitutional qualifications for eligibility to, or the continued holding of, a public office.

(6) This section does not allow or sanction activity constituting conflict of interest prohibited by the constitution or laws of this state.

(7) This section does not allow or sanction specific actions taken in the course of performance of duties as a public official or as a member of a governing body of an institution of higher education that would result in a breach of duty as a public officer or board member.

(8) Section 2 does not prohibit a public officer or public employee of a community mental health services program as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, from serving as a public officer or public employee of a separate legal or administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, a joint board or commission created under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity created under section 204b of the mental health code, 1974 PA 258, MCL 330.1204b, whether or not the separate legal or administrative entity, joint board or commission, or regional entity may enter into contracts or agreements with 1 or more of the community mental health services programs.

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

[No. 111]

(SB 783)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 411t.

The People of the State of Michigan enact:

750.411t Hazing prohibited; violation; penalty; exceptions; certain defenses barred; definitions; section title.

Sec. 411t. (1) Except as provided in subsection (4), a person who attends, is employed by, or is a volunteer of an educational institution shall not engage in or participate in the hazing of an individual.

(2) A person who violates subsection (1) is guilty of a crime punishable as follows:

(a) If the violation results in physical injury, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(b) If the violation results in serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,500.00, or both.

(c) If the violation results in death, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(4) This section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself or herself to be hazed.

(5) This section does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

(6) It is not a defense to a prosecution for a crime under this section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

(7) As used in this section:

(a) "Educational institution" means a public or private school that is a middle school, junior high school, high school, vocational school, college, or university located in this state.

(b) "Hazing" means an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization. Subject to subsection (5), hazing includes any of the following that is done for such a purpose:

(*i*) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(*ii*) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(*iii*) Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(*iv*) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

(d) "Pledge" means an individual who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.

(e) "Pledging" means any action or activity related to becoming a member of an organization.

(f) "Serious impairment of a body function" means that term as defined in section 479a.

(8) This section shall be known and may be cited as "Garret's law".

Effective date.

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

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

[No. 112]

(SB 784)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses,

and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16t of chapter XVII (MCL 777.16t), as amended by 2000 PA 371.

The People of the State of Michigan enact:

CHAPTER XVII

777.16t MCL 750.410a to 750.411t; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
750.411a(1)(b)	Pub ord	F	False report of a felony	4
750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material — subsequent offense	10
750.411b	Pub trst	G	Excess fees to members of legislature	4
750.411h(2)(b)	Person	E	Stalking of a minor	5
750.411i(3)(a)	Person	E	Aggravated stalking	5
750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
750.411*l*	Pub ord	H	Money laundering — fourth degree	2
750.411m	Pub ord	E	Money laundering — third degree	5
750.411n	Pub ord	D	Money laundering — second degree	10
750.411o	Pub ord	B	Money laundering — first degree	20
750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving $10,000 or more	20
750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving $10,000 or more	10
750.411p(2)(c)	Property	E	Money laundering — transactions involving represented proceeds	5
750.411s(2)(a)	Person	G	Unlawful posting of message	2
750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
750.411t(2)(b)	Person	E	Hazing resulting in serious impairment	5
750.411t(2)(c)	Person	C	Hazing resulting in death	15

Effective date.

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

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 783 of the 92nd Legislature is enacted into law.

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

Compiler's note: Senate Bill No. 783, referred to in enacting section 2, was filed with the Secretary of State May 20, 2004, and became P.A. 2004, No. 111, Eff. Aug. 18, 2004.

[No. 113]

(HB 5281)

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

requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 410a.

The People of the State of Michigan enact:

500.410a Bail bond surety and fidelity insurance company; authority to transact insurance.

Sec. 410a. (1) To qualify for and maintain authority to transact insurance in this state solely as a bail bond surety and fidelity insurance company on or after February 1, 2004, an insurer in good standing in its state of domicile that is subject to regulation by the commissioner shall possess and thereafter maintain unimpaired capital and surplus in an amount determined adequate by the commissioner to continue to comply with section 403 but not less than $4,500,000.00 and have, in addition, not less than $3,000,000.00 in current guarantees and security with respect to bail bonds issued by the insurer in states in which it is then authorized. An insurer with authority to transact bail bond surety and fidelity insurance in this state shall not offer or provide surety and fidelity coverages other than bail bonds.

(2) The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners and the claims history for Michigan bail bonds issued by the licensed bail bond agencies for which the insurer will be or is issuing bail bonds in Michigan in order to determine adequate compliance with section 403.

(3) As used in this section, "bail bond surety and fidelity insurance" is surety and fidelity insurance that is limited to the provision of bail bonds.

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

[No. 114]

(SB 653)

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 20129a (MCL 324.20129a), as amended by 1999 PA 30, and by adding section 3122a.

The People of the State of Michigan enact:

324.3122a Annual groundwater discharge permit fees; credit; amount.

Sec. 3122a. In any state fiscal year, if the department collects more than $2,000,000.00 under section 3122 in annual groundwater discharge permit fees, the department shall credit in the next fiscal year each permittee who paid a groundwater discharge permit fee a proportional amount of the fees collected in excess of $2,000,000.00. However, if a permit is no longer required by the permittee in the next fiscal year, the department shall do the following:

(a) If the credited amount is $50.00 or more, the department shall provide a refund to the permittee for the credited amount.

(b) If the credited amount is less than $50.00, the department shall provide a credit to the permittee for an annual groundwater discharge permit fee that may be required in a subsequent year.

324.20129a Exemption from liability.

Sec. 20129a. (1) A person may petition the department within 6 months after completion of a baseline environmental assessment for a determination that that person meets the requirements for an exemption from liability under section 20126(1)(c) and, in conjunction with that exemption, a determination that the proposed use of the facility satisfies the person's obligations under section 20107a. This request may be made by a prospective purchaser or transferee prior to actual transfer of ownership or other interest to that person or by a lender prior to foreclosure. The request shall be submitted on a form provided by the department along with the fee provided in subsection (4). The person petitioning the department under this subsection shall attach the baseline environmental assessment, a detailed description of the proposed use of the facility, a plan for any response activities that are necessary to assure that the proposed use of the facility satisfies the requirements of section 20107a if a determination regarding compliance with that section is requested, and the qualifications of the environmental professionals who have made the recommendations.

(2) Within 15 business days after receipt of a petition under subsection (1), the department shall issue a written determination to the person submitting the petition that does either of the following:

(a) Affirms that the criteria for obtaining the exemption have been met and affirms that the proposed use of the facility would satisfy the person's obligations under section 20107a provided that the person complies with the plan for the proposed use of the facility submitted under subsection (1).

(b) Provides that the criteria for obtaining the exemption have not been met, or that the proposed use of the facility does not satisfy the person's obligation under section 20107a, the specific reasons for the denial, and how the applicant could meet the criteria and satisfy the person's obligations under section 20107a, if possible.

(3) A determination by the department under this section may be conditioned on completion of response activities described in the petition.

(4) Until June 5, 2005, a petition submitted under subsection (1) shall be accompanied by a fee of $750.00. The department shall deposit all fees collected under this section into the fund. The department shall annually submit a report to the legislature that details all of the following:

(a) The number of petitions received pursuant to this section.

(b) The average length of time which the department has taken to issue written determinations pursuant to this section.

(c) The number of times in which written determinations were not issued within the required time period.

(d) The approximate amount of department staff time necessary to issue a written determination under this section.

(5) A person who is provided an affirmative determination under this section is not liable for a claim for response activity costs, fines or penalties, natural resources damages, or equitable relief under part 17, part 31, or common law resulting from the contamination identified in the petition or from contamination existing on the property on the date in which ownership or control of the property was transferred to the person. The liability protection afforded in this subsection does not extend to a violation of any permit issued under state law. This subsection does not alter a person's liability for a violation of section 20107a for a use or activity of property that is inconsistent with the determination.

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

[No. 115]

(SB 1026)

AN ACT to designate Michigan manufacturing day in the state of Michigan.

The People of the State of Michigan enact:

435.331 "Michigan Manufacturing Day."

Sec. 1. In recognition of the importance of manufacturing to the development of the state and its economy, the legislature declares that the Friday in the second full week of May shall be known as "Michigan Manufacturing Day".

435.332 Manner of celebration.

Sec. 2. To celebrate that day, the legislature encourages manufacturers to open their plants and facilities to young people, teachers, and parents and encourages visits to manufacturing plants and facilities to foster knowledge and appreciation of the historic, scientific, economic, and cultural significance of manufacturing in Michigan.

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

[No. 116]

(HB 4434)

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

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 3 of chapter XI (MCL 771.3), as amended by 1998 PA 520.

The People of the State of Michigan enact:

CHAPTER XI

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation.

Sec. 3. (1) The sentence of probation shall include all of the following conditions:

(a) During the term of his or her probation, the probationer shall not violate any criminal law of this state, the United States, or another state or any ordinance of any municipality in this state or another state.

(b) During the term of his or her probation, the probationer shall not leave the state without the consent of the court granting his or her application for probation.

(c) The probationer shall report to the probation officer, either in person or in writing, monthly or as often as the probation officer requires. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(d) If convicted of a felony, the probationer shall pay a probation supervision fee as prescribed in section 3c of this chapter.

(e) The probationer shall pay restitution to the victim of the defendant's course of conduct giving rise to the conviction or to the victim's estate as provided in chapter IX. An order for payment of restitution may be modified and shall be enforced as provided in chapter IX.

(f) The probationer shall pay an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

(g) If the probationer is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, the probationer shall comply with that act.

(2) As a condition of probation, the court may require the probationer to do 1 or more of the following:

(a) Be imprisoned in the county jail for not more than 12 months, at the time or intervals, which may be consecutive or nonconsecutive, within the probation as the court determines. However, the period of confinement shall not exceed the maximum period of imprisonment provided for the offense charged if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(b) Pay immediately or within the period of his or her probation a fine imposed when placed on probation.

(c) Pay costs pursuant to subsection (4).

(d) Pay any assessment ordered by the court other than an assessment described in subsection (1)(f).

(e) Engage in community service.

(f) Agree to pay by wage assignment any restitution, assessment, fine, or cost imposed by the court.

(g) Participate in inpatient or outpatient drug treatment.

(h) Participate in mental health treatment.

(i) Participate in mental health or substance abuse counseling.

(j) Participate in a community corrections program.

(k) Be under house arrest.

(*l*) Be subject to electronic monitoring.

(m) Participate in a residential probation program.

(n) Satisfactorily complete a program of incarceration in a special alternative incarceration unit as provided in section 3b of this chapter.

(o) Be subject to conditions reasonably necessary for the protection of 1 or more named persons.

(p) Reimburse the county for expenses incurred by the county in connection with the conviction for which probation was ordered as provided in the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93.

(q) Complete his or her high school education or obtain the equivalency of a high school education in the form of a general education development (GED) certificate.

(3) Subsection (2) may be applied to a person who is placed on probation for life pursuant to sections 1(4) and 2(3) of this chapter for the first 5 years of that probation.

(4) The court may impose other lawful conditions of probation as the circumstances of the case require or warrant or as in its judgment are proper.

(5) If an order or amended order of probation contains a condition for the protection of 1 or more named persons as provided in subsection (2)(o), the court or a law enforcement agency within the court's jurisdiction shall enter the order or amended order into the law enforcement information network. If the court rescinds the order or amended order or the condition, the court shall remove the order or amended order or the condition from the law enforcement information network or notify that law enforcement agency and the law enforcement agency shall remove the order or amended order or the condition from the law enforcement information network.

(6) If the court requires the probationer to pay costs, the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer.

(7) If the court imposes costs as part of a sentence of probation, all of the following apply:

(a) The court shall not require a probationer to pay costs unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs, the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

(b) A probationer who is required to pay costs and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

(8) If a probationer is required to pay costs as part of a sentence of probation, the court may require payment to be made immediately or the court may provide for payment to be made within a specified period of time or in specified installments.

(9) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order shall be a condition of probation. The court may revoke probation if the probationer fails to comply with the order and if the probationer has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.

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

[No. 117]

(HB 4244)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 91 (MCL 38.1391), as amended by 1998 PA 85.

The People of the State of Michigan enact:

38.1391 Hospital, medical-surgical, and sick care benefits; dental, vision, and hearing benefits; definitions.

Sec. 91. (1) The retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit

of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department.

(2) The retirement system may pay up to the maximum of the amount payable under subsection (1) toward the monthly premium for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary enrolled in a group health insurance or prepaid service plan not authorized by the retirement board and the department, if enrolled before June 1, 1975, for whom the retirement system on July 18, 1983 was making a payment towards his or her monthly premium.

(3) A retirant or retirement allowance beneficiary receiving hospital, medical-surgical, and sick care benefits coverage under subsection (1) or (2), until eligible for medicare, shall have an amount equal to the cost chargeable to a medicare recipient for part B of medicare deducted from his or her retirement allowance.

(4) The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider.

(5) The retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection and subsection (6) began October 1, 1985 for health insurance dependents who on July 10, 1985 were covered by the hospital, medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986.

(6) The payment described in subsection (5) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retirant if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retirant as provided in section 43c(c), 89, or 90. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of

a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100%. This subsection applies to any member who attains deferred status under section 82 after October 31, 1980.

(8) Any retirant or retirement allowance beneficiary excluded from payments under this section may participate in the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, or hearing plan, or any combination of the plans described in this section in the manner prescribed by the retirement system at his or her own cost.

(9) The hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirants, retirement allowance beneficiaries, and health insurance dependents pursuant to this section shall contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under the hospital, medical-surgical, and sick care benefits plan is also eligible for medicare or medicaid, or both, then the benefits under medicare or medicaid, or both, shall be determined before the benefits of the hospital, medical-surgical, and sick care benefits plan provided pursuant to this section.

(b) If the person covered under any of the plans provided by this section is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided by the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.255.

(c) If the person covered under any of the plans provided by this section is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan shall be determined before the benefits of the plan provided pursuant to this section.

(10) For purposes of this section:

(a) "Health insurance dependent" means any of the following:

(*i*) The spouse of the retirant or the surviving spouse to whom the retirant or deceased member was married at the time of the retirant's or deceased member's death.

(*ii*) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 19 years of age.

(*iii*) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code.

(*iv*) An unmarried child, by birth or adoption, of the retirant or deceased member who is incapable of self-sustaining employment because of mental or physical disability, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code.

(*v*) The parents of the retirant or deceased member, or the parents of his or her spouse, who are residing in the household of the retirant or retirement allowance beneficiary.

(*vi*) An unmarried child who is not the child by birth or adoption of the retirant or deceased member but who otherwise qualifies to be a health insurance dependent under subparagraph (*ii*), (*iii*), or (*iv*), if the retirant or deceased member is the legal guardian of the unmarried child.

(b) "Medicaid" means benefits under the federal medicaid program established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

(c) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

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

[No. 118]

(HB 5241)

AN ACT to amend 1974 PA 263, entitled "An act to permit counties to impose and collect an excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; to provide for the disposition of the revenues thereof; and to prescribe penalties," by amending section 2 (MCL 141.862), as amended by 1991 PA 91.

The People of the State of Michigan enact:

141.862 Excise tax on persons engaged in business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; exempt accommodations; amendment or repeal of ordinance; tax rate; compliance with subsection (1).

Sec. 2. (1) The county board of commissioners of a county having a population of less than 600,000 persons, and having a city of at least 40,000 population may enact an ordinance to levy, assess, and collect an excise tax from all persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes, except in hospitals or nursing homes, to transient guests, whether or not membership is required for the use of the accommodations.

(2) If a county meets the requirements of subsection (1) on the date it enacts an ordinance under this act and, after the 1990 decennial census, the county has a population of less than 120,000 persons and has a city with a population of 35,000 or more persons, that county may continue to levy, assess, and collect the excise tax under this act until October 1, 1991.

(3) If a county described in subsection (2) has any accommodations located within the county that are also located within the boundaries of a city in which the majority of the population of that city reside in an adjoining county, then the accommodation is exempt from the tax under this act.

(4) If a county described in subsection (2) has any accommodations located within the county that are also located within the boundaries of a city with a population of less than 5,000 persons, then the accommodation is exempt from tax under this act.

(5) The ordinance provided by this act may be amended or repealed in the same manner as it was adopted.

(6) The tax imposed pursuant to this act shall be at a rate of not more than 5% of the total charge for accommodations subject to this act.

(7) If a county meets the requirements of subsection (1) on the date it enacts an ordinance under this act, the county may continue to levy, assess, and collect the excise tax under this act.

This act is ordered to take immediate effect.
Approved May 27, 2004.
Filed with Secretary of State May 27, 2004.

[No. 119]

(HB 4272)

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," (MCL 333.1101 to 333.25211) by adding section 20188; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

333.20188 Commission on patient safety; creation; designation of existing organization; membership; chairperson; public hearing; report; conduct of business; availability of writings; commission defined.

Sec. 20188. (1) To examine means to improve patient safety and reduce medical errors in this state, the governor shall create and appoint a commission on patient safety within the department of community health or designate an existing organization or patient safety initiative to act as the state commission on patient safety. If the governor chooses to designate an existing organization or patient safety initiative to act as the state commission, the organization or initiative designated shall include, but is not limited to,

individuals with education, experience, and expertise in health and human services and individuals representing health care consumers, providers, and payers. If the governor chooses to create a commission, the commission shall consist of 7 members appointed by the governor as follows:

(a) Two individuals from the general public.

(b) One individual representing hospitals.

(c) Three licensed health care professionals.

(d) One individual representing the health care insurance industry.

(2) The commission on patient safety shall conduct public hearings to seek input from the public and from all of the following organizations that have an interest in patient safety:

(a) The Michigan health and hospital association or its successor organization.

(b) The Michigan state medical society or its successor organization.

(c) The Michigan osteopathic association or its successor organization.

(d) The Michigan college of emergency physicians or its successor organization.

(e) The Michigan nurses association or its successor organization.

(f) The emergency nurses association or its successor organization.

(g) The Michigan association of emergency medical technicians or its successor organization.

(h) The Michigan pharmacists association or its successor organization.

(i) The Michigan society for clinical laboratory sciences or its successor organization.

(j) The Michigan academy of physician assistants or its successor organization.

(k) The Michigan society of healthcare risk management or its successor organization.

(*l*) The Michigan association of health plans or its successor organization.

(m) The American society of clinical pathologists or its successor organization.

(n) The Michigan physical therapy association or its successor organization.

(o) The Michigan speech-language-hearing association or its successor organization.

(p) The American dietetics association or its successor organization.

(q) The national association of social workers, Michigan chapter or its successor organization.

(r) The mental health association of Michigan or its successor organization.

(s) The Michigan occupational therapy association or its successor organization.

(t) Health care association of Michigan or its successor organization.

(u) Michigan association for local public health or its successor organization.

(v) Michigan hospice and palliative care organization or its successor organization.

(w) Michigan society of anesthesiologists or its successor organization.

(x) The Michigan home health association or its successor organization.

(y) The Michigan dental association or its successor organization.

(z) The Michigan association of community mental health boards or its successor organization.

(aa) The Michigan chiropractic society or its successor organization.

(bb) The Michigan association of nurse anesthetists or its successor organization.

(cc) The Michigan association of homes and services for the aging or its successor organization.

(dd) The Michigan radiological society or its successor organization.

(ee) Blue cross/blue shield of Michigan or its successor organization.

(ff) The service employees international union or its successor organization.

(gg) The AARP or its successor organization.

(hh) The Michigan council of nurse practitioners or its successor organization.

(ii) The Michigan advocacy project or its successor organization.

(jj) The Michigan primary care association or its successor organization.

(kk) The Michigan association of ambulance services or its successor organization.

(*ll*) The economic alliance of Michigan or its successor organization.

(mm) The Michigan society for respiratory care or its successor organization.

(nn) The Michigan psychological association or its successor organization.

(oo) The Michigan podiatric medical association or its successor organization.

(pp) The Michigan chiropractic association or its successor organization.

(qq) The Michigan county medical care facilities council or its successor organization.

(rr) Any other organization that the commission determines has an interest in patient safety.

(3) If the governor creates and appoints a commission on patient safety under subsection (1), the commission shall meet and appoint a chairperson within 30 days after all members are appointed by the governor. The commission shall conduct its first public hearing within 60 days after all members are appointed by the governor. If an organization or patient safety initiative is designated to act as the state commission on patient safety under subsection (1), the commission shall conduct its first public hearing as the commission within 60 days after designated by the governor.

(4) The commission shall consider all information received from its public hearings, review information from other patient safety initiatives, and study the causes of medical errors occurring in the continuum of care, including in health facilities and in private practices. Within 1 year after the commission is appointed or designated by the governor, the commission shall issue a written report. The report shall contain recommendations for improvements in medical practice and a system for reducing medical errors, both in health facilities and in private practice.

(5) The commission shall conduct its business as the commission at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The commission shall give public notice of the time, date, and place of the meeting in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The commission shall make available a writing prepared, owned, used, in the possession of, or retained by the patient safety commission in the performance of an official function as the commission to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) As used in this section, "commission" means the commission created and appointed by the governor under subsection (1) or the organization or patient safety initiative designated to act as the commission by the governor under subsection (1).

Repeal of MCL 333.20188.

Enacting section 1. Section 20188 of the public health code, 1978 PA 368, MCL 333.20188, is repealed 18 months after the effective date of this amendatory act.

This act is ordered to take immediate effect.
Approved May 27, 2004.
Filed with Secretary of State May 27, 2004.

[No. 120]

(SB 991)

AN ACT to amend 1945 PA 47, entitled "An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies," by amending section 2 (MCL 331.2).

The People of the State of Michigan enact:

331.2 Hospital authority; body corporate; powers; entity unable to document compliance; validation, ratification, and confirmation of actions or proceedings.

Sec. 2. (1) The hospital authority is a body corporate with power to sue or be sued in any court of this state and may exercise those powers necessary and incident to the acquisition, construction, improvement, enlargement, extension, ownership, maintenance, and operation of 1 or more community hospitals. The authority may contract with any of the participating cities, villages, and townships, or any other city, village, or township, or with any county family independence agency, for the hospital care of indigent patients and other persons entitled to hospital care at public expense. The authority may contract with any individual, firm, or corporation for the furnishing of hospital care to persons at the private expense of the individual, firm, or corporation. The authority may establish rules providing for a system of civil service for its employees.

(2) An entity that is unable to document compliance with sections 1 and 3 and is acting or purporting to act as a hospital authority under this act is a hospital authority duly

organized and existing under this act and fully empowered to exercise any power granted to a hospital authority under this act if the entity satisfies either of the following:

(a) Continuously owned and operated a hospital for not less than 15 years before February 6, 1978 and filed a written notice with the clerk of each city, village, or township included in the hospital authority within 30 days after February 6, 1978 stating that the entity, being unable to document compliance with sections 1 and 3, is recognized as a hospital authority pursuant to this subsection.

(b) Continuously owned and operated a hospital for not less than 40 years before the effective date of this subdivision and filed a written notice with the clerk of each city, village, or township included in the hospital authority within 30 days after the effective date of this subdivision stating that the entity, being unable to document compliance with sections 1 and 3, is recognized as a hospital authority pursuant to this subsection.

(3) An action or proceeding taken before February 6, 1978 by a hospital authority recognized by subsection (2)(a) or before the effective date of subsection (2)(b) by a hospital authority recognized by subsection (2)(b), which a hospital authority is empowered by this act to take, is validated, ratified, and confirmed. A city, village, or township that appointed a representative to the board of a hospital authority recognized by subsection (2)(a) or (b) or that levied a tax for or made payments to a hospital authority recognized by subsection (2)(a) or (b) pursuant to this act is a member of that hospital authority, and is considered to have been a member of that hospital authority since the date a representative was first appointed, the tax was first levied, or the payment was first made. Any action or proceeding of a city, village, or township taken in regard to a hospital authority recognized by subsection (2)(a) or (b), which the city, village, or township was empowered by this act to take in regard to a duly organized and existing hospital authority, is validated, ratified, and confirmed.

This act is ordered to take immediate effect.
Approved May 27, 2004.
Filed with Secretary of State May 27, 2004.

[No. 121]

(SB 839)

AN ACT to authorize the state administrative board to convey certain state owned property in Berrien county; to prescribe conditions for the conveyance; to prescribe certain powers and duties of state departments and agencies regarding the conveyance; and to provide for disposition of the revenue from the conveyance.

The People of the State of Michigan enact:

Conveyance of land to New Buffalo township; consideration; jurisdiction; description.

Sec. 1. In addition to the land conveyed to New Buffalo township under 1998 PA 102, the state administrative board, on behalf of the state, may convey to New Buffalo township, for consideration of $1.00, property now under the jurisdiction of the department of state police and located in the city of New Buffalo (formerly village of New Buffalo), Berrien county, Michigan, and further described as follows:

That part of Blocks 157 and 168, Virginia Addition to the Village of New Buffalo according to the plat thereof, recorded March 20, 1837, in Liber E of Deeds on page 290, which is described as beginning 1001.4 feet East of the Northwest corner of Section 11, Township 8 South, Range 21 West, thence Each along Section line 305.3 feet to the center of former Highway "M-11"; thence South 26 degrees 29' west along the center of said "M-11" 327.1 feet; thence North 31 degrees 44' West 303.1 feet; thence North 35.2 feet to the place of beginning.

Provisions.

Sec. 2. The conveyance authorized by section 1 shall provide for all of the following:

(a) The property shall be used exclusively for public purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and non-resident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the public purpose use described in subdivision (a) or in the event of use for any nonpublic purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Offer of sale to public.

Sec. 3. If the property described in section 1 is not sold to the township of New Buffalo within 1 year after being offered, the director of the department of management and budget may offer the property for sale to the public for not less than fair market value.

Fair market value; appraisal.

Sec. 4. The fair market value of the property described in section 1 shall be determined by an appraisal prepared by an independent appraiser.

Sale of property; manner.

Sec. 5. If the property described in section 1 is offered for sale at not less than fair market value, the sale shall be conducted in a manner designed to realize the highest price from the sale or the highest value to the state. The sale of the property shall be done in an open manner that utilizes 1 or more of the following:

(a) A competitive sealed bid.

(b) Real estate brokerage services.

(c) A public auction.

Notice.

Sec. 6. A notice of a sealed bid, broker services, or public auction sale regarding the property described in section 1 shall be published at least once in a newspaper, as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 business days before the sale. The notice shall describe the general location and size of the property to be offered, highlights of the general terms of the offer, and directions on how to get further information about the property, as available, before the sale. The notice shall also list the date, time, and place of the sale or bid opening.

Adjustments.

Sec. 7. The description of the property in section 1 is approximate and for purposes of the conveyance is subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

Net revenue.

Sec. 8. The net revenue received under this act shall be deposited in the state treasury and credited to the general fund. As used in this section, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the department of management and budget associated with the sale of the property, including the cost of securing discharge of liens or encumbrances. If the revenue received under this section is insufficient to reimburse the department of management and budget for its costs of using outside vendors in surveying, appraising, and closing the sale of the property, those costs shall be reimbursed by the department of state police within 30 days after being presented an itemized bill for those costs.

Quitclaim deed; approval by attorney general.

Sec. 9. The conveyance authorized by this act shall be by quitclaim deed prepared and approved by the attorney general, subject to easements and other encumbrances of record. The quitclaim deed shall provide for both of the following:

(a) If the state reenters and repossesses the property under section 2, the state has no liability for any improvements made on the property.

(b) The state reserves all rights in aboriginal antiquities including mounds, earthworks, forts, burial and village sites, mines, or other relics including the right to explore and excavate for aboriginal antiquities by the state or its authorized agents.

Reservation of mineral rights.

Sec. 10. The state shall not reserve the mineral rights to the property conveyed under this act. However, the conveyance authorized under this act shall provide that if the purchaser or any grantee develops any minerals found on, within, or under the conveyed property, the purchaser or any grantee shall pay 1/2 of the gross revenue generated from the development of the minerals to the state, for deposit in the general fund.

Director of department of management and budget.

Sec. 11. The director of the department of management and budget may do any of the following when it is determined by the director to be in the best interest of the state:

(a) Order a reappraisal of the property.

(b) Withdraw the property from sale.

(c) Offer the property for sale for less than the fair market value, reserving reversionary interests or receiving other benefits as the director finds to be in the interest of this state with the concurrence of the state administrative board.

This act is ordered to take immediate effect.
Approved May 27, 2004.
Filed with Secretary of State May 27, 2004.

[No. 122]

(SB 804)

AN ACT to amend 1967 PA 288, entitled "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts," by amending section 183 (MCL 560.183).

The People of the State of Michigan enact:

560.183 Final plat; highways, streets, and alleys; private roads; county road commission requirements; "county road commission" defined.

Sec. 183. (1) The county road commission may require the following as a condition of approval of final plat for all highways, streets, and alleys in its jurisdiction or to come under its jurisdiction and also for all private roads in unincorporated areas:

(a) Conformance to the general plan, width, and location requirements that the board may have adopted and published.

(b) Adequate provision for traffic safety in laying out drives which enter county roads and streets, as provided in the board's current published construction standards.

(c) Proper drainage, grading, and construction of approved materials of a thickness and width provided in its current published construction standards.

(d) Submission of complete plans for grading, drainage, and construction, to be prepared and sealed by a civil engineer registered in this state.

(e) Installation of bridges, culverts, and drainage structures where the board considers necessary.

(f) Completion of all required improvements relative to streets, alleys, and roads, or a deposit by the proprietor with the board in the form of cash, a certified check, or irrevocable letter of credit, whichever the proprietor selects, or a surety bond acceptable to the board, in an amount sufficient to ensure completion within the time specified.

(2) As a condition of approval of the final plat, the board shall require a deposit to be made in the same manner as provided in subsection (1)(f), to ensure performance of the obligations of the proprietor to make required improvements.

(3) The board shall rebate to the proprietor, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.

(4) The board shall reject a final plat isolating lands from existing public streets or roads, unless the proprietor provides suitable access by easement or dedicated to public use.

(5) As used in this section, "county road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

This act is ordered to take immediate effect.
Approved May 28, 2004.
Filed with Secretary of State May 28, 2004.

[No. 123]

(SB 1023)

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," (MCL 324.101 to 324.90106) by adding section 52511; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.52511 Forest pilot project areas; establishment; design; requirements; contract.

Sec. 52511. (1) Not later than December 31, 2006, the department shall establish 4 forest pilot project areas. The forest pilot project areas shall be designed to demonstrate cost savings techniques and improved efficiency in forest treatment techniques while improving the overall health of the forest. The department shall establish forest pilot project areas on scientific silvicultural specifications such as residual basal areas and diameter class specifications consistent with section 52502. Forest pilot project areas shall meet all of the following requirements:

(a) Each forest pilot project area shall include between 200 and 640 acres.

(b) Two of the forest pilot project areas shall be located in the Lower Peninsula and 2 shall be located in the Upper Peninsula.

(c) At least 1 forest pilot project area shall be composed primarily of hardwoods.

(d) At least 1 forest pilot project area shall be composed primarily of softwoods.

(2) Upon establishing the 4 forest pilot project areas under subsection (1), the department shall solicit contract bids for the management of each forest pilot project area. The department shall enter into a 5-year contract for each forest pilot project area covering all of the following forest management activities:

(a) Marking of timber.

(b) Harvesting of timber.

(c) Reforesting of timber cutover areas.

(3) A contract entered into under subsection (2) shall include performance measures as required by the department to ensure compliance with this section. The contract shall also require the contractor to report to the department prior to the termination of the contract on the cost savings techniques and forest treatment techniques employed and the success of these techniques.

(4) Activities conducted within forest pilot project areas shall comply with this part.

Repeal of MCL 324.52511.

Enacting section 1. Section 52511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.52511, is repealed effective December 31, 2011.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1024.

(b) House Bill No. 5554.

This act is ordered to take immediate effect.
Approved May 28, 2004.
Filed with Secretary of State May 28, 2004.

Compiler's note: Senate Bill No. 1024, referred to in enacting section 2, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 124, Imd. Eff. May 28, 2004.

House Bill No. 5554, also referred to in enacting section 2, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 125, Imd. Eff. May 28, 2004.

[No. 124]

(SB 1024)

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 50501, 50502, 50504, 50506, 50507, and 50508 (MCL 324.50501, 324.50502, 324.50504, 324.50506, 324.50507, and 324.50508), as added by 1995 PA 57.

The People of the State of Michigan enact:

324.50501 Purpose of part.

Sec. 50501. The purpose of this part and of the authority created by this part is to preserve existing jobs, create new jobs, and alleviate and prevent unemployment through the retention, promotion, and development of forestry and forest industries and to protect the health and vigor of forest resources by doing all of the following:

(a) Funding practices prescribed and approved by the department that intensify management of certain highly productive portions of this state's forest system.

(b) Implementing a system of forest management that is investment-oriented, economically efficient, and environmentally sound.

(c) Implementing a system of forest management that is consistent with principles of sustainable forestry and with part 525.

(d) Promoting a stable and continuing supply of timber for future economic expansion.

(e) Providing dependable funding of scheduled forest management operations.

(f) Promoting effective investment of revenues from timber sales for high future returns.

(g) Facilitating timely performance of forest management operations.

(h) Earning additional revenues for forest management from timber sales.

(i) Improving existing timber stands and establishing new stands of trees.

(j) Providing for reforestation, forest protection, and timber stand improvement.

(k) Providing an additional funding source for the purposes described in this section from indebtedness secured with revenues generated from future sale of timber harvested from state tax reverted lands, from lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and from other lands as provided by law.

324.50502 Definitions.

Sec. 50502. As used in this part:

(a) "Authority" means the Michigan forest finance authority created in section 50503.

(b) "Board" means the board of directors of the Michigan forest finance authority, except where the context clearly requires a different definition.

(c) "Bonds" means bonds of the authority issued as provided in this part.

(d) "Notes" means notes of the authority issued as provided in this part, including commercial paper.

(e) "State forester" means an employee of the department who has a 4-year degree in forest management from an accredited college or university and experience in forest management and who is designated as the state forester by the director.

(f) "Sustainable forestry" means that term as it is defined in section 52501.

324.50504 Board of directors; appointment; terms; oath; vacancy; persons subject to MCL 15.321 to 15.330; discharge of duties; policies and procedures; conducting business at public meetings; notice; quorum; actions of board; representative as voting member; chairperson.

Sec. 50504. (1) The authority shall be governed by a board of directors consisting of the director, the state treasurer, the director of the department of labor and economic growth, and 6 residents of the state, appointed by the governor with the advice and consent of the senate as follows:

(a) One individual shall represent the forest products industry within the state.

(b) One individual shall be a commercial logging contractor.

(c) One individual shall be an owner of nonindustrial, private forestland.

(d) One individual shall be from the wood products manufacturing industry.

(e) One individual shall represent hunters, anglers, and other outdoor recreation interests.

(f) One individual from a college or university in the state with knowledge and expertise in forest management.

(2) The 6 resident directors appointed under subsection (1)(a) to (f) shall serve terms of 3 years. In appointing the initial 6 resident members of the board, the governor shall designate 2 to serve for 3 years, 2 to serve for 2 years, and 2 to serve for 1 year.

(3) Upon appointment to the board under subsection (1), and upon the taking and filing of the constitutional oath of office, a member of the board shall enter the office and exercise the duties of the office.

(4) Regardless of the cause of a vacancy on the board, the governor shall fill a vacancy in the office of a member of the board by appointment with the advice and consent of the senate. A vacancy shall be filled for the balance of the unexpired term of the office. A member of the board shall hold office until a successor has been appointed and has qualified.

(5) Members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the board or an officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountants fairly to reflect the financial condition of the authority.

(6) The board shall organize and make its own policies and procedures. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Five members of the board constitute a quorum for the transaction of business. An action of the board requires a concurring vote by 5 members of the board. A state officer who is a member of the board may designate a representative from his or her department to serve instead of that state officer as a voting member of the board for 1 or more meetings. The state treasurer shall serve as chairperson of the board.

324.50506 Powers of board.

Sec. 50506. Except as otherwise provided in this part, the board may do all things necessary or convenient to implement the purposes, objectives, and provisions of this part, and the purposes, objectives, and powers delegated to the board by other laws or executive orders, including, but not limited to, all of the following:

(a) Adopt an official seal and bylaws for the regulation of its affairs and alter the seal or bylaws at its pleasure.

(b) Sue and be sued in its own name and plead and be impleaded.

(c) Borrow money and issue negotiable revenue bonds and notes pursuant to this part.

(d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers.

(e) With the prior consent of the department, solicit and accept gifts, grants, loans, and other aid from any person, or the federal, state, or local government or any agency of the

federal, state, or local government, or participate in any other way in a federal, state, or local government program.

(f) Acquire standing timber, timber cutting rights, and the state's interest in contracts granting cutting rights, on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law, to be used for any of the purposes provided in this part subject to the restrictions of section 50509. However, the state shall not convey to the authority fee title to any state forest lands.

(g) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(h) Invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, and auditors for rendering professional financial assistance and advice payable out of any money of the authority, subject to the restrictions of section 50507.

(j) Indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(k) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this part, rules promulgated under this part, or other laws that relate to the purposes and responsibilities of the authority.

324.50507 Financing forest management operations and practices; guidelines, rules, and objectives; application of funds; interim procedure; annual list of activities and practices; projection of probable default; contracts for cutting and sale of timber; forest development fund; audit.

Sec. 50507. (1) The authority shall finance only forest management operations and practices consistent with part 525 that follow the guidelines, rules, and objectives prescribed and approved by the department as these guidelines, rules, and objectives are amended by the department.

(2) Funds managed by the authority shall be applied in a manner consistent with part 525 and the land management planning policies of the department on lands that have been identified for forest management practices. In the absence of an approved state forest management plan covering a candidate area, an interim procedure, as adopted by the department, shall be used to assure that all forest values have been considered in selecting sites for investment with funds of the authority. The department shall annually submit a list of activities and practices allocated from the funds generated under this part for the board's review and determination of consistency with the purposes of this part.

(3) The executive director of the authority shall notify the department if the authority projects a probable default on any bonds or notes issued by the authority, and within 1 year of receipt of the notification, or within less than 1 year, if the notification indicates a shorter time period is necessary to avoid a default, the department shall identify and convey to the authority sufficient timber on tax reverted lands to enable the authority to

avoid the projected default and to provide for timely payment of principal of and interest on the authority's bonds or notes. The authority may only issue contracts for the cutting and sale of timber that has been conveyed to the authority under this section to avoid a default on any bonds or notes issued by the authority. The determination of the board as to the need to cut and sell timber is conclusive. Contracts for the cutting and sale of timber shall be consistent with part 525 and with the guidelines, rules, and objectives prescribed by the department.

(4) The authority shall establish a fund designated as the "forest development fund". Any money on hand or received in the future from bond proceeds and from contracts for the cutting and sale of timber on tax reverted lands shall be deposited in the forest development fund. In addition, this fund may receive revenues from any other source. The authority shall use money in the forest development fund for 1 or more of the following:

(a) To provide for the payment of principal of and interest on any bonds or notes issued by the authority.

(b) For reforestation, forest protection, and timber stand improvement.

(c) To obtain and maintain certification of sustainable forestry standards in the state forest under section 52505.

(d) For any other purposes authorized by this part.

(5) The auditor general shall audit the expenditures of the forest development fund at least once every 3 years.

324.50508 Department as agent for authority; conveyance of state's interest in contracts granting timber cutting rights; deposit of money received; conveyance of title to timber.

Sec. 50508. (1) Except as provided in section 50507(3), the department shall act as the agent for the authority in contracting for the cutting and sale of timber or other forest management operations and practices undertaken by the authority.

(2) The state's interest in all existing and future contracts granting timber cutting rights on state tax reverted lands are conveyed to the authority to be used for any of the purposes of this part subject to the restrictions of this part. The money received by the state from existing or future contracts for the cutting and sale of timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law shall be deposited in the forest development fund and utilized as provided in section 50507(4).

(3) In order to provide for additional security for indebtedness of the authority, the department may convey to the authority title to timber on all or any portion of tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law. The form of conveyance shall be approved by the attorney general and by resolution of the state administrative board. If the authority receives title to any timber, it may release and reconvey timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law if requested by the department, and the reconveyance from the authority to the department will not cause the authority to default on any obligation or covenant contained in any resolution of the authority authorizing issuance of bonds or notes.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1023.

(b) House Bill No. 5554.

This act is ordered to take immediate effect.
Approved May 28, 2004.
Filed with Secretary of State May 28, 2004.

Compiler's note: Senate Bill No. 1023, referred to in enacting section 1, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 123, Imd. Eff. May 28, 2004.

House Bill No. 5554, also referred to in enacting section 1, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 125, Imd. Eff. May 28, 2004.

[No. 125]

(HB 5554)

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 the heading to part 525 and section 52501 (MCL 324.52501), as added by 1995 PA 57, and by adding sections 52502, 52503, 52504, 52505, and 52506.

The People of the State of Michigan enact:

PART 525 SUSTAINABLE

FORESTRY ON STATE FORESTLANDS

324.52501 Definitions.

Sec. 52501. As used in this part:

(a) "Breast height" means 4.5 feet from highest ground at the base of the tree.

(b) "Certification" means a process where an independent third party organization assesses and evaluates forest management practices according to the standards of a certification program resulting in an issuance of a certificate of compliance or conformity.

(c) "Certification program" means a program that develops specific standards that measure whether forest management practices are consistent with principles of sustainable forestry.

(d) "Conservation" means the wise use of natural resources.

(e) "Diameter class specifications" means a classification of trees based on the diameter at breast height.

(f) "Plan" means the forestry development, conservation, and recreation management plan for state forests as provided for in section 52503.

(g) "Reforestation" means adequate stocking of forestland is assured by natural seeding, sprouting, suckering, or by planting seeds or seedlings.

(h) "Residual basal area" means the sum of the cross-sectional area of trees 4 inches or greater in diameter measured at breast height left standing within a stand after a harvest.

(i) "State forest" means state land owned or controlled by the department that is designated as state forest by the director.

(j) "Sustainable forestry" means forestry practices that are designed to meet present and future needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual qualities.

324.52502 Management of state forest; manner; duties of department.

Sec. 52502. The department shall manage the state forest in a manner that is consistent with principles of sustainable forestry and in doing so shall do all of the following:

(a) Manage forests with consideration of its economic, social, and environmental values by doing all of the following:

(*i*) Broaden the implementation of sustainable forestry by employing an array of economically, environmentally, and socially sound practices in the conservation of forests, using the best scientific information available.

(*ii*) Promote the efficient utilization of forest resources.

(*iii*) Broaden the practice of sustainable forestry by cooperating with forestland owners, wood producers, and consulting foresters.

(*iv*) Plan and manage plantations in accordance with sustainable forestry principles and in a manner that complements the management of and promotes the restoration and conservation of natural forests.

(b) Conserve and protect forestland by doing all of the following:

(*i*) Ensure long-term forest productivity and conservation of forest resources through prompt reforestation, soil conservation, afforestation, and other measures.

(*ii*) Protect the water quality in streams, lakes, and other waterbodies in a manner consistent with the department's best management practices for water quality.

(*iii*) Manage the quality and distribution of wildlife habitats and contribute to the conservation of biological diversity by developing and implementing stand and landscape-level measures that promote habitat diversity and the conservation of forest plants and animals including aquatic flora and fauna and unique ecosystems.

(*iv*) Protect forests from wildfire, pests, diseases, and other damaging agents.

(*v*) Manage areas of ecologic, geologic, cultural, or historic significance in a manner that recognizes their special qualities.

(*vi*) Manage activities in high conservation value forests by maintaining or enhancing the attributes that define such forests.

(c) Communicate to the public by doing all of the following:

(*i*) Publicly report the department's progress in fulfilling its commitment to sustainable forestry.

(*ii*) Provide opportunities for persons to participate in the commitment to sustainable forestry.

(*iii*) Prepare, implement, and keep current a management plan that clearly states the long-term objectives of management and the means of achieving those objectives.

(d) Monitor forest management by promoting continual improvement in the practice of sustainable forestry and monitoring, measuring, and reporting performance in achieving the commitment to sustainable forestry.

(e) Consider the local community surrounding state forestland by doing both of the following:

(*i*) Require that forest management plans and operations comply with applicable federal and state laws.

(*ii*) Require that forest management operations maintain or enhance the long-term social and economic well-being of forest workers and local communities.

324.52503 Forestry development, conservation, and recreation management plan.

Sec. 52503. (1) The department shall adopt a forestry development, conservation, and recreation management plan for state owned lands owned or controlled by the department. Parks and recreation areas, state game areas, and other wildlife areas on these lands shall be managed according to their primary purpose. The department may update the plan as the department considers necessary or appropriate. The plan and any plan updates shall be consistent with section 52502 and shall be designed to assure a stable, long-term, sustainable timber supply from the state forest as a whole.

(2) The plan and any plan updates shall include all of the following:

(a) An identification of the interests of local communities, outdoor recreation interests, the tourism industry, and the forest products industry.

(b) An identification of the annual capability of the state forest and management goals based on that level of productivity.

(c) Methods to promote and encourage the use of the state forest for outdoor recreation, tourism, and the forest products industry.

(d) A landscape management plan for the state forest incorporating biodiversity conservation goals, indicators, and measures.

(e) Standards for sustainable forestry consistent with section 52502.

(f) An identification of environmentally sensitive areas.

(g) An identification of the need for forest treatments to maintain and sustain healthy, vigorous forest vegetation and quality habitat for wildlife and environmentally sensitive species.

324.52504 Harvest and sale of timber; deposit of proceeds into forest development fund.

Sec. 52504. (1) After the plan is adopted under section 52503, the department shall harvest timber from the state forest and other state owned lands owned or controlled by the department in compliance with the plan and any plan updates.

(2) Unless otherwise dedicated by law, proceeds from the sale of timber from the state forest and other state owned lands owned or controlled by the department shall be forwarded to the state treasurer for deposit into the forest development fund established pursuant to section 50507.

324.52505 Third-party certification that forestry standards satisfied; report.

Sec. 52505. (1) The department shall seek and maintain third-party certification that the management of the state forest and other state owned lands owned or controlled by

the department satisfies the sustainable forestry standards of at least 1 credible nonprofit, nongovernmental certification program and this part.

(2) Beginning January 1, 2006, the department shall ensure that the state forest is certified as provided for in subsection (1).

(3) Beginning the effective date of the amendatory act that added this section, the department shall commence a review and study to determine the appropriateness of certifying parks and recreation areas, state game areas, and other wildlife areas on state owned lands owned or controlled by the department. Not later than 1 year after the effective date of the amendatory act that added this section, the department shall report and recommend to the legislature the appropriateness and feasibility of certifying those lands.

324.52506 Report.

Sec. 52506. By January 1 of each year, the department shall prepare and submit to the commission of natural resources, the standing committees of the senate and the house of representatives with primary jurisdiction over forestry issues, and the senate and house appropriations committees a report that details the following from the previous state fiscal year:

(a) The number of harvestable acres in the state forest as determined by the certification program under section 52506.

(b) The number of acres of the state forest that were harvested and the number of cords of wood that were harvested from the state forest.

(c) The number of acres of state owned lands owned or controlled by the department other than state forestlands that were harvested and the number of cords of wood that were harvested from those lands.

(d) Efforts by the department to promote recreational opportunities in the state forest.

(e) Information on the public's utilization of the recreational opportunities offered by the state forest.

(f) Efforts by the department to promote wildlife habitat in the state forest.

(g) The status of the plan and whether the department recommends any changes in the plan.

(h) Status of certification efforts required in section 52505 and, beginning in 2006, a definitive statement of whether the department is maintaining certification of the entire state forest.

(i) A description of any activities that have been undertaken on forest pilot project areas described in section 52511.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1023.

(b) Senate Bill No. 1024.

This act is ordered to take immediate effect.
Approved May 28, 2004.
Filed with Secretary of State May 28, 2004.

Compiler's note: Senate Bill No. 1023, referred to in enacting section 1, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 123, Imd. Eff. May 28, 2004.

Senate Bill No. 1024, also referred to in enacting section 1, was filed with the Secretary of State May 28, 2004, and became P.A. 2004, No. 124, Imd. Eff. May 28, 2004.

[No. 126]

(HB 5331)

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," (MCL 208.1 to 208.145) by adding section 31a.

The People of the State of Michigan enact:

208.31a Tax credit for qualified start-up business; criteria; definitions.

Sec. 31a. (1) For tax years that begin after December 31, 2004, a taxpayer that meets the criteria under subsection (4) and that is a qualified start-up business that does not have business income for 2 consecutive tax years may claim a credit against the tax imposed under this act for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income equal to the taxpayer's tax liability for the tax year in which the taxpayer has no business income. If the taxpayer has business income in any tax year after the credit under this section is claimed, the taxpayer shall claim the credit under this section for any following tax year only if the taxpayer subsequently has no business income for 2 consecutive tax years. The taxpayer may claim the credit for the second of those 2 consecutive tax years and each immediately following consecutive tax year in which the taxpayer does not have business income. A credit under this section shall not be claimed for more than a total of 5 tax years.

(2) If a taxpayer that took the credit under this section has no business activity in this state and has any business activity outside of this state for any of the first 3 tax years after the last tax year for which it took the credit under this section, the taxpayer shall add to its tax liability the following amounts:

(a) If the taxpayer has no business activity in this state for the first tax year after the last tax year for which a credit under this section is claimed, 100% of the total of all credits claimed under this section.

(b) If the taxpayer has no business activity in this state for the second tax year after the last tax year for which a credit under this section is claimed, 67% of the total of all credits claimed under this section.

(c) If the taxpayer has no business activity for the third tax year after the last tax year for which a credit under this section is claimed, 33% of the total of all credits claimed under this section.

(3) A member of 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 determine number of employees, sales, and business income for purposes of this section on a consolidated basis.