(3) The family independence agency may develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child's health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system developed under this section shall provide for public access to the list of individuals who have been screened for the purposes of complying with this section. An automated system developed under this section shall have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

(4) As used in this section, "child care center", "child caring institution", and "child placing agency" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 564]

(HB 4654)

AN ACT to amend 1971 PA 174, entitled "An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers," (MCL 400.231 to 400.240) by adding section 3b.

The People of the State of Michigan enact:

400.233b Child support arrearage amnesty period; designation; terms and conditions; administration; notification.

Sec. 3b. (1) The director of the department shall direct the office to designate a period of not less than 90 days that ends not more than 7 months after the effective date of this section as a child support arrearage amnesty period. Under the terms and conditions set forth in subsection (2), the director, or the director's designee, shall grant a payer amnesty, waiving all criminal and civil penalties provided by law for the payer's failure or refusal to pay past due child support. Amnesty granted under this section waives criminal and civil penalties for failure or refusal to pay child support only in regard to the child support arrearage that the payer pays in total to qualify for amnesty.

(2) To qualify for amnesty under this section, a payer shall pay his or her child support arrearage amount either in total with the submission of the written amnesty request or by paying not less than 50% of the total amount with the submission of the written amnesty request and the balance before the amnesty period ends. A payer's amnesty is effective on the date the director, or the director's designee, receives the payer's written amnesty request with the payment of not less than 50% of the total child support arrearage amount. If a payer pays less than 100% of the total child support arrearage amount with the amnesty request, the payer's amnesty terminates at the end of the amnesty period unless the balance is paid before the amnesty period ends.

(3) A payer is not eligible to qualify for amnesty under this section if, before the payer submits the written request for amnesty and a payment as required by subsection (2), 1 or more of the following occur:

(a) Prosecution is initiated against the payer under section 161, 165, or 167(1)(a) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.161, 750.165, and 750.167.

(b) The payer is arrested on a criminal warrant or bench warrant related to the payer's failure or refusal to pay past due child support.

(4) The office shall administer the amnesty program established by this section. As part of its administrative duties, at least 60 days before the start of the amnesty period, the office shall notify payers who may be eligible for amnesty under this section because they owe a child support arrearage. A description of the amnesty program included in scheduled notices and posted on the department's website is sufficient compliance with this notification requirement.

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) House Bill No. 5259.

(b) House Bill No. 5262.

Effective date.

Enacting section 2. This amendatory act takes effect June 1, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 5259, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 567, Eff. June 1, 2005.

House Bill No. 5262, also referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 568, Eff. June 1, 2005.

[No. 565]

(HB 5055)

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 9112 (MCL 324.9112), as amended by 2004 PA 325.

The People of the State of Michigan enact:

324.9112 Earth change; permit required; effect of property transfer; violation; notice; hearing; answer; evidence; stipulation or consent order; final order of determination.

Sec. 9112. (1) A person shall not maintain or undertake an earth change governed by this part, the rules promulgated under this part, or an applicable local ordinance, except

in accordance with this part and the rules promulgated under this part or with the applicable local ordinance, and except as authorized by a permit issued by the appropriate county enforcing agency or municipal enforcing agency pursuant to part 13.

(2) The owner of property that is subject to a permit under this part is responsible for compliance with the terms of the permit that apply to that property.

(3) Except as provided in subsection (4), if property subject to a permit under this part is transferred, both of the following are transferred with the property:

(a) The permit, including the permit obligations and conditions.

(b) Responsibility for any violations of the permit that exist on the date the property is transferred.

(4) If property is subject to a permit under this part and a parcel of the property, but not the entire property, is transferred, both of the following are transferred with the parcel:

(a) The permit obligations and conditions with respect to that parcel, but not the permit itself.

(b) Responsibility for any violations of the permit with respect to that parcel that exist on the date the parcel is transferred.

(5) If property subject to a permit under this part is proposed to be transferred, the transferor shall notify the transferee of the permit in writing on a form developed by the department and provided by the county enforcing agency or municipal enforcing agency. The notice shall inform the transferee of the requirements of subsection (2) and, as applicable, subsection (3) or (4). The notice shall include a copy of the permit. The transferor and transferee shall sign the notice, and the transferor shall submit the signed notice to the county enforcing agency or municipal enforcing agency before the property is transferred.

(6) A county enforcing agency or municipal enforcing agency may charge a fee for the transfer of a permit under subsection (3) or (4). The fee shall not exceed the administrative costs of transferring the permit. Fees collected under this subsection shall only be used for the enforcement and administration of this part by the enforcing agency.

(7) If in the opinion of the department a person, including an authorized public agency, violates this part, the rules promulgated under this part, or an applicable local ordinance, or a county enforcing agency or municipal enforcing agency fails to enforce this part, the rules promulgated under this part, or an applicable local ordinance, the department may notify the alleged offender in writing of its determination. If the department places a county on probation under section 9105, a municipality is not approved under section 9106, or a state agency or agency of a local unit of government is not approved under section 9110, or if the department determines that a municipal enforcing agency or authorized public agency is not satisfactorily administering and enforcing this part and rules promulgated under this part, the department shall notify the county, municipality, state agency, or agency of a local unit of government in writing of its determination or action. The notice shall contain, in addition to a statement of the specific violation or failure that the department believes to exist, a proposed order, stipulation for agreement, or other action that the department considers appropriate to assure timely correction of the violation or failure. The notice shall set a date for a hearing not less than 4 nor more than 8 weeks from the date of the notice of determination. Extensions of the date of the hearing may be granted by the department or on request. At the hearing, any interested party may appear, present witnesses, and submit evidence. A person who has been served with a notice of determination may file a written answer to the notice of determination before the

date set for hearing or at the hearing may appear and present oral or written testimony and evidence on the charges and proposed requirements of the department to assure correction of the violation or failure. If a person served with the notice of determination agrees with the proposed requirements of the department and notifies the department of that agreement before the date set for the hearing, disposition of the case may be made with the approval of the department by stipulation or consent agreement without further hearing. The final order of determination following the hearing, or the stipulation or consent order as authorized by this section and approved by the department, is conclusive unless reviewed in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the circuit court of Ingham county, or of the county in which the violation occurred, upon petition filed within 15 days after the service upon the person of the final order of determination.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 566]

(HB 5140)

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending section 4 (MCL 207.774), as amended by 2004 PA 396.

The People of the State of Michigan enact:

207.774 Neighborhood enterprise zone certificate; application; filing; manner and form; contents; effective date of certificate.

Sec. 4. (1) The owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the local governmental unit. The application shall be filed in the manner and form prescribed by the commission. Except as provided in subsection (2), the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(e) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in October 1994 and if the building permit was issued for that facility on or before April 25, 1997.

(f) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in September 2001 and if the building permit is issued for that new facility on March 3, 2003.

(g) For a rehabilitated facility if all or a portion of the rehabilitated facility is a qualified historic building.

(h) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1993 and the new facility was a model home.

(i) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in August 2004 and if building permits were issued for that facility beginning November 5, 2002 through December 23, 2003.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the new facility or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the new facility or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d) or the amendatory act that added subsection (2)(e), the effective date of the certificate shall be January 1, 2001.

This act is ordered to take immediate effect.

Approved December 30, 2004.

Filed with Secretary of State January 3, 2005.

[No. 567]

(HB 5259)

AN ACT to amend 1982 PA 294, entitled "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts," by amending section 11 (MCL 552.511), as amended by 2002 PA 571.

The People of the State of Michigan enact:

552.511 Initiating enforcement of support order and custody or parenting time order; procedure; arrearage; amnesty.

Sec. 11. (1) Except as provided in this section, each office shall initiate 1 or more support enforcement measures under the support and parenting time enforcement act when 1 of the following applies:

(a) Except as otherwise provided in this subdivision, the arrearage under the support order is equal to or greater than the monthly amount of support payable under the order. If the support order was entered ex parte, an office shall not initiate enforcement under this subdivision until the office receives a copy of proof of service for the order and at least 1 month has elapsed since the date of service. An office is not required to initiate enforcement under this subdivision if 1 or more of the following circumstances exist:

(*i*) Despite the existence of the arrearage, an order of income withholding is effective and payment is being made under the order of income withholding in the amount required under the order.

(*ii*) Despite the existence of the arrearage and even though an order of income withholding is not effective, payment is being made in the amount required under the order.

(*iii*) One or more support enforcement measures have been initiated and an objection to 1 or more of those measures has not been resolved.

(b) A parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court. The office shall initiate enforcement under this subdivision at the following times:

(*i*) Within 60 days after the entry of a support order containing health care coverage provisions.

(*ii*) When a review is conducted as provided in section 17.

(*iii*) Concurrent with enforcement initiated by the office under subdivision (a).

(*iv*) Upon receipt of a written complaint from a party.

(*v*) Upon receipt of a written complaint from the department if the child for whose benefit health care coverage is ordered is a recipient of public assistance or medical assistance.

(c) A person legally responsible for the actual care of a child incurs an uninsured health care expense and submits to the office a written complaint that meets the requirements of section 11a.

(2) An arrearage amount that arises at the moment a court issues an order imposing or modifying support, because the order relates back to a petition or motion filing date, shall not be considered as an arrearage for the purpose of initiating support enforcement measures, centralizing enforcement, or other action required or authorized in response to a support arrearage under this act or the support and parenting time enforcement act, unless the payer fails to become current with the court ordered support payments within 2 months after entry of the order imposing or modifying support.

(3) An office shall not initiate a support enforcement measure to collect a payer's child support arrearage while the payer has amnesty for that arrearage under section 3b of the office of child support act, 1971 PA 174, MCL 400.233b.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4654 of the 92nd Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect June 1, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 4654, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 564, Eff. June 1, 2005.

[No. 568]

(HB 5262)

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 161a.

The People of the State of Michigan enact:

750.161a Failure or refusal to pay child support; amnesty.

Sec. 161a. Prosecution shall not be initiated against an individual under section 161, 165, 167(1)(a), or 167(2) for failure or refusal to pay child support while the individual has amnesty for that child support arrearage under section 3b of the office of child support act, 1971 PA 174, MCL 400.233b.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4654 of the 92nd Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect June 1, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 4654, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 564, Eff. June 1, 2005.

[No. 569]

(HB 5372)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 31 (MCL 552.631), as amended by 2002 PA 567.

The People of the State of Michigan enact:

552.631 Failure or refusal to obey and perform support order; civil contempt proceeding; failure to appear; bench warrant; bond or cash deposit; custody; payment and disposition of costs.

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court shall do 1 or more of the following:

(a) Find the payer in contempt for failure to appear.

(b) Find the payer in contempt for the reasons stated in the motion for the show cause hearing.

(c) Apply an enforcement remedy authorized under this act or the friend of the court act for the nonpayment of support.

(d) Issue a bench warrant for the payer's arrest requiring that the payer be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.

(e) Adjourn the hearing.

(f) Dismiss the order to show cause if the court determines that the payer is not in contempt.

(2) In a bench warrant issued under this section, the court shall decree that the payer is subject to arrest if apprehended or detained anywhere in this state and shall require that, upon arrest, unless the payer deposits a cash performance bond in the manner required by section 32, the payer shall remain in custody until the time of the hearing. The court shall specify in the bench warrant the cash performance bond amount. The court

shall set the cash performance bond at not less than $500.00 or 25% of the arrearage, whichever is greater. At its own discretion, the court may set the cash performance bond at an amount up to 100% of the arrearage and add to the amount of the required deposit the amount of the costs the court may require under subsection (3). If a payer is arrested on a felony warrant issued for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, unless the payer deposits a cash performance bond in the manner required by section 32, the court shall require that, upon arrest, the payer remain in custody until the time of the preliminary examination. Upon notification that a payer who has an outstanding bench warrant under this section has been arrested or arraigned on a felony warrant for a violation of section 165 of the Michigan penal code, 1931 PA 328, MCL 750.165, the court may order that the bench warrant be recalled.

(3) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. Those costs and costs ordered for failure to appear under section 32 or 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5373 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 5373, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 570, Imd. Eff. Jan. 3, 2005.

[No. 570]

(HB 5373)

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 165 (MCL 750.165), as amended by 1999 PA 152.

The People of the State of Michigan enact:

750.165 Refusing to support wife or children as required by court order; violation as felony; penalty; exception; cash bond; suspension of sentence; bond; "state disbursement unit" or "SDU" defined.

Sec. 165. (1) If the court orders an individual to pay support for the individual's former or current spouse, or for a child of the individual, and the individual does not pay the support in the amount or at the time stated in the order, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $2,000.00, or both.

(2) This section does not apply unless the individual ordered to pay support appeared in, or received notice by personal service of, the action in which the support order was issued.

(3) Unless the individual deposits a cash bond of not less than $500.00 or 25% of the arrearage, whichever is greater, upon arrest for a violation of this section, the individual shall remain in custody until the arraignment. If the individual remains in custody, the court shall address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, shall order the bond to be continued at not less than $500.00 or 25% of the arrearage, whichever is greater. At the court's discretion, the court may set the cash bond at an amount not more than 100% of the arrearage and add to that amount the amount of the costs that the court may require under section 31(3) of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631. The court shall specify that the cash bond amount be entered into the L.E.I.N. If a bench warrant under section 31 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631, is outstanding for an individual when the individual is arrested for a violation of this section, the court shall notify the court handling the civil support case under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, that the bench warrant may be recalled.

(4) The court may suspend the sentence of an individual convicted under this section if the individual files with the court a bond in the amount and with the sureties the court requires. At a minimum, the bond must be conditioned on the individual's compliance with the support order. If the court suspends a sentence under this subsection and the individual does not comply with the support order or another condition on the bond, the court may order the individual to appear and show cause why the court should not impose the sentence and enforce the bond. After the hearing, the court may enforce the bond or impose the sentence, or both, or may permit the filing of a new bond and again suspend the sentence. The court shall order a support amount enforced under this section to be paid to the clerk or friend of the court or to the state disbursement unit.

(5) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5372 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: House Bill No. 5372, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 569, Imd. Eff. Jan. 3, 2005.

[No. 571]

(HB 5417)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social

security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 14i (MCL 400.14i), as added by 2001 PA 280.

The People of the State of Michigan enact:

400.14i Applicability of MCL 400.57f(3)(c), (e), and (f) and 400.57g(4), (5), (6), and (7).

Sec. 14i. Section 57f(3)(c), (e), and (f) and section 57g(4), (5), (6), and (7) shall not apply after December 31, 2005.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 572]

(HB 5550)

AN ACT to amend 1992 PA 116, entitled "An act to designate and regulate certain records media; and to prescribe the powers and duties of certain governmental entities and officials," by amending section 2 (MCL 24.402), as amended by 2001 PA 72, and by adding section 5.

The People of the State of Michigan enact:

24.402 Reproduction of record by governmental entity or official; technical standards, directives, or rules; pilot agreement.

Sec. 2. (1) Subject to the requirements of this act and except as otherwise provided by law, a governmental entity or a governmental official acting in his or her official capacity may reproduce a record by using any of the following methods or mediums:

(a) Photograph.

(b) Photocopy.

(c) Microreproduction.

(d) Optical media.

(e) Data transfer.

(f) Digitization.

(g) Digital migration.

(h) Digital imaging.

(i) Magnetic media.

(j) Printing.

(k) Any other reproduction method or medium approved by the department under this act.

(2) The department may adopt technical standards, issue directives, or promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, governing the storage and reproduction of records by a governmental entity or governmental official acting in his or her official capacity.

(3) With respect to the methods and mediums listed in subsection (1) for the storage and reproduction of records, the standards, directives, or rules under subsection (2) shall do, but are not limited to, all of the following:

(a) Ensure continued accessibility and usability of the records throughout their retention period.

(b) Ensure the integrity and authenticity of records maintained by governmental entities, officials, and employees.

(4) Except as provided under subsection (5), a governmental entity or governmental official shall not use a method or medium listed under subsection (1)(c), (f), (g), or (h) until the department adopts a standard, issues a directive, or promulgates a rule under subsection (2) governing the method or medium.

(5) The department may enter into a pilot agreement with a governmental entity to test new equipment, technology, methods, or mediums. A record reproduced by a governmental entity operating under a pilot agreement shall have the same force and effect as a record stored or reproduced by an approved method or medium under this act.

24.405 Optical disc or magnetic imaging system; use by department of labor and economic growth.

Sec. 5. This act does not prohibit the use of an optical disc or magnetic imaging system purchased by the department of labor and economic growth before and in use prior to the effective date of the amendatory act that added this section, unless the department determines that the system is incapable of creating reproduced records that meet the requirements of this act.

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. 1409.

(b) House Bill No. 5657.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1409, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 550, Imd. Eff. Jan. 3, 2005.

House Bill No. 5657, also referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 574, Imd. Eff. Jan. 3, 2005.

[No. 573]

(HB 5551)

AN ACT to amend 1953 PA 189, entitled "An act to provide for the taxation of lessees and users of tax-exempt property," by amending section 2 (MCL 211.182).

The People of the State of Michigan enact:

211.182 Assessment and collection; delinquent taxes.

Sec. 2. (1) Taxes levied under this act shall be assessed to the lessees or users of real property and shall be collected at the same time and in the same manner as taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) Taxes levied under this act shall not become a lien against the property.

(3) When due, taxes levied under this act shall constitute a debt due from the lessee or user to the township, city, village, county, and school district for which the taxes were assessed.

(4) Delinquent taxes levied under this act shall be collected at the same time and in the same manner as taxes levied on personal property are collected under sections 46 and 47(2) of the general property tax act, 1893 PA 206, MCL 211.46 and 211.47.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

[No. 574]

(HB 5657)

AN ACT to amend 1992 PA 116, entitled "An act to designate and regulate certain records media; and to prescribe the powers and duties of certain governmental entities and officials," by amending the title and section 1 (MCL 24.401) and by adding section 4.

The People of the State of Michigan enact:

TITLE

An act to designate and regulate the method and medium for the storage and reproduction of certain records; to provide for the certification of certain records; and to prescribe the powers and duties of certain governmental entities and officials.

24.401 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "records reproduction act".

(2) As used in this act:

(a) "Board" means the state historical records advisory board.

(b) "Data transfer" means the copying or transmission of electronic information that does not alter the content, context, or structure of a record from 1 medium to another medium.

(c) "Department" means the department of history, arts, and libraries.

(d) "Digital imaging" means the techniques for capturing, recording, processing, storing, transferring, and using images of records electronically.

(e) "Digital migration" means the conversion of digital information from an existing format to another format that maintains the content, context, and structure of a record.

(f) "Digitization" means the conversion of information into digitally coded electronic images suitable for electronic storage.

24.404 Proposed technical center.

Sec. 4. (1) The board shall, within 60 days of receipt of a proposed technical standard from the department, approve, disapprove, or revise the proposed technical standard.

(2) Before submitting a proposed technical standard to the board under this section, the department shall seek advice and comment from the department of information technology and at least 1 representative from each of the following entities:

(a) County government.

(b) City, township, or village government.

(c) The information technology industry.

(3) Proposed and final technical standards shall be published in the Michigan register. A technical standard shall not take effect before its publication in the Michigan register.

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. 1409.

(b) House Bill No. 5550.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 3, 2005.

Compiler's note: Senate Bill No. 1409, referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 550, Imd. Eff. Jan. 3, 2005.

House Bill No. 5550, also referred to in enacting section 1, was filed with the Secretary of State January 3, 2005, and became P.A. 2004, No. 572, Imd. Eff. Jan. 3, 2005.

[No. 575]

(HB 5763)

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," (MCL 600.101 to 600.9947) by adding chapter 54a and section 6023a.

The People of the State of Michigan enact:

CHAPTER 54A. BANKRUPTCY

600.5451 Bankruptcy; exemptions from property of estate; exception; exempt property sold, damaged, destroyed, or acquired for public use; amounts adjusted by state treasurer; definitions.

Sec. 5451. (1) A debtor in bankruptcy under the bankruptcy code, 11 USC 101 to 1330, may exempt from property of the estate property that is exempt under federal law or, under 11 USC 522(b)(2), the following property:

(a) All of the following:

(*i*) Family pictures.

(*ii*) Arms and accoutrements required by law to be kept by a person.

(*iii*) Wearing apparel, excluding furs.

(*iv*) Cemeteries, tombs, and rights of burial in use as repositories for the dead of the judgment debtor's family or kept for burial of the judgment debtor.

(*v*) Professionally prescribed health aids.

(b) Provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.

(c) The interest, not to exceed a value of $450.00 in each item and an aggregate value of $3,000.00, in household goods, furniture, utensils, books, appliances, and jewelry.

(d) The interest, not to exceed $500.00 in value, in a seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in a house or place of public worship.

(e) The interest, not to exceed $2,000.00 in value, in crops, farm animals, and feed for the farm animals.

(f) The interest, not to exceed $500.00 in value, in household pets.

(g) The interest, not to exceed $2,775.00 in value, in 1 motor vehicle.

(h) The interest, not to exceed $500.00 in value, in 1 computer and its accessories.

(i) The interest, not to exceed $2,000.00 in value, in the tools, implements, materials, stock, apparatus, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged.

(j) Money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by a stock or mutual life, health, or casualty insurance company because of the disability due to injury or sickness of an insured person, whether the debt or liability of the insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that this exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(k) The interest, not exceeding $1,000.00 in par value, in shares held by a member, who is a householder, of an association incorporated under the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, except that this exemption does not apply to a person who has a homestead exempted under the general laws of this state.

(*l*) All individual retirement accounts, including Roth IRAs, or individual retirement annuities as defined in section 408 or 408a of the internal revenue code, 26 USC 408 and 408a, and the payments or distributions from those accounts or annuities. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of the

bankruptcy code, 11 USC 522. This exemption does not apply to the amount contributed to an individual retirement account or individual retirement annuity within 120 days before the debtor files for bankruptcy. This exemption does not apply to any of the following:

(*i*) The portion of an individual retirement account or individual retirement annuity that is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) The portion of an individual retirement account or individual retirement annuity that is subject to an order of a court concerning child support.

(*iii*) The portion of an individual retirement account or individual retirement annuity that is attributable to contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, that, in the tax year made or paid, exceeded the deductible amount allowed under section 408 of the internal revenue code, 26 USC 408. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan, or other plan that is qualified under section 401 of the internal revenue code, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code, 26 USC 403.

(m) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code, 26 USC 401, or an annuity contract under section 403(b) of the internal revenue code, 26 USC 403, if the plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest is subject to either of the following:

(*i*) An order of a court pursuant to a judgment of divorce or separate maintenance.

(*ii*) An order of a court concerning child support.

(n) The interest of the debtor, the codebtor, if any, and the debtor's dependents, not to exceed $30,000.00 in value or, if the debtor or a dependent of the debtor at the time of the filing of the bankruptcy petition is 65 years of age or older or disabled, not to exceed $45,000.00 in value, in a homestead.

(o) Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety, except that this exemption does not apply with regard to a claim based on a joint debt of the husband and wife.

(p) If the owner of a homestead dies, leaving a surviving spouse but no children, the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right, may exempt the homestead and the rents and profits of the homestead.

(2) An exemption under this section does not apply to a mortgage, lien, or security interest in the exempt property that is consensually given or lawfully obtained unless the lien is obtained by judgment, attachment, levy, or similar legal process in connection with a court action or proceeding against the debtor.

(3) If property that is exempt under this section is sold, damaged, destroyed, or acquired for public use, the right to receive proceeds or, if the owner receives proceeds and holds them in a manner that makes them identifiable as proceeds, the proceeds received are exempt from the property of a federal bankruptcy estate in the same manner and amount as the exempt property. An exemption under this subsection may be claimed up to 1 year after the receipt of the proceeds by the owner.

(4) On March 1, 2005 and at the end of each 3-year period after 2005, the state treasurer shall adjust each dollar amount in this section or, for each adjustment after March 1, 2005, each adjusted amount, by an amount determined by the state treasurer to reflect the cumulative change in the consumer price index for the 3-year period ending on the December 31 preceding the adjustment date and rounded to the nearest $25.00. The state treasurer shall publish the adjusted amounts. The adjusted amounts apply to cases filed on or after April 1 following the adjustment date.

(5) As used in this section:

(a) "Consumer price index" means the consumer price index for all urban consumers in the area of Detroit-Ann Arbor-Flint, Michigan, published by the United States department of labor or, if the United States department of labor ceases publishing that index, the most similar index available.

(b) "Disabled" means unable to engage in substantial gainful activity, as defined by 42 USC 1382c(a)(3)(E), as a result of a physical or mental impairment and receiving supplemental security income under 42 USC 1382(a)(3)(A) and (C).

(c) "Proceeds" means money payable or paid as a result of 1 or more of the following:

(*i*) Sale of the property.

(*ii*) Insurance or other indemnification for damage or destruction of the property.

(*iii*) Compensation for the acquisition for public use of the property.

(d) "Homestead" means 1 of the following owned or being purchased under an executory contract by the debtor that the debtor or a dependent of the debtor occupies as his or her principal residence:

(*i*) If the land is located outside of a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 40 acres.

(*ii*) If the land is located within a recorded plat, city, or village, a residential dwelling and appurtenances and the land on which they are situated, not exceeding 1 lot or parcel.

(*iii*) A residential dwelling situated on land not owned by the debtor.

(*iv*) A condominium unit.

(*v*) A unit in a cooperative.

(*vi*) A motor home.

(*vii*) A boat or other watercraft.

(e) "Residential dwelling" includes, but is not limited to, a house or a manufactured or mobile home.

CHAPTER 60. ENFORCEMENT OF JUDGMENTS

600.6023a Property held jointly by husband and wife; exemption under judgment entered against 1 spouse.

Sec. 6023a. Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held jointly by a husband and wife as a tenancy by the entirety is exempt from execution under a judgment entered against only 1 spouse.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 3, 2005.

[No. 576]

(HB 6036)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 7o (MCL 211.7o), as amended by 2000 PA 309.

The People of the State of Michigan enact:

211.7o Nonprofit charitable institutions; exemptions; definitions.

Sec. 7o. (1) Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of taxes under this act.

(2) Real or personal property owned and occupied by a charitable trust while occupied by that charitable trust solely for the charitable purposes for which that charitable trust was established is exempt from the collection of taxes under this act.

(3) Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

(4) For taxes levied after December 31, 1997, real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to a governmental entity is exempt from the collection of taxes under this act if all of the following conditions are satisfied:

(a) The real or personal property would be exempt from the collection of taxes under this act under section 7m if the real or personal property were owned or were being acquired pursuant to an installment purchase agreement by the lessee governmental entity.

(b) The real or personal property would be exempt from the collection of taxes under this act if occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established.

(5) Real property owned by a qualified conservation organization that is held for conservation purposes and that is open to all residents of this state for educational or recreational use, including, but not limited to, low-impact, nondestructive activities such as hiking, bird watching, cross-country skiing, or snowshoeing is exempt from the collection of taxes under this act. As used in this subsection, "qualified conservation organization" means a nonprofit charitable institution or a charitable trust that meets all of the following conditions:

(a) Is organized or established, as reflected in its articles of incorporation or trust documents, for the purpose of acquiring, maintaining, and protecting nature sanctuaries, nature preserves, and natural areas in this state, that predominantly contain natural habitat for fish, wildlife, and plants.

(b) Is required under its articles of incorporation, bylaws, or trust documents to hold in perpetuity property acquired for the purposes described in subdivision (a) unless both of the following conditions are satisfied:

(*i*) That property is no longer suitable for the purposes described in subdivision (a).

(*ii*) The sale of the property is approved by a majority vote of the members or trustees.

(c) Its articles of incorporation, bylaws, or trust documents prohibit any officer, shareholder, board member, employee, or trustee or the family member of an officer, shareholder, board member, employee, or trustee from benefiting from the sale of property acquired for the purposes described in subdivision (a).

(6) If authorized by a resolution of the local tax collecting unit in which the real or personal property is located, real or personal property owned by a nonprofit charitable institution that is occupied and used by the nonprofit charitable institution's chief executive officer as his or her principal residence as a condition of his or her employment and that is contiguous to real property that contains the nonprofit charitable institution's principal place of business is exempt from the collection of taxes under this act.

(7) A charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under this act.

(8) As used in this section:

(a) "Charitable trust" means a charitable trust registered under the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) "Governmental entity" means 1 or more of the following:

(*i*) The federal government or an agency, department, division, bureau, board, commission, council, or authority of the federal government.

(*ii*) This state or an agency, department, division, bureau, board, commission, council, or authority of this state.

(*iii*) A county, city, township, village, local or intermediate school district, or municipal corporation.

(*iv*) A public educational institution, including, but not limited to, a local or intermediate school district, a public school academy, a community college or junior college established pursuant to section 7 of article VIII of the state constitution of 1963, or a state 4-year institution of higher education located in this state.

(*v*) Any other authority or public body created under state law.

(c) "Public school academy" means a public school academy organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

This act is ordered to take immediate effect.
Approved January 3, 2005.
Filed with Secretary of State January 4, 2005.

[No. 577]

(HB 6206)

AN ACT to amend 1943 PA 184, entitled "An act to provide for the establishment in townships of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches, that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide for the acquisition by purchase, condemnation, or otherwise of nonconforming property; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for the collection of fees for building permits; to provide for petitions, public hearings, and referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies," (MCL 125.271 to 125.310) by adding section 16i.

The People of the State of Michigan enact:

125.286i Conditions for rezoning land; offer by landowner; approval by township; time period; extension; lack of offer by landowner.

Sec. 16i. (1) An owner of land may voluntarily offer in writing, and the township may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the township may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The township shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2).

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the township.

(5) A township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the township, or any other laws of this state.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 578]

(HB 6166)

AN ACT to amend 1943 PA 183, entitled "An act to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies," (MCL 125.201 to 125.240) by adding section 16i.

The People of the State of Michigan enact:

125.216i Conditions for rezoning land; offer by landowner; approval by county; time period; extension; lack of offer by landowner.

Sec. 16i. (1) An owner of land may voluntarily offer in writing, and the county may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the county may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The county shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2).

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the county.

(5) A county shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the county, or any other laws of this state.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 579]

(HB 6164)

AN ACT to amend 1921 PA 207, entitled "An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments," (MCL 125.581 to 125.600) by adding section 4g.

The People of the State of Michigan enact:

125.584g Conditions to rezoning land; offer by landowner; approval by city or village; time period; extension; lack of offer by landowner.

Sec. 4g. (1) An owner of land may voluntarily offer in writing, and the city or village may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the city or village may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The city or village shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2).

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the city or village.

(5) A city or village shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the city or village, or any other laws of this state.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 580]

(HB 6104)

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 20917a.

The People of the State of Michigan enact:

333.20917a Statewide trauma care advisory subcommittee; establishment; membership; appointment; terms; chairperson; meetings; quorum; recommendations regarding funding sources; "rural county" defined.

Sec. 20917a. (1) The statewide trauma care advisory subcommittee is established under the emergency medical services coordination committee to advise and assist the department on all matters concerning the development, implementation, and promulgation of rules for the implementation and continuing operation of a statewide trauma care system. The subcommittee shall consist of 10 members appointed by the director, within 90 days after the effective date of the amendatory act that added this section, as follows:

(a) Two trauma surgeons who are trauma center directors.

(b) One trauma nurse coordinator.

(c) One trauma registrar.

(d) One emergency physician.

(e) Two administrative hospital representatives, 1 of whom represents a hospital designated as a level I or level II trauma center by the American college of surgeons committee on trauma and 1 of whom represents a hospital that is not designated as a level I or level II trauma center by the American college of surgeons committee on trauma.

(f) One life support agency manager who is a member of the emergency medical services coordination committee.

(g) Two medical control authority medical directors, 1 of whom represents a rural county and 1 of whom represents a nonrural county.

(2) The members shall serve for a term of 3 years. A member who is unable to complete a term shall be replaced for the balance of the unexpired term.

(3) The committee shall annually select a member to serve as chairperson.

(4) Meetings of the committee are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Six members constitute a quorum for the transaction of business.

(5) Recommendations regarding potential funding mechanisms and sources for the statewide trauma care system shall only be submitted to the department for consideration after a unanimous vote of all members of the statewide trauma care advisory subcommittee in support of those recommendations.

(6) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 FR p. 82238 (December 27, 2000).

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) House Bill No. 6102.

(b) House Bill No. 6103.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

Compiler's note: House Bill No. 6102, referred to in enacting section 1, was filed with the Secretary of State January 4, 2005, and became P.A. 2004, No. 582, Imd. Eff. Jan. 4, 2005.

House Bill No. 6103, also referred to in enacting section 1, was filed with the Secretary of State January 4, 2005, and became P.A. 2004, No. 581, Imd. Eff. Jan. 4, 2005.

[No. 581]

(HB 6103)

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

provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20908 (MCL 333.20908), as amended by 2000 PA 375.

The People of the State of Michigan enact:

333.20908 Definitions; N to V.

Sec. 20908. (1) "Nonemergency patient" means an individual who is transported by stretcher, isolette, cot, or litter but whose physical or mental condition is such that the individual may reasonably be suspected of not being in imminent danger of loss of life or of significant health impairment.

(2) "Nontransport prehospital life support operation" means a person licensed under this part to provide, for profit or otherwise, basic life support, limited advanced life support, or advanced life support at the scene of an emergency.

(3) "Nontransport prehospital life support vehicle" means a motor vehicle that is used to provide basic life support, limited advanced life support, or advanced life support, and is not intended to transport patients.

(4) "Ongoing education program sponsor" means an education program sponsor that provides continuing education for emergency medical services personnel.

(5) "Paramedic" means an individual licensed under this part to provide advanced life support.

(6) "Patient" means an emergency patient or a nonemergency patient.

(7) "Person" means a person as defined in section 1106 or a governmental entity other than an agency of the United States.

(8) "Professional standards review organization" means a committee established by a life support agency or a medical control authority for the purpose of improving the quality of medical care.

(9) "Protocol" means a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under section 20919.

(10) "Statewide emergency medical services communications system" means a system that integrates each emergency medical services system with a centrally coordinated dispatch and resource coordination facility utilizing the universal emergency telephone number, 9-1-1, when that number is appropriate, or any other designated emergency telephone number, a statewide emergency medical 2-way radio communications network, and linkages with the statewide emergency preparedness communications system.

(11) "Statewide trauma care system" means a comprehensive and integrated arrangement of the emergency services personnel, facilities, equipment, services, communications, medical control authorities, and organizations necessary to provide trauma care to all patients within a particular geographic region.

(12) "Volunteer" means an individual who provides services regulated under this part without expecting or receiving money, goods, or services in return for providing those services, except for reimbursement for expenses necessarily incurred in providing those services.

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) House Bill No. 6102.

(b) House Bill No. 6104.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

Compiler's note: House Bill No. 6102, referred to in enacting section 1, was filed with the Secretary of State December 30, 2004, and became P.A. 2004, No. 582, Imd. Eff. Jan. 4, 2005.

House Bill No. 6104, also referred to in enacting section 1, was filed with the Secretary of State December 30, 2004, and became P.A. 2004, No. 580, Imd. Eff. Jan. 4, 2005.

[No. 582]

(HB 6102)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20910 (MCL 333.20910), as amended by 2004 PA 200.

The People of the State of Michigan enact:

333.20910 Powers and duties of department.

Sec. 20910. (1) The department shall do all of the following:

(a) Be responsible for the development, coordination, and administration of a statewide emergency medical services system.

(b) Facilitate and promote programs of public information and education concerning emergency medical services.

(c) In case of actual disasters and disaster training drills and exercises, provide emergency medical services resources pursuant to applicable provisions of the Michigan emergency preparedness plan, or as prescribed by the director of emergency services pursuant to the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Consistent with the rules of the federal communications commission, plan, develop, coordinate, and administer a statewide emergency medical services communications system.

(e) Develop and maintain standards of emergency medical services and personnel as follows:

(*i*) License emergency medical services personnel in accordance with this part.

(*ii*) License ambulance operations, nontransport prehospital life support operations, and medical first response services in accordance with this part.

(*iii*) At least annually, inspect or provide for the inspection of each life support agency, except medical first response services. As part of that inspection, the department shall conduct random inspections of life support vehicles. If a life support vehicle is determined by the department to be out of compliance, the department shall give the life support agency 24 hours to bring the life support vehicle into compliance. If the life support vehicle is not brought into compliance in that time period, the department shall order the life support vehicle taken out of service until the life support agency demonstrates to the department, in writing, that the life support vehicle has been brought into compliance.

(*iv*) Promulgate rules to establish the requirements for licensure of life support agencies, vehicles, and individuals licensed under this part to provide emergency medical services and other rules necessary to implement this part. The department shall submit all proposed rules and changes to the state emergency medical services coordination committee and provide a reasonable time for the committee's review and recommendations before submitting the rules for public hearing under the administrative procedures act of 1969.

(f) Promulgate rules to establish and maintain standards for and regulate the use of descriptive words, phrases, symbols, or emblems that represent or denote that an ambulance operation, nontransport prehospital life support operation, or medical first response service is or may be provided. The department's authority to regulate use of the descriptive devices includes use for the purposes of advertising, promoting, or selling the services rendered by an ambulance operation, nontransport prehospital life support operation, or medical first response service, or by emergency medical services personnel.

(g) Designate a medical control authority as the medical control for emergency medical services for a particular geographic region as provided for under this part.

(h) Develop and implement field studies involving the use of skills, techniques, procedures, or equipment that are not included as part of the standard education for medical first responders, emergency medical technicians, emergency medical technician specialists, or paramedics, if all of the following conditions are met:

(*i*) The state emergency medical services coordination committee reviews the field study prior to implementation.

(*ii*) The field study is conducted in an area for which a medical control authority has been approved pursuant to subdivision (g).

(*iii*) The medical first responders, emergency medical technicians, emergency medical technician specialists, and paramedics participating in the field study receive training for the new skill, technique, procedure, or equipment.

(i) Collect data as necessary to assess the need for and quality of emergency medical services throughout the state pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(j) Develop, with the advice of the emergency medical services coordination committee, an emergency medical services plan that includes rural issues.

(k) Develop recommendations for territorial boundaries of medical control authorities that are designed to assure that there exists reasonable emergency medical services capacity within the boundaries for the estimated demand for emergency medical services.

(*l*) Within 180 days after July 12, 2004, in consultation with the emergency medical services coordination committee, conduct a study on the potential medical benefits, costs, and impact on life support agencies if each ambulance is required to be equipped with an automated external defibrillator and submit its recommendation to the standing committees in the senate and the house of representatives with jurisdiction over health policy issues.

(m) Within 1 year after the statewide trauma care advisory subcommittee is established under section 20917a and in consultation with the statewide trauma care advisory subcommittee, develop, implement, and promulgate rules for the implementation and operation of a statewide trauma care system within the emergency medical services system consistent with the document entitled "Michigan Trauma Systems Plan" prepared by the Michigan trauma coalition, dated November 2003. The implementation and operation of the statewide trauma care system, including the rules promulgated in accordance with this subdivision, are subject to review by the emergency medical services coordination committee and the statewide trauma care advisory subcommittee. The rules promulgated under this subdivision shall not require a hospital to be designated as providing a certain level of trauma care. Upon implementation of a statewide trauma care system, the department shall review and identify potential funding mechanisms and sources for the statewide trauma care system.

(n) Promulgate other rules to implement this part.

(o) Perform other duties as set forth in this part.

(2) The department may do all of the following:

(a) In consultation with the emergency medical services coordination committee, promulgate rules to require an ambulance operation, nontransport prehospital life support operation, or medical first response service to periodically submit designated records and data for evaluation by the department.

(b) Establish a grant program or contract with a public or private agency, emergency medical services professional association, or emergency medical services coalition to provide training, public information, and assistance to medical control authorities and emergency medical services systems or to conduct other activities as specified in this part.

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) House Bill No. 6103.

(b) House Bill No. 6104.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

Compiler's note: House Bill No. 6103, referred to in enacting section 1, was filed with the Secretary of State January 4, 2005, and became P.A. 2004, No. 581, Imd. Eff. Jan. 4, 2005.

House Bill No. 6104, also referred to in enacting section 1, was filed with the Secretary of State January 4, 2005, and became P.A. 2004, No. 580, Imd. Eff. Jan. 4, 2005.

[No. 583]

(HB 6085)

AN ACT to amend 1982 PA 415, entitled "An act to improve the training and education of state correctional officers; to provide for the certification of state correctional officers and the development of standards and requirements for state correctional officers; to provide for the creation of a correctional officers' training council and a central training academy; and to prescribe the powers and duties of certain state agencies," by amending section 12 (MCL 791.512), as amended by 1989 PA 4.

The People of the State of Michigan enact:

791.512 Certification or recertification of person employed as state correctional officer; requirements; certification or recertification of correctional officer or immediate supervisor at former Detroit house of correction; conditions to automatic certification and re-certification of department of mental health direct care employee, forensic security aide, or work camp supervisor; certification and recertification of forensic security aide at Huron valley center; approval of minimum standards and requirements for certification and recertification.

Sec. 12. (1) Except as provided in subsections (2), (3), and (4), a person who is not employed as a state correctional officer on March 30, 1983 and who is not employed as a state correctional officer until after December 31, 1984, shall not be certified or recertified by the Michigan commission of corrections unless he or she has done all of the following:

(a) Obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level.

(b) Successfully completed all of the following:

(*i*) One of the following:

(A) A vocational certificate program as determined by the council, earned from an accredited postsecondary educational institution, which program shall require a minimum of 15 semester credit hours or 23 term credit hours.

(B) Equivalent course work to a vocational certificate program, as determined by the council, earned from an accredited postsecondary educational institution, which course work shall require a minimum of 15 semester credit hours or 23 term credit hours. The credit hours required under this subparagraph may have been earned at any time.

(C) A degree granted by an accredited postsecondary educational institution in a major discipline of study that is relevant to the position of state correctional officer, as determined by the council. A degree required under this subparagraph may have been earned at any time.

(*ii*) A minimum of 2 months of supervised, paid internship, as determined by the council, as an intern in a correctional facility.

(*iii*) A minimum of 320 hours of new employee training, as determined by the council, at the central training academy.

(c) Fulfilled other minimum standards and requirements developed pursuant to section 13 by the council and approved by the department for certification and subsequently for recertification.

(2) A person who was employed as a correctional officer or an immediate supervisor of a correctional officer at the former Detroit house of correction on December 31, 1984 shall automatically be certified and annually recertified by the department until December 31, 1985. Beginning January 1, 1986, a person who was employed as a correctional officer or an immediate supervisor of a correctional officer at the former Detroit house of correction on December 31, 1984 shall not be recertified unless he or she has done both of the following:

(a) Completed successfully a minimum of 160 hours of training provided by the department.

(b) Fulfilled other minimum standards and requirements for recertification developed pursuant to section 13 by the council and approved by the department.

(3) A department of mental health direct care employee of a state facility officially designated for closure or phase-down due to deinstitutionalization, or a forensic security aide II or III employed by the department of mental health center for forensic psychiatry, or a work camp supervisor employed by the department of corrections shall automatically be certified and annually recertified by the department for 3 years following the date he or she became employed as a state correctional officer, if he or she has done all of the following:

(a) Within 1 year of the date he or she became employed as a state correctional officer, obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level.

(b) Within 1 year of the date he or she became employed as a state correctional officer, completed successfully 320 hours of new employee training with a credit up to 160 hours of previously acquired training, as approved by the council.

(c) Within 3 years of the date he or she became employed as a state correctional officer, completed 1 of the following:

(*i*) A vocational certificate program, as determined by the council, earned from an accredited postsecondary educational institution, which program shall require a minimum of 15 semester credit hours or 23 term credit hours.

(*ii*) Equivalent course work to a vocational certificate program, as determined by the council, earned from an accredited postsecondary educational institution, which course work shall require a minimum of 15 semester credit hours or 23 term credit hours. The credit hours required under this subparagraph may have been earned at any time.

(*iii*) A degree granted by an accredited postsecondary educational institution in a major discipline of study that is relevant to the position of state correctional officer, as determined by the council. A degree required under this subparagraph may have been earned at any time.

(d) Fulfilled other minimum standards and requirements developed pursuant to section 13 by the council and approved by the department for certification and subsequently for recertification.

(4) An employee of the department of community health who is employed as a forensic security aide at the Huron valley center of the department of community health or the center for forensic psychiatry of the department of community health, and who is transferred to a position as a state correctional officer employed by the department of corrections, shall be automatically certified and recertified by the department for 3 years after the date on which he or she became employed as a state correctional officer, if he or she meets all of the requirements established by law or by the department for employment as a state correctional officer and does all of the following:

(a) Within 30 days after the effective date of the 2004 amendatory act that amended this section, declares his or her intent to accept the transfer to a position as a state correctional officer.

(b) Within 1 year of the date he or she became employed as a state correctional officer, obtained a high school diploma or attained a passing score on the general education development test indicating a high school graduation level.

(c) Within 3 years of the date he or she became employed as a state correctional officer, completed 1 of the following:

(*i*) A vocational certificate program, as determined by the council, earned from an accredited postsecondary educational institution, which program shall require a minimum of 15 semester credit hours or 23 term credit hours.

(*ii*) Equivalent course work to a vocational certificate program, as determined by the council, earned from an accredited postsecondary educational institution, which course work shall require a minimum of 15 semester credit hours or 23 term credit hours. The credit hours required under this subparagraph may have been earned at any time.

(*iii*) A degree granted by an accredited postsecondary educational institution in a major discipline of study that is relevant to the position of state correctional officer, as determined by the council. A degree required under this subparagraph may have been earned at any time.

(d) Within 1 year of the date he or she became employed as a state correctional officer, completed successfully 320 hours of new employee training with a credit up to 160 hours of previously acquired training, as approved by the council.

(e) Fulfilled other minimum standards and requirements, except for physical fitness requirements, developed pursuant to section 13 by the council and approved by the department for certification and subsequently for recertification.

(5) All minimum standards and requirements for certification and subsequently for recertification of persons under subsections (1), (2), (3), and (4) are subject to approval by the state civil service commission.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 584]

(HB 6046)

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts;

and to provide an appropriation," by amending section 4 (MCL 125.1504), as amended by 1999 PA 245.

The People of the State of Michigan enact:

125.1504 State construction code; rules; promulgation; contents; purposes, objectives, and standards; availability of code to public.

Sec. 4. (1) The director shall prepare and promulgate the state construction code consisting of rules governing the construction, use, and occupation of buildings and structures, including land area incidental to the buildings and structures, the manufacture and installation of building components and equipment, the construction and installation of premanufactured units, the standards and requirements for materials to be used in connection with the units, and other requirements relating to the safety, including safety from fire, and sanitation facilities of the buildings and structures.

(2) The code shall consist of the international residential code, the international building code, the international mechanical code, the international plumbing code published by the international code council, the national electrical code published by the national fire prevention association, and the Michigan uniform energy code with amendments, additions, or deletions as the director determines appropriate.

(3) The code shall be designed to effectuate the general purposes of this act and the following objectives and standards:

(a) To provide standards and requirements for construction and construction materials consistent with nationally recognized standards and requirements.

(b) To formulate standards and requirements, to the extent practicable in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability.

(c) To permit to the fullest extent feasible the use of modern technical methods, devices, and improvements, including premanufactured units, consistent with reasonable requirements for the health, safety, and welfare of the occupants and users of buildings and structures.

(d) To eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.

(e) To insure adequate maintenance of buildings and structures throughout this state and to adequately protect the health, safety, and welfare of the people.

(f) To provide standards and requirements for cost-effective energy efficiency that will be effective April 1, 1997.

(g) Upon periodic review, to continue to seek ever-improving, cost-effective energy efficiencies.

(h) The development of a voluntary consumer information system relating to energy efficiencies.

(4) The code shall be divided into sections as the director considers appropriate including, without limitation, building, plumbing, electrical, and mechanical sections. The boards shall participate in and work with the staff of the director in the preparation of parts relating to their functions. Before the promulgation of an amendment to the code, the boards whose functions relate to that code shall be permitted to draft and recommend to the director proposed language. The director shall give consideration to all submissions

by the boards. However, the director has final responsibility for the promulgation of the code.

(5) The code may incorporate the provisions of a code, standard, or other material by reference. The director shall add, amend, and rescind rules to update the code not less than once every 3 years to coincide with the national code change cycle.

(6) Before the Michigan building code, the Michigan residential code, the Michigan plumbing code, the Michigan mechanical code, the Michigan uniform energy code, and the Michigan rehabilitation code may be enforced, the director shall make each Michigan-specific code available to the general public for at least 45 days in printed, electronic, or other form that does not require the user to purchase additional documents or data in any form in order to have an updated complete version of each specific code, excluding other referenced standards within each code. This subsection does not apply to any code effective before April 1, 2005.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 585]

(HB 6029)

AN ACT to amend 1917 PA 273, entitled "An act to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies," by amending sections 1, 9, 11, and 13 (MCL 446.201, 446.209, 446.211, and 446.213), section 1 as amended by 2002 PA 469 and sections 9 and 11 as amended by 1998 PA 233.

The People of the State of Michigan enact:

446.201 Pawnbrokers; license required.

Sec. 1. (1) A person, corporation, or firm shall not conduct business as a pawnbroker in any of the governmental units of this state without having first obtained from the chief executive officer of that governmental unit a license under this act that authorizes that person, corporation, or firm to conduct that business.

(2) Licensure under either or both of the following acts does not exempt a person from obtaining a license under this act:

(a) The precious metal and gem dealer act, 1981 PA 95, MCL 445.481 to 445.492.

(b) 1917 PA 350, MCL 445.401 to 445.408.

446.209 Interest on loans; rate; storage charge; usage fee; time of payment; computation; fee or excess charge prohibited.

Sec. 9. (1) A licensed pawnbroker may charge upon any loan a rate of interest not to exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge $1.00 per month or fraction of a month for the storage of unencumbered personal property under any single pledge or pawn.

(2) A pawnbroker may charge $1.00 per month or fraction of a month for a usage fee for unencumbered personal property pawned or pledged and used by the pawner during

the term of the pawn or pledge. A usage fee charged under this subsection is not considered interest.

(3) A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on the loan in excess of the amounts provided for in this act.

(4) Interest on any loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(5) A pawnbroker is not entitled to any examination fee and shall not make any charge in excess of the amounts provided for in this act.

446.211 Payment or tender of debt before sale; effect as to title and right to property; agreement to permit pawner to maintain possession; usage fee.

Sec. 11. (1) If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.

(2) A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or pawned unencumbered personal property during the term of the pawn or pledge transaction. The agreement may also include the payment of a usage fee under section 9. A pawnbroker may take possession of the pledged or pawned property pursuant to section 9609 of the uniform commercial code, 1962 PA 174, MCL 440.9609.

446.213 Pawned property; destruction or defacing unlawful; visibility of serial number or insignia.

Sec. 13. (1) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received by him or her in pawn, or otherwise or in any manner do, cause, or suffer to be done by others, anything that destroys or tends to destroy the identity of the article or thing, or tends to render the identification of the thing or article more difficult.

(2) A pawnbroker shall not accept by way of pledge, pawn, purchase, or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the number or insignia is plainly visible on the article or thing.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 586]

(HB 5833)

AN ACT to amend 1941 PA 174, entitled "An act to authorize the establishment and the maintenance of common trust funds; to authorize investments or participations therein; to define the requirements and terms thereof and the conditions and terms governing investments or participations therein and the admission and withdrawal of such investments or participations; to prescribe and define the rights, powers and duties of banks, trust

companies, fiduciaries, participants, beneficiaries and other persons with respect thereto; to provide for the regulation and supervision thereof; and to repeal acts and parts of acts inconsistent with the provisions of this act," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 (MCL 555.101, 555.102, 555.103, 555.104, 555.105, 555.106, 555.107, 555.108, 555.109, 555.110, 555.111, 555.112, and 555.113), section 1 as amended by 1984 PA 101 and section 9 as amended by 1986 PA 23, and by adding sections 4a and 5a.

The People of the State of Michigan enact:

TITLE

An act to authorize the establishment and the maintenance of common trust funds and collective investment funds; to authorize investments or participations in those funds; to define the requirements and terms of those funds, the conditions and terms governing investments or participations in those funds, and the admission and withdrawal of those investments or participations; to prescribe and define the rights, powers, and duties of banks, trust companies, fiduciaries, participants, beneficiaries, and other persons with respect to common trust funds and collective investment funds; and to provide for the regulation and supervision of those funds.

555.101 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "collective investment funds act".

(2) As used in this act:

(a) "Collective investment fund" means a fund maintained by a financial institution or by 1 or more affiliated financial institutions that consists solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts that are exempt from federal income tax.

(b) "Common trust fund" means a fund maintained by a financial institution or 1 or more affiliated financial institutions exclusively for the collective investment and reinvestment of money contributed to the fund by the financial institution or the affiliated financial institutions in its capacity as a fiduciary or cofiduciary.

(c) "Fiduciary" means a financial institution or other person acting in the capacity of guardian, conservator, personal representative, or trustee, either solely or together with others, or custodian under a uniform gift or transfer to minors act of any state.

(d) "Financial institution" means any of the following:

(*i*) A state bank, national bank, state or federally chartered savings and loan association or savings bank that is authorized to act in a fiduciary capacity in this state.

(*ii*) A wholly owned subsidiary of an entity described in subparagraph (*i*) that is authorized to act in a fiduciary capacity in this state.

(*iii*) An entity authorized to act in a fiduciary capacity in any other state that is a member of an affiliated group within the meaning of section 1504 of the internal revenue code of 1986 that includes any of the entities described in subparagraph (*i*) or (*ii*).

(e) "Fund" means a common trust fund or a collective investment fund.

(f) "Plan" means the written plan for a fund described in section 4.

555.102 Funds; financial institution may establish, maintain, and administer.

Sec. 2. A financial institution may establish, maintain, and administer 1 or more funds.

555.103 Funds; financial institution may invest as fiduciary.

Sec. 3. A financial institution in its capacity as a fiduciary or cofiduciary may invest funds that it lawfully holds for investment in that capacity in interests or participations in 1 or more common trust funds, if the investment is not prohibited by the instrument, judgment, decree, or order creating the fiduciary relationship and if, in the case of a financial institution in its capacity as a cofiduciary, the financial institution complies with any consent requirements imposed by the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102. A financial institution may invest assets of retirement, pension, profit sharing, stock bonus, or other employee benefit trusts exempt from federal income tax that the financial institution holds in any capacity, including agent, in a collective investment fund.

555.104 Funds; establishment and maintenance of plan; provisions; availability for inspection.

Sec. 4. (1) A financial institution shall establish and maintain a fund in accordance with a written plan approved by resolution of the board of directors of the financial institution or by a committee authorized by the board. The plan shall contain full and detailed provisions as to the manner in which the financial institution will operate the fund, including, but not limited to, provisions relating to all of the following:

(a) The investment powers and policies with respect to the fund.

(b) The allocation of income, profits, and losses.

(c) The fees and expenses that the financial institution will charge to the fund and to participating accounts.

(d) The terms and conditions governing the admission and withdrawal of participating accounts.

(e) Audits of participating accounts.

(f) The basis and method of valuing assets in the fund.

(g) The expected frequency of income distribution from the fund to participating accounts.

(h) The minimum frequency of valuation of fund assets.

(i) The period of time following a valuation date in which a valuation of fund assets must be made.

(j) The bases upon which the financial institution may terminate the funds.

(k) Any other matters necessary to define clearly the rights of participating accounts.

(2) A financial institution shall make a copy of a written plan described in subsection (1) available at its principal office for inspection during all regular business hours and shall provide a copy of the plan to any person who requests it.

555.104a Audit; financial report; contents; items to be excluded from report; availability; advertising common trust fund.

Sec. 4a. (1) At least once during each 12-month period, a financial institution administering a fund shall arrange for an audit of the fund by auditors responsible only to the board of directors of the financial institution.

(2) At least once during each 12-month period, a financial institution administering a fund shall prepare a financial report of the fund based on the audit required in subsection (1). The report shall disclose the fund's fees and expenses, a list of investments in the fund, the cost and current market value of each investment, and a statement covering the

period after the previous report that shows all of the following, organized by type of investment:

(a) A summary of purchases, including costs.

(b) A summary of sales, including profit or loss and any other investment changes.

(c) Income to and disbursements from the fund.

(d) A description of any investments in default.

(3) A financial institution shall not publish in the report described in subsection (2) any predictions or representations as to future performance. In addition, with respect to common trust funds, a financial institution shall not publish the performance of individual funds other than those administered by the financial institution or its affiliates.

(4) A financial institution administering a fund shall provide a copy of the report described in subsection (2), or provide notice that a copy of the report is available upon request without charge, to each person who ordinarily would receive a regular periodic accounting with respect to each participating account. The financial institution may provide a copy of the report to prospective customers and may provide a copy of the report upon request to any person for a reasonable charge.

(5) A financial institution shall not advertise or publicize any common trust fund except in connection with the advertisement of the general fiduciary services of the financial institution.

555.105 Common trust funds; funds investment.

Sec. 5. A financial institution may invest and reinvest the assets of a fund in accordance with the plan for that fund.

555.105a Interest in fund other than fiduciary; prohibition; restrictions.

Sec. 5a. (1) A financial institution administering a fund shall not have an interest in that fund other than in its fiduciary capacity. If, because of a creditor relationship or otherwise, a financial institution acquires an interest in a participating account, the financial institution shall withdraw the participating account from the fund on the next withdrawal date. However, a financial institution may invest assets that it holds as fiduciary for its own employees in a fund.

(2) A financial institution administering a common trust fund or a collective investment fund shall not make any loan secured by a participant's interest in the fund. An unsecured advance to a fiduciary account participating in the fund until the time of the next valuation date does not constitute the acquisition of an interest in a participating account by the financial institution.

(3) A financial institution administering a fund may purchase for its own account any defaulted investment held by the fund rather than segregating the investment as provided in section 8, if, in the judgment of the financial institution, the cost of segregating the investment is excessive in light of the market value of the investment. If a financial institution elects to purchase a defaulted investment, it shall purchase it for its market value or the sum of cost and accrued unpaid interest on the defaulted investment, whichever is greater.

555.106 Common trust funds; participation; certificate.

Sec. 6. (1) A financial institution administering a fund shall not issue a certificate or other document representing a direct or indirect interest in the fund, except to provide a withdrawing account with a record of an interest in a segregated investment.

(2) An account owning or holding an investment or participation in a fund has a proportionate undivided interest in the fund's assets. The account does not have individual ownership of any asset in the fund.

555.107 Common trust funds; management; control; ownership.

Sec. 7. A financial institution has exclusive management and control of a fund administered by it and the sole right at any time to sell, convert, exchange, transfer, or otherwise change or dispose of the assets comprising the fund. Exclusive management and control include, but are not limited to, the right to delegate responsibilities to others to the extent a fiduciary may delegate responsibilities under the laws of this state. The ownership of assets in a fund by a financial institution is solely as a fiduciary.

555.108 Common trust funds; assets valuation; admission and withdrawal; basis; distribution.

Sec. 8. (1) A financial institution administering a fund that is not invested primarily in real estate or other assets that are not readily marketable shall determine the value of the fund's assets at least every 3 months. A financial institution administering a fund that is invested primarily in real estate or other assets that are not readily marketable shall determine the value of the fund's assets at least once a year. A financial institution administering a fund shall admit an account to or withdraw an account from the fund only on the basis of a valuation described in this section.

(2) A financial institution administering a fund may admit an account to or withdraw an account from the fund only if the financial institution has approved a notice for or a notice of intention of taking that action on or before the valuation date on which the admission or withdrawal is based. A request or notice shall not be canceled or countermanded after the valuation date.

(3) A financial institution administering a fund shall make distributions to accounts withdrawing from the fund in cash, ratably in kind, in a combination of cash and ratably in kind, or in any other manner consistent with applicable law in the state in which the financial institution maintains the fund. If an investment is withdrawn in kind from a fund for the benefit of all participants in the fund at the time of the withdrawal but the investment is not distributed ratably in kind, the financial institution shall segregate and administer the investment for the benefit ratably of all participants in the fund at the time of withdrawal.

555.109 Common trust funds; management fee; expenses.

Sec. 9. (1) A financial institution administering a fund may charge a reasonable management fee that does not exceed an amount equal to the value of legitimate services of tangible benefit to the participating accounts that would not have been provided to the accounts were they not invested in the fund.

(2) A financial institution administering a fund may charge reasonable expenses incurred in operating the fund.

(3) A financial institution shall pay the cost of establishing or reorganizing a fund.

(4) A financial institution may deduct the fee and expenses allowed under subsections (1) and (2) from the fund or from the participating accounts in proportion to their interests in the fund.

555.110 Common trust funds; mistakes in administration; effect.

Sec. 10. A mistake made in good faith and in the exercise of due care in connection with the administration of a fund is not a violation of this act or any rules or regulations issued

under this act, if promptly after discovery of the mistake the financial institution takes whatever action is reasonable under the circumstances to remedy the mistake.

555.111 Common trust funds; rules regulating administration.

Sec. 11. The commissioner of the office of financial and insurance services may promulgate and enforce rules regulating the administration of funds under this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

555.112 Common trust funds; additional investments.

Sec. 12. (1) In addition to investing assets in a fund, a financial institution may invest assets that it holds as fiduciary in any of the following, to the extent not prohibited by applicable law:

(a) In any of the following loans or obligations, if the financial institution's only interest in the loans or obligations is its capacity as fiduciary:

(*i*) A single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States or a single fixed amount security, obligation, or other property, either real, personal, or mixed, of a single issuer.

(*ii*) A variable amount note of a borrower of prime credit, if the financial institution uses the note solely for investment of funds held in its fiduciary accounts.

(b) In a fund maintained by the financial institution for the collective investment of cash balances received or held by a financial institution in its capacity as trustee, personal representative, executor, administrator, guardian, or custodian under a uniform gifts or transfers to minors act of any state that the financial institution considers too small to be invested separately to advantage. The total assets in a fund described in this subdivision shall not exceed $1,000,000.00 and the number of participating accounts shall not exceed 100.

(c) In any investment specifically authorized by the instrument creating the fiduciary account or in a court order, in the case of trusts created by a corporation, including its affiliates and subsidiaries, or by several individual settlors who are closely related.

(d) In any collective investment authorized by applicable law, including, but not limited to, an investment under a preneed funeral statute of any state.

(e) In any other manner described by the financial institution in a written plan approved by the financial institution's state or federal regulator. In order to obtain a special exemption, a financial institution shall submit to its regulator a written plan that sets forth all of the following:

(*i*) The reason that the proposed fund requires a special exemption.

(*ii*) The provisions of the proposed fund that are inconsistent with this act.

(*iii*) The provisions of this act for which the financial institution seeks an exemption.

(*iv*) The manner in which the proposed fund addresses the rights and interests of the participating accounts.

(2) For purposes of this section, a financial institution acts as a fiduciary if the financial institution acts as any of the following:

(a) A trustee, personal representative, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gifts or transfers to minors act of any state.

(b) An investment adviser, if the financial institution receives a fee for its investment advice.

(c) In any capacity in which the financial institution possesses investment discretion on behalf of another.

(d) In any similar capacity that a federal banking agency having authority over the financial institution may authorize from time to time.

555.113 Common trust funds; court accountings; jurisdiction of probate court.

Sec. 13. Unless ordered by a court of competent jurisdiction, a financial institution administering a fund is not required to provide an accounting to a court with regard to the fund. By application to the state probate court with jurisdiction for a county in this state where the financial institution has its principal office, a financial institution may secure approval of an accounting under the conditions established by the court.

This act is ordered to take immediate effect.
Approved December 30, 2004.
Filed with Secretary of State January 4, 2005.

[No. 587]

(HB 5870)

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 301, 502, 503, 1604, 1609, 1902, 12115, 40114, 40119, 41711, 42506, 42712, 43504, 43546, 43553, 43556, 43557, 43701, 43702, 43703, 43901, 43902, 43903, 44104, 44105, 44501, 44511, 44518, 45705, 45907, 47303, 47332, 48737, 48740, 64108, 71101, 71106, 71108, 74101, 74108, 74114, 74122, 78101, 78105, 78110, 78111, 78115, 78503, 79114, 80104, 80115, 80118, 80119, 81101, 81110, 81117, 81119, 81130, 81147, 82101, 82102a, 82106, 82109, 82110, 82111, 82118, 83101, 83103, 83104, and 83106 (MCL 324.301, 324.502, 324.503, 324.1604, 324.1609, 324.1902, 324.12115, 324.40114, 324.40119, 324.41711, 324.42506, 324.42712, 324.43504, 324.43546, 324.43553, 324.43556, 324.43557, 324.43701, 324.43702, 324.43703, 324.43901, 324.43902, 324.43903, 324.44104, 324.44105, 324.44501, 324.44511, 324.44518, 324.45705, 324.45907, 324.47303, 324.47332, 324.48737, 324.48740, 324.64108, 324.71101, 324.71106, 324.71108, 324.74101, 324.74108, 324.74114, 324.74122, 324.78101, 324.78105, 324.78110, 324.78111, 324.78115, 324.78503, 324.79114, 324.80104, 324.80115, 324.80118, 324.80119, 324.81101, 324.81110, 324.81117, 324.81119, 324.81130, 324.81147, 324.82101, 324.82102a, 324.82106, 324.82109, 324.82110, 324.82111, 324.82118, 324.83101, 324.83103, 324.83104, and 324.83106), section 502 as amended by 2002 PA 148, section 503 as amended by 1998 PA 419, sections 1604 and 1609 as added by 1995 PA 60, section 1902 as amended by 2002 PA 52, sections 40114, 40119, 41711, 42712, 43504, 43557, 43901, 43903, 44104, 44105, 44501, 44511, 44518, 45705, 45907, 47303, 47332, 48737, 48740, and 64108 as added by 1995 PA 57, section 42506 as amended by 2002 PA 356, sections 43546, 43553, and 43556

as amended by 1996 PA 585, sections 43701, 43702, and 43703 as amended by 2001 PA 50, section 43902 as amended by 2002 PA 55, sections 71101, 71106, 71108, 74108, 74114, 74122, 78105, 78111, 78503, 79114, 80118, 80119, 81110, 81119, 82102a, and 82111 as added by 1995 PA 58, section 74101 as amended by 2004 PA 392, section 78101 as amended by 1998 PA 210, sections 78110 and 78115 as amended by 2003 PA 19, section 80104 as amended by 1997 PA 102, section 80115 as amended by 2003 PA 292, sections 81101, 81117, and 81130 as amended by 2003 PA 111, section 81147 as amended by 1996 PA 175, sections 82101, 82106, and 82109 as amended by 2003 PA 230, section 82110 as amended by 2001 PA 16, section 82118 as amended by 2001 PA 15, and sections 83101, 83103, 83104, and 83106 as added by 1998 PA 418, and by amending the headings to parts 437, 439, and 711 and by adding part 20; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.301 Definitions.

Sec. 301. Except as otherwise defined in this act, as used in this act:

(a) "Commission" means the commission of natural resources.

(b) "Department" means the director of the department of natural resources or his or her designee to whom the director delegates a power or duty by written instrument.

(c) "Department of natural resources" means the principal state department created in section 501.

(d) "Director" means the director of the department of natural resources.

(e) "Local unit of government" means a municipality or county.

(f) "Michigan conservation and recreation legacy fund" means the Michigan conservation and recreation legacy fund established in section 40 of article IX of the state constitution of 1963 and provided for in section 2002.

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

(h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(i) "Public domain" means all land owned by the state or land deeded to the state under state law.

(j) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

324.502 Rules; powers of department; contracts for taking and storage of mineral products; disposition and use of money; drilling operations for taking oil or gas from lake bottomlands of Great Lakes; prohibition; compliance with applicable ordinances and statutes.

Sec. 502. (1) The commission may promulgate rules, not inconsistent with law, governing its organization and procedure.

(2) The department may do 1 or more of the following:

(a) Promulgate and enforce reasonable rules concerning the use and occupancy of lands and property under its control in accordance with section 504.

(b) Provide and develop facilities for outdoor recreation.

(c) Conduct investigations it considers necessary for the proper administration of this part.

(d) Remove and dispose of forest products as required for the protection, reforestation, and proper development and conservation of the lands and property under the control of the department.

(e) Require the payment of a fee as provided by law for a daily permit or other authorization that allows the person to hunt and take waterfowl on a public hunting area managed and developed for waterfowl.

(3) Except as provided in subsection (4), the department may enter into contracts for the taking of coal, oil, gas, and other mineral products from state owned lands, upon a royalty basis or upon another basis, and upon the terms the department considers just and equitable subject to section 502a. This contract power includes authorization to enter into contracts for the storage of gas or other mineral products in or upon state owned lands, if the consent of the state agency having jurisdiction and control of the state owned land is first obtained. A contract permitted under this section for the taking of coal, oil, gas, or metallic mineral products, or for the storage of gas or other mineral products, is not valid unless the contract is approved by the state administrative board. Money received from a contract for the storage of gas or other mineral products in or upon state lands shall be transmitted to the state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law. Other money received from a contract permitted under this subsection, except money received from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of article IX of the state constitution of 1963 and provided for in part 19. However, the money received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 shall be credited to the Michigan game and fish protection trust fund established in section 41 of article IX of the state constitution of 1963 and provided for in part 437, except as otherwise provided by law.

(4) The department shall not enter into a contract that allows drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas.

(5) This section does not permit a contract for the taking of gravel, sand, coal, oil, gas, or other metallic mineral products that does not comply with applicable local ordinances and state law.

324.503 Duties of department of natural resources; jurisdiction; outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acceptance of funds from federal government; purpose; use; granting concession; lease and sale of land; reservation of mineral rights; sale of economic share of royalty interests; definitions.

Sec. 503. (1) The department shall protect and conserve the natural resources of this state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforesting of forestlands

belonging to the state; prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish. The department has the power and jurisdiction over the management, control, and disposition of all land under the public domain, except for those lands under the public domain that are managed by other state agencies to carry out their assigned duties and responsibilities. On behalf of the people of the state, the department may accept gifts and grants of land and other property and may buy, sell, exchange, or condemn land and other property, for any of the purposes contemplated by this part. The department may accept funds, money, or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to the anadromous fish conservation act, 16 USC 757a to 757f, and may use this money in accordance with the terms and provisions of that act. However, the acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

(2) The department may lease lands owned or controlled by the department or may grant concessions on lands owned or controlled by the department to any person for any purpose that the department determines to be necessary to implement this part. In granting a concession, the department shall provide that each concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding. However, if the department determines that a concession requires a capital investment in which reasonable financing or amortization necessitates a longer term, the department may grant a concession for up to a 15-year term. A concession granted under this subsection shall require, unless the department authorizes otherwise, that all buildings and equipment shall be removed at the end of the concession's term. Any lease entered into under this subsection shall limit the purposes for which the leased land is to be used and shall authorize the department to terminate the lease upon a finding that the land is being used for purposes other than those permitted in the lease. Unless otherwise provided by law, money received from a lease or a concession of tax reverted land shall be credited to the fund providing financial support for the management of the leased land. Money received from a lease of all other land shall be credited to the fund from which the land was purchased. However, money received from program-related leases on these lands shall be credited to the fund providing financial support for the management of the leased lands. For land managed by the forest management division of the department, that fund is either the forest development fund established pursuant to part 505 or the forest recreation account of the Michigan conservation and recreation legacy fund provided for in section 2005. For land managed by the wildlife or fisheries division of the department, that fund is the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(3) When the department sells land, the deed by which the land is conveyed may reserve all mineral, coal, oil, and gas rights to the state only when the land is in production or is leased or permitted for production, or when the department determines that the land has unusual or sensitive environmental features or that it is in the best interest of this state to reserve those rights as determined by commission policy. However, the department shall not reserve the rights to sand, gravel, clay, or other nonmetallic minerals. When the department sells land that contains subsurface rights, the department shall include a deed restriction that restricts the subsurface rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state. The deed may reserve to the state the right of ingress and egress over and across land along watercourses and streams. Whenever an exchange of land is made, either with the United States government, a corporation, or an individual, for

the purpose of consolidating the state forest reserves, the department may issue deeds without reserving to the state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The department may sell the limestone, sand, gravel, or other nonmetallic minerals. However, the department shall not sell a mineral or nonmetallic mineral right if the sale would violate part 353, part 637, or any other provision of law. The department may sell all reserved mineral, coal, oil, and gas rights to such lands upon terms and conditions as the department considers proper and may sell oil and gas rights as provided in part 610. The owner of such lands as shown by the records shall be given priority in case the department authorizes any sale of such lands, and, unless the landowner waives such rights, the department shall not sell such rights to any other person. For the purpose of this section, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

(4) The department may enter into contracts for the sale of the economic share of royalty interests it holds in hydrocarbons produced from devonian or antrim shale qualifying for the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986. However, in entering into these contracts, the department shall assure that revenues to the natural resources trust fund under these contracts are not less than the revenues the natural resources trust fund would have received if the contracts were not entered into. The sale of the economic share of royalty interests under this subsection may occur under contractual terms and conditions considered appropriate by the department and as approved by the state administrative board. Funds received from the sale of the economic share of royalty interests under this subsection shall be transmitted to the state treasurer for deposit in the state treasury as follows:

(a) Net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, under this subsection shall be credited to the environmental protection fund created in section 503a.

(b) Proceeds related to the production of oil or gas from devonian or antrim shale shall be credited to the natural resources trust fund or other applicable fund as provided by law.

(5) As used in subsection (4):

(a) "Natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963 and provided for in section 1902.

(b) "Net proceeds" means the total receipts received from the sale of royalty interests under subsection (4) less costs related to the sale. Costs may include, but are not limited to, legal, financial advisory, geological or reserve studies, and accounting services.

(6) As used in this section:

(a) "Concession" means an agreement between the department and a person under terms and conditions as specified by the department to provide services or recreational opportunities for public use.

(b) "Lease" means a conveyance by the department to a person of a portion of the state's interest in land under specific terms and for valuable consideration, thereby granting to the lessee the possession of that portion conveyed during the period stipulated.

324.1604 Complaint; filing; contents; order to show cause; service; notice; hearing; condemnation and confiscation; sale or other disposal; disposition of proceeds; signing property release; return of property.

Sec. 1604. (1) The officer seizing the property shall file a verified complaint in the court having jurisdiction and venue over the seizure of the property pursuant to section 1603. The complaint shall set forth the kind of property seized, the time and place of the seizure, the reasons for the seizure, and a demand for the property's condemnation and confiscation.

Upon the filing of the complaint, an order shall be issued requiring the owner to show cause why the property should not be confiscated. The substance of the complaint shall be stated in the order. The order to show cause shall fix the time for service of the order and for the hearing on the proposed condemnation and confiscation.

(2) The order to show cause shall be served on the owner of the property as soon as possible, but not less than 7 days before the complaint is to be heard. The court, for cause shown, may hear the complaint on shorter notice. If the owner is not known or cannot be found, notice may be served in 1 or more of the following ways:

(a) By posting a copy of the order in 3 public places for 3 consecutive weeks in the county in which the seizure was made and by sending a copy of the order by registered mail to the last known address of the owner. If the last known address of the owner is not known, mailing a copy of the order is not required.

(b) By publishing a copy of the order in a newspaper once each week for 3 consecutive weeks in the county where the seizure was made and by sending a copy of the order by registered mail to the last known address of the owner. If the last known address of the owner is not known, mailing a copy of the order is not required.

(c) In such a manner as the court directs.

(3) Upon the hearing of the complaint, if the court determines that the property mentioned in the petition was caught, killed, possessed, shipped, or used contrary to law, either by the owner or by a person lawfully in possession of the property under an agreement with the owner, an order may be made condemning and confiscating the property and directing its sale or other disposal by the department, the proceeds from which shall be paid into the state treasury and credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010. If the owner or person lawfully in possession of the property seized signs a property release, a court proceeding is not necessary. At the hearing, if the court determines that the property was not caught, killed, possessed, shipped, or used contrary to law, the court shall order the department to return the property immediately to its owner.

324.1609 Judgment fee.

Sec. 1609. In all prosecutions for violation of the law for the protection of game and fish, the sentencing court shall assess, as costs, the sum of $10.00, to be known as the judgment fee. When collected, the judgment fee shall be paid into the state treasury to the credit of the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

324.1902 Michigan natural resources trust fund; establishment; contents; transfer of amount to Michigan state parks endowment fund; receipts; investment; report on accounting of revenues and expenditures; "Michigan state parks endowment fund" defined.

Sec. 1902. (1) In accordance with section 35 of article IX of the state constitution of 1963, the Michigan natural resources trust fund is established in the state treasury. The trust fund shall consist of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands. However, the trust fund shall not include bonuses, rentals, delayed rentals, and royalties collected or reserved by the state from the following sources:

(a) State owned lands acquired with money appropriated from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(b) State owned lands acquired with money appropriated from the subfund account created by former section 4 of former 1976 PA 204.

(c) State owned lands acquired with money appropriated from related federal funds made available to the state under 16 USC 669 to 669i, commonly known as the federal aid in wildlife restoration act, or 16 USC 777 to 777*l*, commonly known as the federal aid in fish restoration act.

(d) Money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided for in section 503.

(2) Notwithstanding subsection (1), until the trust fund reaches an accumulated principal of $500,000,000.00, $10,000,000.00 of the revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided for in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the state treasurer for deposit into the Michigan state parks endowment fund. However, until the trust fund reaches an accumulated principal of $500,000,000.00, in any state fiscal year, not more than 50% of the total revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 USC 29, as provided in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the Michigan state parks endowment fund. To implement this subsection, until the trust fund reaches an accumulated principal of $500,000,000.00, the department shall transfer 50% of the money received by the trust fund each month pursuant to subsection (1) to the state treasurer for deposit into the Michigan state parks endowment fund. The department shall make this transfer on the last day of each month or as soon as practicable thereafter. However, not more than a total of $10,000,000.00 shall be transferred in any state fiscal year pursuant to this subsection.

(3) In addition to the contents of the trust fund described in subsection (1), the trust fund shall consist of money transferred to the trust fund pursuant to section 1909.

(4) The trust fund may receive appropriations, money, or other things of value.

(5) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*.

(6) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

(7) As used in this section, "Michigan state parks endowment fund" means the Michigan state parks endowment fund established in section 35a of article IX of the state constitution of 1963 and provided for in section 74119.

PART 20 MICHIGAN CONSERVATION AND RECREATION LEGACY FUND

324.2001 Definitions.

Sec. 2001. As used in this part:

(a) "Forest recreation account" means the forest recreation account of the legacy fund provided for in section 2005.

(b) "Game and fish protection account" means the game and fish protection account of the legacy fund provided for in section 2010.

(c) "Legacy fund" means the Michigan conservation and recreation legacy fund established in section 40 of article IX of the state constitution of 1963 and provided for in section 2002.

(d) "Off-road vehicle account" means the off-road vehicle account of the legacy fund provided for in section 2015.

(e) "Recreation improvement account" means the recreation improvement account of the legacy fund provided for in section 2020.

(f) "Snowmobile account" means the snowmobile account of the legacy fund provided for in section 2025.

(g) "State park improvement account" means the state park improvement account of the legacy fund provided for in section 2030.

(h) "Waterways account" means the waterways account of the legacy fund provided for in section 2035.

324.2002 Michigan conservation and recreation legacy fund.

Sec. 2002. (1) In accordance with section 40 of article IX of the state constitution of 1963, the Michigan conservation and recreation legacy fund is established in the state treasury.

(2) The state treasurer shall direct the investment of the legacy fund. The state treasurer shall establish within the legacy fund restricted accounts as authorized by this part. Interest and earnings from each account shall be credited to that account. The state treasurer may accept gifts, grants, bequests, or assets from any source for deposit into a particular account or subaccount.

324.2005 Forest recreation account.

Sec. 2005. (1) The forest recreation account is established as an account within the legacy fund.

(2) The forest recreation account shall consist of both of the following:

(a) All money in the forest recreation fund, formerly created in section 83104, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the forest recreation account.

(b) Revenue from the following sources:

(*i*) Revenue derived from concessions, leases, contracts, and fees from recreational activities on state forestlands.

(*ii*) Other revenues as authorized by law.

(3) Money in the forest recreation account shall be expended, upon appropriation, only as provided in part 831 and for the administration of the forest recreation account.

(4) Money in the forest recreation account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the forest recreation account.

324.2010 Game and fish protection account.

Sec. 2010. (1) The game and fish protection account is established as an account within the legacy fund.

(2) The game and fish protection account shall consist of both of the following:

(a) All money in the game and fish protection fund, formerly created in section 43553, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the game and fish protection account.

(b) Revenue from the following sources:

(*i*) Revenue derived from hunting and fishing licenses, passbooks, permits, fees, concessions, leases, contracts, and activities.

(*ii*) Damages paid for the illegal taking of game and fish.

(*iii*) Revenue derived from fees, licenses, and permits related to game, game areas, and game fish.

(*iv*) Other revenues as authorized by law.

(3) Money in the game and fish protection account shall be expended, upon appropriation, only as provided in part 435 and for the administration of the game and fish protection account, which may include payments in lieu of taxes on state owned land purchased through the game and fish protection account or through the former game and fish protection fund.

(4) Money in the game and fish protection account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the game and fish protection account.

324.2015 Off-road vehicle account.

Sec. 2015. (1) The off-road vehicle account is established as an account within the legacy fund.

(2) The off-road vehicle account shall consist of both of the following:

(a) All money in the trail improvement fund, formerly created in section 81117, and the safety education fund, formerly created in section 81118, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the off-road vehicle account.

(b) Revenue deriving from either of the following sources:

(*i*) Revenue from fees imposed upon the use or registration of off-road vehicles.

(*ii*) Other revenues as authorized by law.

(3) Money in the off-road vehicle account shall be expended, upon appropriation, only as provided in part 811 and for the administration of the off-road vehicle account.

(4) Money in the off-road vehicle account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the off-road vehicle account.

324.2020 Recreation improvement account.

Sec. 2020. (1) The recreation improvement account is established as an account within the legacy fund.

(2) The recreation improvement account shall consist of both of the following:

(a) All money in the recreation improvement fund, formerly created in section 71105, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the recreation improvement account.

(b) Revenue from the following sources:

(*i*) Two percent of the gasoline sold in this state for consumption in internal combustion engines.

(*ii*) Other revenues as provided by law.

(3) Money in the recreation improvement account shall be used only as provided for in part 711 and for the administration of the recreation improvement account.

(4) Money in the recreation improvement account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the recreation improvement account.

324.2025 Snowmobile account.

Sec. 2025. (1) The snowmobile account is established as an account within the legacy fund.

(2) The snowmobile account shall consist of both of the following:

(a) All money in the recreational snowmobile trail improvement fund, formerly created in section 82110, and the snowmobile registration fee fund, formerly created in section 82111, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the snowmobile account.

(b) Revenue deriving from the following sources:

(*i*) Revenue from fees imposed for the registration or use of snowmobiles.

(*ii*) Revenues derived from the use of snowmobile trails.

(*iii*) Transfers from the recreation improvement account.

(*iv*) Other revenues as authorized by law.

(3) Money in the snowmobile account shall be expended, upon appropriation, only as provided in part 821 and for the administration of the snowmobile account, which may include payments in lieu of taxes on state owned land purchased through the snowmobile account or the former snowmobile trail improvement fund.

(4) Money in the snowmobile account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the snowmobile account.

324.2030 State park improvement account.

Sec. 2030. (1) The state park improvement account is established as an account within the legacy fund.

(2) The state park improvement account shall consist of both of the following:

(a) All money in the state park improvement fund, formerly created in section 74108, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the state park improvement account.

(b) Revenue from the following sources:

(*i*) Revenue derived from concessions, leases, contracts, fees, and permits from activities in state parks and recreation areas.

(*ii*) Unless otherwise provided by law, damages paid for illegal activities in state parks and recreation areas.

(*iii*) Other revenues as authorized by law.

(3) Money in the state park improvement account shall be expended, upon appropriation, only as provided in part 741 and for the administration of the state park improvement account.

(4) Money in the state park improvement account may be expended pursuant to subsection (3) for grants to state colleges and universities to implement programs funded by the state park improvement account.

324.2035 Waterways account.

Sec. 2035. (1) The waterways account is established as an account within the legacy fund.

(2) The waterways account shall consist of both of the following:

(a) All money in the Michigan state waterways fund, formerly created in section 78110, the Michigan harbor development fund, formerly created in section 78110, and the marine safety fund, formerly created in section 80115, immediately prior to the effective date of the amendatory act that added this section, which money is hereby transferred to the waterways account.

(b) Revenue from the following sources:

(*i*) All revenue generated from watercraft registration fees assessed on the ownership or operation of watercraft in the state, of which not less than 49% shall be provided for law enforcement and education.

(*ii*) All revenues derived from fees charged for the moorage of watercraft at state-operated mooring facilities.

(*iii*) All revenues derived from fees charged for the use of state-operated public access sites.

(*iv*) Transfers from the recreation improvement account.

(*v*) All tax revenue derived from the sale of diesel fuel in this state that is used to generate power for the operation or propulsion of vessels on the waterways of this state.

(*vi*) Other revenues as authorized by law.

(3) Money in the waterways account shall be expended, upon appropriation, only as provided in parts 781, 791, and 801 and for the administration of the waterways account, which may include payments in lieu of taxes on state owned lands purchased through the waterways account or through the former Michigan state waterways fund.

324.12115 Civil actions; damages; court costs and other expenses.

Sec. 12115. (1) The attorney general or a person may bring a civil action in a court of competent jurisdiction to recover the full value of the damage done to the natural resources that are damaged or destroyed as a result of a violation of this part. The damages collected under this section shall be deposited in the general fund. However, if the damages result from the impairment or destruction of the fish, wildlife, or other natural resources of the state, the damages shall be deposited in the game and fish protection account of the Michigan conservation and recreation legacy fund provided in section 2010. The attorney general may, in addition, recover expenses incurred by the department to address and remedy a violation of this part that the department reasonably considered an imminent and substantial threat to the public health, safety, or welfare, or to the environment.