

[No. 238]**(SB 865)**

AN ACT to amend 1989 PA 186, entitled “An act to provide for the establishment of a department of solid waste management in certain counties; to prescribe the powers and duties of certain public corporations; to provide for the incurring of certain contract obligations and the issuance and payment of certain bonds and notes by certain public corporations; to provide for a public corporation to pledge its full faith and credit and to levy taxes; and to prescribe a procedure for condemnation,” by amending sections 7, 8, and 9 (MCL 45.587, 45.588, and 45.589).

The People of the State of Michigan enact:

45.587 Methods of financing.

Sec. 7. The acquisition, improvement, enlargement, or extension of a solid waste system under this act may be financed by 1 or more of the following methods:

(a) The issuance of revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(b) The issuance of bonds in anticipation of payments to become due under 1 or more contracts whereby 1 or more public corporations, including the county itself, agree to pay to the county certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a system instituted under this act.

(c) Through money advanced by a county under agreements with 1 or more public corporations for the repayment of the money.

(d) Through money advanced, periodically, before or during construction of a system, by a public corporation, in which event the county shall reimburse the corporation, with interest not to exceed 10% per annum or without interest as may be agreed, when funds are available. The obligation of the county to make this reimbursement may be evidenced by a contract or note that may be made payable out of the payments to be made by public corporations under a contract described in section 9 or 13, out of the proceeds of bonds issued pursuant to this act by the county, or out of any other available money. However, the contract or note shall not be considered an obligation within the meaning of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

45.588 Bonds generally.

Sec. 8. Bonds issued under this act shall be authorized by a resolution or ordinance adopted by the county board of commissioners. The county board of commissioners may, by a majority vote of its members elect, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds, including revenue bonds, issued pursuant to this act. If it becomes necessary for the county to advance money, other than its share of the cost of the project for the payment of principal and interest, then the county is entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. If the full faith and credit of the county are pledged for the payment of principal of and interest on any bonds issued pursuant to this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the principal and interest from its general fund or levy taxes, but not in excess of the rate or amount necessary to make up the deficiency and not in excess of, or contrary to, constitutional limitations. The bonds shall be issued in the name of the county and shall be executed by the manual or facsimile signatures of the chairperson of the county board of commissioners and the county clerk, and the seal of the county shall be impressed or imprinted on the bonds. The bonds issued under this act shall be negotiable instruments and shall have a last maturity date of not more than 40 years.

The bonds shall be issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and in all cases where required by article IX of the constitution of 1963, shall be subject to a vote of the people. Bonds issued under this act are exempt from all taxation by this state or by any taxing authority within the state.

45.589 Contract between county and public corporation; purpose; payment of obligations; tax levy; methods of raising money; pledge; powers.

Sec. 9. (1) A county may contract with 1 or more public corporations, including the county itself, for the acquisition, improvement, enlargement, or extension of a solid waste system and for the payment of the cost of the system by the contracting public corporations, with interest, over a period not exceeding 40 years.

(2) In a contract entered into under subsection (1), each contracting public corporation shall pledge its full faith and credit for the payment of its obligations under the contract. If the public corporation has taxing power, it may each year levy a tax in an amount that is sufficient for the prompt payment of all or part of the contract obligations due before the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors, the tax may be in addition to any tax that the public corporation otherwise may be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contract obligation. For the payment of contractual obligations incurred pursuant to this section, a township shall levy a tax only on the taxable property of the township not incorporated as a village unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase that capacity in the county system. If a contracting public corporation at the time of its annual tax levy has on hand in cash or has budgeted any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, money may be raised by a public corporation by 1 or more of the following methods:

(a) Service or availability charges to users or customers of the system in an amount no greater than that needed to pay the current operating costs of the system.

(b) Special assessments upon lands benefited, directly or indirectly or at a present or future time.

(c) Setting aside state collected money disbursed to the public corporation and usable for this purpose.

(d) Setting aside other available money.

(3) Money raised or to be raised by a public corporation by a method described in subsection (2) may be pledged to secure the payment of its obligations under a contract entered into under subsection (1).

(4) A public corporation may agree to raise all or any part of its contract obligation by a method provided in this section or by another legally available method. The governing body of a public corporation shall exercise the powers granted to the public corporation under this act.

This act is ordered to take immediate effect.

Approved April 27, 2002.

Filed with Secretary of State April 29, 2002.

[No. 239]**(SB 866)**

AN ACT to amend 1917 PA 298, entitled “An act to authorize cities and villages to levy a tax for the purpose of collecting and disposing of garbage; and providing for the issuance of bonds therefor,” by amending section 1 (MCL 123.261).

The People of the State of Michigan enact:

123.261 Garbage disposal plants or systems in cities or villages; establishment and maintenance; annual garbage tax; construction bonds; “garbage” defined.

Sec. 1. (1) The city council of a city, whether organized under the general law or special charter, or the president and board of trustees of a village may establish and maintain garbage systems or plants for the collection and disposal of garbage in the city or village, and may levy a tax not to exceed 3 mills on the taxable value of all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village for these purposes. The annual garbage tax shall be in addition to the amount authorized to be levied for general purposes by the general law or special charter under which the city or village is incorporated. All cities or villages may, for the construction of a garbage disposal plant or system, issue bonds in a sum not to exceed 3 mills on the dollar on all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) As used in this act, “garbage” means any putrescible and nonputrescible solid wastes, except body wastes, and includes ashes, incinerator ash, incinerator residue, street cleanings, solid market wastes, solid industrial wastes, and also rubbish including such items as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and litter of any kind.

This act is ordered to take immediate effect.

Approved April 27, 2002.

Filed with Secretary of State April 29, 2002.

[No. 240]**(SB 867)**

AN ACT to amend 1951 PA 266, entitled “An act regulating garbage disposal by cities and villages; to provide for the adoption of ordinances; to provide for the borrowing of money and the issuance of bonds; to provide for rates for services; and to declare the effect of this act,” by amending sections 4 and 7 (MCL 123.364 and 123.367), section 7 as amended by 1983 PA 28.

The People of the State of Michigan enact:

123.364 Bonds; issuance, amount, interest, maturity; tax exemption; principal and interest; payment.

Sec. 4. For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting, and repairing a garbage disposal

equipment system, any city or village may borrow money and issue its negotiable bonds for those purposes. However, bonds shall not be issued under this section unless and until the ordinance required by section 3 has been adopted, which ordinance shall set forth a brief description of the contemplated garbage disposal equipment system, the estimated cost of the system and the amount, maximum rate of interest, and the time of payment of the bonds, not to exceed 20 years. The bonds and coupons shall be exempt from any and all taxation by this state or by any taxing authority within this state. The principal of and interest on the bonds shall be payable primarily from the net revenues derived from the operation of the garbage disposal equipment system, and in addition the city or village may pledge the full faith, credit, and resources of the city or village for the payment of the bonds. No bond or coupon issued under this act shall constitute an indebtedness of the city or village within the meaning of any charter, statutory, or constitutional limitation. All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

123.367 Use of money received from sale of bonds.

Sec. 7. All money received from the sale of any bonds issued under this act shall, after the payment of any appropriation made under section 6, be used solely for the purchase, acquisition, construction, improvement, installation, extension, enlargement, adjustment, or repair of the garbage disposal improvement for which the bonds were issued, including any engineering, legal, and other expenses incident to the garbage disposal improvement, and, if determined in the authorizing ordinance, the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and the amount required for operation and maintenance prior to the receipt of the first revenues.

This act is ordered to take immediate effect.

Approved April 27, 2002.

Filed with Secretary of State April 29, 2002.

[No. 241]

(SB 868)

AN ACT to amend 1955 PA 233, entitled “An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies,” by amending sections 7, 9, and 12c (MCL 124.287, 124.289, and 124.292c), section 7 as amended by 1981 PA 154, section 9 as amended by 1994 PA 36, and section 12c as amended by 1983 PA 30.

The People of the State of Michigan enact:

124.287 Contracts between authority and constituent municipalities; purpose; pledging full faith and credit for payment of obligation; taxes; additional methods of raising other funds; permissible contract provisions.

Sec. 7. (1) The authority and any of its constituent municipalities may enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement,

extension, operation, and financing of a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems, which contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each contracting municipality in annual installments for a period of not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract or contracts, in which event each contracting municipality may include in its annual tax levy an amount sufficient so that the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of a municipality, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, then credit for those funds may be taken upon the annual levy for the payment of the obligation. Other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods:

(a) The levy of special assessments on property benefited by a sewage disposal system, water supply system, or a combination of systems, the procedures relative to the levying and collection of the special assessments to conform as near as is applicable to charter or statutory provisions for the levying and collection, except that a petition shall not be required from property owners.

(b) The levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(c) The exaction of connection charges to be paid by owners of land directly or indirectly connected with the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(d) The receipt of money derived from the imposition of taxes by this state, except as the use of the money for the purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for the purpose.

(2) The contract or contracts may provide for any and all matters relating to the acquisition, construction, operation, and financing of the sewage disposal system, water supply system, solid waste management system, or combination of systems as are considered necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9. The contract or contracts may provide for appropriate remedy or remedies in case of default.

124.289 Issuance of negotiable bonds; maturity; use of money; conditions for issuance or refunding of bonds; bonds issued, sold, and subject to §§ 141.2101 to 141.2821.

Sec. 9. (1) To obtain funds for the acquisition, construction, improvement, enlargement, or extension of the sewage disposal system, water supply system, solid waste management system, or combination of systems authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8, upon ordinance or resolution adopted by the authority, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization

contained in this act and the contract or contracts entered into pursuant to sections 7 and 8. The bonds shall mature over not more than 40 years from the date of issuance, and may provide for the use of money received from the sale of the bonds to pay operation and maintenance costs of a sewage disposal system, water supply system, solid waste management system, or combination of systems before receipt of the first revenues from the bonds.

(2) Except as otherwise provided in this act, bonds issued pursuant to this section shall be issued and sold and subject to all other applicable provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

124.292c Bonds secured by trust indenture; provisions in resolution or trust indenture; annual audit; pledging eligible marketable securities as collateral security for deposits; expenses; construction of 1958 amendments.

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part of the project. Either the resolution providing for the issuance of bonds or the trust indenture may contain the provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth the following:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair, and insurance of the project.

(b) The pledge of revenues of the project or any part of the project.

(c) Limitations on the amount of money derived from the operation of the project that may be expended for operating, administrative, or other specified expenses of the authority.

(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by those banks as provided in the resolution or indenture.

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect to the project deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to the approval by the purchasers or holders of the bonds as provided in the resolution or indenture.

(f) Rights and remedies of the bondholders and the trustee, if any, and the restrictions thereon as may be considered advisable.

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in the resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

(3) Any bank or trust company designated as trustee or as depositary for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in this state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences that constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers, and duties arising upon the breach by the authority of any of its duties and obligations.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

This act is ordered to take immediate effect.

Approved April 27, 2002.

Filed with Secretary of State April 29, 2002.

[No. 242]

(SB 869)

AN ACT to amend 1992 PA 173, entitled “An act to authorize the establishment of land reclamation and improvement authorities; to provide for land reclamation and improvement authority boards and for their powers and duties; to authorize the exercise of the power of eminent domain; to provide for the making of certain improvements; to provide for the issuance of bonds and notes; to provide for assessing the cost of improvements and services against property benefited; to authorize certain rents, fees, and charges; and to provide for the powers and duties of certain state and local governmental officers and entities,” by amending section 32 (MCL 125.2482).

The People of the State of Michigan enact:

125.2482 Authority board; bonds and notes; issuance; amount.

Sec. 32. (1) After the special assessment roll for an improvement is confirmed, the authority board may borrow money and issue the bonds and notes of the authority in anticipation of the collection of special assessments to defray all or any part of the cost of the improvement. The bonds and notes shall not exceed the amount of the special

assessments in anticipation of the collection of which they are issued. Bonds or notes may be issued in anticipation of the collection of special assessments levied in respect to 1 or more improvements.

(2) The issuance of bonds and notes under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.

Approved April 27, 2002.

Filed with Secretary of State April 29, 2002.

[No. 243]

(SB 1166)

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,” (MCL 211.1 to 211.157) by adding section 44d.

The People of the State of Michigan enact:

211.44d Summer property tax levy; retention of administration fees.

Sec. 44d. (1) A local taxing unit that levied part or all of its 2002 property taxes in December in a city or township shall not increase the proportion of its mills levied in the summer in that city or township in 2003.

(2) Notwithstanding section 44, if a county treasurer or the state treasurer collects a summer property tax levy under section 5b of the state education tax act, 1993 PA 331, MCL 211.905b, the county treasurer or the state treasurer may retain all administration fees collected in that summer property tax levy.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 244]

(SB 1165)

AN ACT to amend 1993 PA 331, entitled “An act to provide for the levy and collection of a state education tax; to create the education finance authority and board; to prescribe

the powers and duties of the authority and the board; to provide for the levy of a tax by the authority and the distribution of the tax; and to prescribe the duties of certain state officers,” by amending the title and sections 3 and 5 (MCL 211.903 and 211.905), as amended by 1994 PA 187, and by adding section 5b.

The People of the State of Michigan enact:

TITLE

An act to provide for the levy and collection of a state education tax; to provide for the distribution of the tax; and to prescribe the duties of certain local officials and state officers.

211.903 State education tax; levy; rate.

Sec. 3. (1) Beginning in 1994, except as otherwise provided in subsection (2), there is levied a state education tax on all property not exempt by law from ad valorem property taxes or not subject to a tax under 1905 PA 282, MCL 207.1 to 207.21, at a rate of 6 mills.

(2) In 2003 only, there is levied a state education tax on all property not exempt by law from ad valorem property taxes or not subject to a tax under 1905 PA 282, MCL 207.1 to 207.21, at the rate of 5 mills.

211.905 Collection, distribution, return, certification, and disposition of tax.

Sec. 5. (1) Beginning in 1994 through 2002, the tax levied under this act shall be collected and distributed by the local tax collecting unit under the provisions of the general property tax act at the same time as other taxes levied by the local school district for school operating purposes. However, in each year after 1993 if a local school district is not going to levy a tax in that summer but levied a tax in the summer of 1993, and the local tax collecting unit in which the local school district is located is collecting a tax for any taxing unit in that summer, the local tax collecting unit shall collect within that local school district 1/2 of the tax under this act in that summer. The tax levied under this act that is collected by a city shall become a lien against the property on which assessed in the same manner and on the same date as city taxes or, if the city approves the collection of the tax levied under this act on a date other than the date it collects the city taxes, on July 1. The tax levied under this act that is collected with the city taxes shall be subject to the same penalties, interest, and collection charges as city taxes and, except as otherwise provided in subsection (3), shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and fees as city taxes, except as provided in section 89a of the general property tax act, 1893 PA 206, MCL 211.89a.

(2) Beginning in 2003, the tax levied under this act shall be collected under the provisions of the general property tax act in a summer levy and shall be distributed as provided in this act. Except as otherwise provided in subsection (3) and section 5b, the tax levied under this act shall be collected by each city and township.

(3) Notwithstanding the provision of a charter of a county adopted pursuant to 1966 PA 293, MCL 45.501 to 45.521, or the provisions of the charter of a home rule city, to the contrary, the city treasurer of a city that does not return delinquent real property taxes levied by the city to the county treasurer shall return all uncollected delinquent taxes levied under this act to the county treasurer as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, on the March 1 immediately following the year in which the taxes are levied. After the delinquent real property taxes are returned to the county treasurer for collection under this section, the provisions of the general property

tax act, 1893 PA 206, MCL 211.1 to 211.157, apply for the collection of those taxes and for the issuance of notes in anticipation of the collection of the taxes.

(4) Beginning in 2003, if a school district or intermediate school district collects taxes in the summer under section 1613 of the revised school code of 1976, 1976 PA 451, MCL 380.1613, the school district or intermediate school district shall collect the taxes levied under this act in the summer and shall distribute the taxes collected as provided in this act.

(5) The state treasurer shall certify the levy of the tax under this act pursuant to the general property tax act.

(6) The state treasurer upon receipt shall deposit the collections from the tax into the state treasury to the credit of the state school aid fund.

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

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

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

(3) A county that receives a copy of a resolution declining to collect the tax under this act and, for a township, a written concurrence as provided in subsection (2) shall collect the tax levied under this act pursuant to this section unless, before February 1, 2003, the county board of commissioners adopts a resolution declining to collect the tax levied under this act and the county treasurer concurs in writing with that resolution. Before February 1, 2003, if the county board of commissioners adopts a resolution declining to collect the tax under this act and the county treasurer concurs in writing with that resolution, the county treasurer shall send a copy of that resolution and that concurrence to the state treasurer. In February 2004 and each February thereafter, a county board of commissioners that has declined to collect the tax under this subsection may by resolution, with the written concurrence of the county treasurer, rescind the earlier decision to decline to collect the tax. The county treasurer shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax and the written concurrence of the county treasurer to the state treasurer. If a county collects the tax levied under this act pursuant to this section, this state shall transmit to that county \$2.50 for each parcel for property in that county on which the tax levied under this act is collected under this section.

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

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

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

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

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

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

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

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

(9) The tax levied under this act that is collected by a city pursuant to this section on a date other than a date it collects city taxes shall be subject to the same fees and charges a city may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a city may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. The tax levied under this act that is collected pursuant to this section on or before September 14 of each year by a city that collects school taxes on a date other than the date

it collects city taxes shall be without interest, but the tax levied under this act that is collected after September 14 in each year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. All interest and penalties that are imposed prior to the date the tax levied under this act is returned as delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the city.

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

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 245]

(HB 5298)

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

as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 36 of chapter VIII (MCL 768.36).

The People of the State of Michigan enact:

CHAPTER VIII

768.36 Defense of insanity in compliance with § 768.20a; finding of “guilty but mentally ill”; waiver of right to trial; plea of guilty but mentally ill; examination of reports; hearing; sentence; evaluation and treatment; discharge; report to parole board; treatment as condition of parole or probation; period of probation; psychiatric reports.

Sec. 36. (1) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter, the defendant may be found “guilty but mentally ill” if, after trial, the trier of fact finds all of the following:

- (a) The defendant is guilty beyond a reasonable doubt of an offense.
- (b) The defendant has proven by a preponderance of the evidence that he or she was mentally ill at the time of the commission of that offense.
- (c) The defendant has not established by a preponderance of the evidence that he or she lacked the substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law.

(2) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter and the defendant waives his or her right to trial, by jury or by judge, the trial judge, with the approval of the prosecuting attorney, may accept a plea of guilty but mentally ill in lieu of a plea of guilty or a plea of nolo contendere. The judge shall not accept a plea of guilty but mentally ill until, with the defendant’s consent, the judge has examined the report or reports prepared in compliance with section 20a of this chapter, the judge has held a hearing on the issue of the defendant’s mental illness at which either party may present evidence, and the judge is satisfied that the defendant has proven by a preponderance of the evidence that the defendant was mentally ill at the time of the offense to which the plea is entered. The reports shall be made a part of the record of the case.

(3) If a defendant is found guilty but mentally ill or enters a plea to that effect which is accepted by the court, the court shall impose any sentence that could be imposed by law upon a defendant who is convicted of the same offense. If the defendant is committed to the custody of the department of corrections, the defendant shall undergo further evaluation and be given such treatment as is psychiatrically indicated for his or her mental illness or retardation. Treatment may be provided by the department of corrections or by the department of community health as provided by law. Sections 1004 and 1006 of the mental health code, 1974 PA 258, MCL 330.2004 and 330.2006, apply to the discharge of the defendant from a facility of the department of community health to which the defendant has been admitted and to the return of the defendant to the department of corrections for the balance of the defendant’s sentence. When a treating facility designated by either the department of corrections or the department of community health discharges the defendant before the expiration of the defendant’s sentence, that treating facility shall transmit to the parole board a report on the condition of the defendant that contains the clinical facts, the diagnosis, the course of treatment, the prognosis for the remission of symptoms, the potential for recidivism, the danger of the defendant to himself or herself

or to the public, and recommendations for future treatment. If the parole board considers the defendant for parole, the board shall consult with the treating facility at which the defendant is being treated or from which the defendant has been discharged and a comparable report on the condition of the defendant shall be filed with the board. If the defendant is placed on parole, the defendant's treatment shall, upon recommendation of the treating facility, be made a condition of parole. Failure to continue treatment except by agreement with the designated facility and parole board is grounds for revocation of parole.

(4) If a defendant who is found guilty but mentally ill is placed on probation under the jurisdiction of the sentencing court as provided by law, the trial judge, upon recommendation of the center for forensic psychiatry, shall make treatment a condition of probation. Reports as specified by the trial judge shall be filed with the probation officer and the sentencing court. Failure to continue treatment, except by agreement with the treating agency and the sentencing court, is grounds for revocation of probation. The period of probation shall not be for less than 5 years and shall not be shortened without receipt and consideration of a forensic psychiatric report by the sentencing court. Treatment shall be provided by an agency of the department of community health or, with the approval of the sentencing court and at individual expense, by private agencies, private physicians, or other mental health personnel. A psychiatric report shall be filed with the probation officer and the sentencing court every 3 months during the period of probation. If a motion on a petition to discontinue probation is made by the defendant, the probation officer shall request a report as specified from the center for forensic psychiatry or any other facility certified by department of community health for the performance of forensic psychiatric evaluation.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 246]

(HB 5411)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1225 (MCL 380.1225), as amended by 1997 PA 152.

The People of the State of Michigan enact:

380.1225 Power of board to borrow money and issue notes; purpose; pledging money to be received from state school aid; notes as full faith and credit obligations; due date; limitation; school district not able to redeem notes within 12 months of issuance; multi-year repayment agreement; notes issued for next succeeding fiscal year; maturity; failure to receive state school aid; number of borrowings; obtaining line of credit.

Sec. 1225. (1) Subject to restrictions of this section, the board of a local or intermediate school district may borrow money and issue its notes for the borrowed money to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge money to be received by it from state school aid for the payment of notes issued under this section. The notes are full faith and credit obligations of the school district or intermediate school district and are payable from tax levies or from unencumbered funds of the school district or intermediate school district in event of the unavailability or insufficiency of state school aid for any reason.

(2) Notes issued under this section shall become due not later than 12 months after the date on which they are issued, except as provided in this section. Except as otherwise provided in this subsection, notes issued within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. Until June 30, 1999, notes issued and sold to the Michigan municipal bond authority within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received.

(3) A school district or intermediate school district that is not able to redeem its notes within 12 months after the date on which the notes were issued may enter into a multi-year agreement with a lending institution to repay its obligation. A repayment agreement shall not be executed without the prior approval of an authorized representative of the state board or, for notes sold to the Michigan municipal bond authority only, without the approval of an authorized representative of the department of treasury.

(4) During the last 4 months of a fiscal year, notes may be issued pledging state school aid for the next succeeding fiscal year. Except as otherwise provided in this subsection, the notes shall not exceed 50% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 50% of the apportionment for the then current fiscal year. For the 1997-98 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 70% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 70% of the apportionment for the then current fiscal year. For the 1998-99 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 60% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 60% of the apportionment for the then current fiscal year. The notes shall mature not later than 12 months after the date of issuance.

(5) Notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Failure of a school district or intermediate school

district to receive state school aid does not affect the validity or enforceability of a note issued under this section.

(6) A school board or intermediate school board may make more than 1 borrowing under this section during a school year.

(7) In addition to other powers under this section, with the approval of the state treasurer, the board of a local or intermediate school district may obtain a line of credit to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge not more than 30% of the state school aid apportioned to the school district or intermediate school district for that fiscal year for repayment of funds received pursuant to a line of credit obtained under this subsection. However, the school board or intermediate school board shall not borrow against the line of credit an amount greater than the difference, as of the date of the borrowing, between the total state school aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. To obtain approval for obtaining a line of credit under this subsection, a school board or intermediate school board shall apply to the state treasurer in the form and manner prescribed by the state treasurer, and shall provide information as requested by the state treasurer for evaluating the application. The state treasurer shall approve or disapprove an application and notify the school board or intermediate school board within 20 business days after receiving a proper application. If the state treasurer disapproves an application, the state treasurer shall include the reasons for disapproval in the notification to the school board or intermediate school board.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 247]

(SB 1007)

AN ACT to amend 1996 PA 354, entitled “An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties,” (MCL 487.3101 to 487.3804) by adding section 514.

The People of the State of Michigan enact:

487.3514 Transaction report; filing.

Sec. 514. (1) If a savings bank is required to file a transaction report under sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, the savings bank shall also within 24 hours file a copy of the transaction report with the department of state police.

(2) Except for a violation of sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, a savings bank or a director, officer, employee, or agent of the savings bank is not liable in any civil or governmental action for the filing of a copy of the transaction report as required under subsection (1) or for the failure to notify the account holder or any other person of the filing.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 248]

(HB 5624)

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 4504 (MCL 324.4504), as added by 1995 PA 60.

The People of the State of Michigan enact:

324.4504 Bonds; issuance in series; resolution of administrative board; sale of bonds.

Sec. 4504. (1) The bonds shall be issued in 1 or more series, each series to be in the principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates not to exceed 6% per annum if issued before September 19, 1982 and not to exceed 18% per annum if issued on or after September 19, 1982, to be subject or not subject to prior redemption and, if subject to prior redemption with call premiums, to be payable at a place or places, to have or not have the provisions for registration as to principal only or as to both principal and interest, and to be in the form and to be executed in the manner as determined by resolution to be adopted by the administrative board. The administrative board may in the resolution provide for the investment and reinvestment of bond sales proceeds and any other details for the bonds and the security of the bonds considered necessary and advisable. The bonds or any series of the bonds shall be sold for not less than the par value of the bonds and may be sold, as authorized by the state administrative board, either at a public sale or at a publicly negotiated sale.

(2) Bonds issued under this part are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds under this part is subject to the agency financing reporting act.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 249]**(HB 5634)**

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 74112 (MCL 324.74112), as added by 1995 PA 58.

The People of the State of Michigan enact:

324.74112 Maximum rate of interest; sale and award of bonds; public or private sale; advertisement; notice of sale.

Sec. 74112. (1) The maximum rate of interest on bonds issued under this part shall be that set forth for bonds in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of bonds shall be conducted and made by the commission at a public or private sale. If a public sale is held, the bonds shall be advertised for sale once not less than 7 days before sale in a publication with statewide circulation that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the commission.

(2) Bonds issued under this part are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds under this part is subject to the agency financing reporting act.

This act is ordered to take immediate effect.

Approved April 30, 2002.

Filed with Secretary of State April 30, 2002.

[No. 250]**(SB 839)**

AN ACT to amend 1968 PA 2, entitled “An act to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government,” by amending section 4 (MCL 141.424), as amended by 2000 PA 493.

The People of the State of Michigan enact:

141.424 Annual financial report; filing extension; unauthorized investments prohibited; “pension” defined.

Sec. 4. (1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit’s nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit’s nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit’s pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit’s pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department’s internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, “pension” includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 251]**(SB 882)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” (MCL 500.100 to 500.8302) by adding section 3341.

The People of the State of Michigan enact:

500.3341 Coverage for certain convictions; premium surcharges.

Sec. 3341. As part of its secondary or merit rating plan, the facility shall provide for premium surcharges for any or all coverages, other than comprehensive coverage, for convictions for 1 or more of the following, when that information becomes available to the facility:

- (a) A violation of section 904 of the Michigan vehicle code, 1949 PA 300, MCL 257.904.
- (b) A violation of section 904a of the Michigan vehicle code, 1949 PA 300, MCL 257.904a.
- (c) A violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91, resulting from or in connection with the operation of a motor vehicle.

- (d) A violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316, resulting from or in connection with the operation of a motor vehicle.
- (e) A violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317, resulting from or in connection with the operation of a motor vehicle.
- (f) A violation of section 321 of the Michigan penal code, 1931 PA 328, MCL 750.321, resulting from or in connection with the operation of a motor vehicle.
- (g) A violation of section 324 of the Michigan penal code, 1931 PA 328, MCL 750.324.
- (h) A violation of section 382 of the Michigan penal code, 1931 PA 328, MCL 750.382, resulting from or in connection with the operation of a motor vehicle.
- (i) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.
- (j) A violation of section 1 of 1931 PA 214, MCL 752.191.
- (k) A violation substantially similar to any of the violations listed in subdivisions (a) through (j) under the laws of another state or a local unit of government of this state or another state.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 252]

(SB 1026)

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 repealing section 502 (MCL 750.502).

The People of the State of Michigan enact:

Repeal of § 750.502.

Enacting section 1. Section 502 of the Michigan penal code, 1931 PA 328, MCL 750.502, is repealed.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 253]

(SB 1057)

AN ACT to amend 1925 PA 12, entitled “An act to provide for the laying out and establishing of additional trunk line mileage; to make all roads that have been improved

as federal aid projects, and all roads that have been, or that may hereafter be, approved for federal aid, trunk line highways; to provide for the widening, altering or straightening of trunk line highways; to provide for the abandonment, alteration or change of any portion of the trunk line highway; and to repeal all acts and parts of acts inconsistent herewith,” by repealing section 2 (MCL 250.112).

The People of the State of Michigan enact:

Repeal of § 250.112.

Enacting section 1. Section 2 of 1925 PA 12, MCL 250.112, is repealed.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 254]

(HB 5472)

AN ACT to amend 1996 PA 381, entitled “An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing,” by amending section 2 (MCL 125.2652), as amended by 2000 PA 145.

The People of the State of Michigan enact:

125.2652 Definitions.

Sec. 2. As used in this act:

(a) “Additional response activities” means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) “Authority” means a brownfield redevelopment authority created under this act.

(c) “Baseline environmental assessment” means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) “Baseline environmental assessment activities” means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

(e) “Blighted” means property that meets any of the following criteria:

(i) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(ii) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(iii) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(iv) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(v) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

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

(g) "Brownfield plan" means a plan that meets the requirements of section 13 and is adopted under section 14.

(h) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.

(i) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.

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

(k) "Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(l) "Eligible activities" or "eligible activity" does not include activities related to multi-source commercial hazardous waste disposal wells as that term is defined in section 62506a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.62506a, but means 1 or more of the following:

(i) Baseline environmental assessment activities.

(ii) Due care activities.

(iii) Additional response activities.

(iv) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit and is a facility, functionally obsolete, or blighted, and except for purposes of section 38d of the single business tax act, 1975 PA 228, MCL 208.38d, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(v) Relocation of public buildings or operations for economic development purposes with prior approval of the Michigan economic development authority.

(m) "Eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes that is either in a qualified local governmental unit and is a facility,

functionally obsolete, or blighted or is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property. Eligible property includes, to the extent included in the brownfield plan, personal property located on the property. Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(n) “Facility” means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(o) “Fiscal year” means the fiscal year of the authority.

(p) “Functionally obsolete” means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property’s relationship with other surrounding property.

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

(r) “Infrastructure improvements” means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(s) “Initial taxable value” means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

(t) “Local taxes” means all taxes levied other than taxes levied for school operating purposes.

(u) “Municipality” means all of the following:

(i) A city.

(ii) A village.

(iii) A township in those areas of the township that are outside of a village.

(iv) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(v) A county.

(v) “Qualified local governmental unit” means that term as defined in the obsolete property rehabilitation act.

(w) “Qualified taxpayer” means that term as defined in sections 38d and 38g of the single business tax act, 1975 PA 228, MCL 208.38d and 208.38g.

(x) “Remedial action plan” means a plan that meets both of the following requirements:

(i) Is a remedial action plan as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(ii) Describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(y) “Response activity” means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(z) “Specific taxes” means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; or the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.787.

(aa) “Tax increment revenues” means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(bb) “Taxable value” means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(cc) “Taxes levied for school operating purposes” means all of the following:

(i) The taxes levied by a local school district for operating purposes.

(ii) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(iii) That portion of specific taxes attributable to taxes described under subparagraphs (i) and (ii).

(dd) “Work plan” means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(ee) “Zone” means, for an authority established before the effective date of the amendatory act that added subdivision (r), a brownfield redevelopment zone designated under this act.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 255]**(HB 4507)**

AN ACT to amend 1937 PA 94, entitled “An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 5 (MCL 205.95).

The People of the State of Michigan enact:

205.95 Registration requirements; seller to collect tax from consumer; foreign corporations; dissolution or withdrawal of corporation; election of lessor on payment of taxes.

Sec. 5. (a) Except as otherwise provided in this subsection, every person engaged in the business of selling tangible personal property for storage, use, or other consumption in this state shall register with the department and give the name and address of each agent operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and any other information that the department requires with respect to matters pertinent to the enforcement of this act. A seller holding a sales tax license obtained pursuant to the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is not required to separately register with the department as provided in this act. Every such seller shall collect the tax imposed by this act from the consumer.

(b) The corporation, securities, and land development bureau of the department of consumer and industry services shall not issue to any foreign corporation engaged in the business of selling tangible personal property a certificate of authority to do business in this state or approve and file the proposed articles of incorporation submitted to it by any domestic corporation authorizing or permitting such corporation to conduct any business of selling of tangible personal property unless the corporation submits with the application for the certificate of authority or proposed articles of incorporation, an application for registration of the corporation under the provisions of this act or an application for a sales tax license under the provisions of the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, which application shall be transmitted to the department by the corporation, securities, and land development bureau of the department of consumer and industry services.

(c) The corporation, securities, and land development bureau of the department of consumer and industry services shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department to the effect that all taxes levied under this act against that corporation have been paid, or until it is notified by the department that the applicant does not owe taxes levied under this act.

(d) A lessor may elect to pay use tax on receipts from the rental or lease of the tangible personal property in lieu of payment of sales or use tax on the full cost of the property at the time it is acquired. For tax years that begin after December 31, 2001, in order to make a valid election under this subsection, a lessor of tangible personal property that is an aircraft shall obtain a use tax registration by the earlier of the date set for the first payment of use tax under the lease or rental agreement or 90 days after the lessor first brings the aircraft into this state.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 256]**(SB 837)**

AN ACT to amend 1995 PA 280, entitled “An act to authorize local units of government to accept financial transaction device payments,” by amending section 1 (MCL 129.221).

The People of the State of Michigan enact:

129.221 Definitions.

Sec. 1. As used in this act:

(a) “Credit card” means a card or device issued by a person licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or issued by a depository financial institution as defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, under a credit card arrangement.

(b) “Credit card arrangement” means an unsecured extension of credit for purchasing goods or services from the credit card issuer or any other person that is made to the holder of a credit card and that is accessed with a credit card.

(c) “Financial transaction device” means any of the following:

(i) An electronic funds transfer card.

(ii) A credit card.

(iii) A debit card.

(d) “Governing body” means any of the following:

(i) The council, commission, or other entity vested with the legislative power of a village.

(ii) The council or other entity vested with the legislative power of a city.

(iii) The township board of a township.

(iv) The county board of commissioners of a county.

(v) The board of county road commissioners of a county.

(vi) The board of education of a local school district.

(vii) The board of education of an intermediate school district.

(viii) The board of trustees of a community college district.

(ix) The official body to which is granted general governing powers over an authority or organization of government established by law which may issue obligations pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and which may expend funds of the authority or organization.

(e) “Local school district” means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(f) “Local unit” means any of the following:

(i) A village.

(ii) A city.

(iii) A township.

(iv) A county.

(v) A county road commission.

(vi) A local school district.

(vi) An intermediate school district.

(vii) A community college district.

(ix) An authority or organization of government established by law which may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to MCL 141.2821, and which may expend funds of the authority or organization.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 257]

(SB 838)

AN ACT to amend 1995 PA 266, entitled “An act to authorize and regulate credit card transactions involving local units of government, including the use of credit cards by officers and employees of local units of government; and to provide for powers and duties of certain state and local agencies, officers, and employees,” by amending sections 1 and 2 (MCL 129.241 and 129.242), section 1 as amended by 2000 PA 169.

The People of the State of Michigan enact:

129.241 Definitions.

Sec. 1. As used in this act:

(a) “Budget” means a plan of financial operation for a given period of time, including an estimate of all proposed expenditures from the funds of a local unit and the proposed means of financing the expenditures. As used in section 4(1), budget does not include any of the following:

(i) A fund for which the local unit acts as a trustee or agent.

(ii) An intragovernmental service fund.

(iii) An enterprise fund.

(iv) A public improvement or building and site fund.

(v) A special assessment fund.

(b) “Credit card” means a card or device issued under a credit card arrangement by a person licensed under 1984 PA 379, MCL 493.101 to 493.114, by a person licensed under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or by a depository financial institution as defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a.

(c) “Credit card arrangement” means an unsecured extension of credit for purchasing goods or services from the credit card issuer or any other person that is made to the holder of a credit card and that is accessed with a credit card.

(d) “Credit card policy” means a policy adopted by resolution of a local unit under section 3.

(e) “Governing body” means any of the following:

(i) The council, commission, or other entity vested with the legislative power of a village.

(ii) The council or other entity vested with the legislative power of a city.

(iii) The township board of a township.

(iv) The county board of commissioners of a county.

(v) The board of county road commissioners of a county.

(vi) The board of education of a local school district.

(vii) The board of education of an intermediate school district.

(viii) The board of trustees of a community college district.

(ix) The official body to which is granted general governing powers over an authority or organization of government established by law that may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and that may expend funds of the authority or organization.

(x) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(f) “Local school district” means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(g) “Local unit” means any of the following:

(i) A village.

(ii) A city.

(iii) A township.

(iv) A county.

(v) A county road commission.

(vi) A local school district.

(vii) An intermediate school district.

(viii) A community college district.

(ix) An authority or organization of government established by law that may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and that may expend funds of the authority or organization.

(x) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

129.242 Credit card arrangement; use of credit cards.

Sec. 2. (1) Subject to sections 3 and 5, the governing body of a local unit may enter into a credit card arrangement.

(2) A credit card arrangement or the use of credit cards under this act is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to provisions of law or charter concerning the issuance of debt by a local unit.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 258]

(SB 1006)

AN ACT to amend 1945 PA 327, entitled “An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics

commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending section 85 (MCL 259.85), as amended by 1996 PA 370.

The People of the State of Michigan enact:

259.85 Flight school.

Sec. 85. (1) A person shall not operate a flight school in this state unless the person holds an annual license issued by the commission.

(2) Upon receipt of an application and a \$25.00 license fee from a flight school, the commission shall review the qualifications of the applicant.

(3) Unless surrendered, suspended, or revoked before this date, a flight school license expires 1 year from date of issuance or upon the sale or transfer by the owner of property, equipment, or franchise of the flight school.

(4) The annual flight school license renewal fee is \$10.00 and is payable from the original date of issuance. An applicant shall file an initial application and pay the initial application fee if a license is not renewed before its expiration.

(5) A change in the name of the flight school, without change in ownership, does not void a current license if the owner of the flight school notifies the commission in writing within 15 days of the change. Upon receipt of notification under this subsection, the commission shall issue a license under the new name with the same expiration date as the license previously issued.

(6) A flight school operating facilities at more than 1 aeronautical facility shall obtain a license for each location.

(7) The flight school license shall be posted in the principal office of the flight school where it may be readily observed by the general public.

(8) A flight school shall at all times conduct itself in accordance with all applicable federal, state, and local laws and statutes.

(9) A flight school shall be operated from an airport properly licensed by the commission.

(10) A flight school operator shall obtain from the airport manager a written agreement to operate commercially from the airport at which the flight school is based.

(11) Each flight school student shall be advised in writing at the time of enrollment of the type and amount of insurance coverage provided for each aircraft used by the flight school.

(12) A flight school shall provide a suitable space of permanent nature that is properly heated, lighted, and ventilated to accommodate flight school students and to house adequate equipment necessary to properly conduct business matters and to prepare and preserve business records. The facilities described in this subsection shall be located at the licensed airport site.

(13) Each aircraft to be used for purposes of flight instruction at a flight school shall comply with all of the following:

(a) Possess a valid airworthiness certificate issued by the federal aviation administration.

(b) Be properly registered with the commission.

(c) Have the equipment and performance characteristics appropriate to the curriculum and to the airport to be used.

(14) All aircraft used in any flight school operation shall be operated in accordance with federal aviation administration maintenance regulations and standards. Adequate records shall be kept by the school to demonstrate performance of all required items of maintenance. The maintenance status of each aircraft, including discrepancies, shall be displayed by the school in a manner adequate to determine compliance.

(15) A flight school shall have a flight instructor available to dispatch and supervise each student pilot solo flight.

(16) A flight school shall have a written curriculum, including lesson plans, adequate to properly qualify the student to complete the particular course for the certificate or rating sought. A flight school shall also include lessons pertaining to Michigan laws relating to aviation and this act.

(17) A flight school shall make available to students current texts and reference material pertaining to the certificate or rating sought.

(18) A flight school shall provide adequate instruction to properly qualify a student completing its courses for the appropriate federal aviation administration examination covering the grade of certificate or rating sought.

(19) A flight school shall maintain training records adequate to show each student's progress and level of completion relative to the course of instruction in which the student is enrolled. These records shall be made available for inspection by any authorized representative of the commission.

(20) A copy of the airport and flight school regulations shall be made available to the students enrolled in the school for information and guidance.

(21) A flight school shall designate a practice area.

(22) A flight school or its representatives and instructors shall not make false claims of any kind pertaining to either flight training or employment following flight training. Only a licensed flight school may advertise flight instruction.

(23) A flight school accepting prepayment equal to or in excess of \$1,000.00 shall file with the commission a corporate surety bond payable to the state of Michigan in the sum of \$5,000.00 conditioned on the faithful performance of all contracts and agreements with students made by the flight school or its agent. The aggregate liability for the surety for all breaches of conditions of the bond shall not exceed the principal sum of \$5,000.00. The surety of any bond may cancel the bond upon giving 60 days' notice in writing to the commission and the flight school. If a bond is canceled in compliance with this subsection,

the surety is relieved of liability for any breach of conditions occurring after the effective date of cancellation.

(24) Beginning the effective date of the amendatory act that added this subsection, a flight school shall request from the criminal records division of the department of state police a criminal history check and criminal records check through the federal bureau of investigation on any applicant for training at the flight school in the manner provided for under section 85a. The applicant shall cooperate with the flight school in completing the criminal history check and criminal records check through the federal bureau of investigation. A flight school shall not enroll or shall terminate the enrollment of an applicant if any of the following occurred to the applicant within the preceding 7 years:

- (a) Was convicted of a violent or other felony.
- (b) Was incarcerated for a violent or other felony conviction.
- (c) Was on probation or parole for a violent or other felony conviction.

(25) The requirements for a flight school set out in this section are conditions of the license. Failure to comply with any of these requirements is grounds for revocation of a flight school's license.

(26) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than \$100.00 or more than \$500.00, or both, together with costs of the prosecution.

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

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 934 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

Compiler's note: Senate Bill No. 934, referred to in enacting section 2, was filed with the Secretary of State May 22, 2002, and became P.A. 2002, No. 318, Imd. Eff. May 22, 2002.

[No. 259]

(HB 5504)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy

and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 307, 312f, 319b, and 732 (MCL 257.307, 257.312f, 257.319b, and 257.732), section 307 as amended by 2001 PA 159, section 312f as amended by 1992 PA 180, section 319b as amended by 1998 PA 356, and section 732 as amended by 2001 PA 134.

The People of the State of Michigan enact:

257.307 Application for operator’s or chauffeur’s license; manner; contents; image; equipment; use of image and information; signature and certification; fee; refund; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number.

Sec. 307. (1) An application for an operator’s or chauffeur’s license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant’s full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant’s social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant’s residence address on the qualified voter file for voter registration and voting:

“NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.”

(c) For an operator’s or chauffeur’s license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal physical driver qualification requirements under 49 C.F.R. part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable physical qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant has not been convicted of an offense as described in section 312f or 319b.

(iv) The applicant does not have a driver's license from more than 1 state.

(d) For an operator's or chauffeur's license with a vehicle group designation or indorsement and for which the applicant claims a waiver of the driving test as provided in section 312f, the following additional certifications by the applicant concerning the 2-year period immediately before application:

(i) The applicant has not had more than 1 license.

(ii) The applicant has not had any license suspended, revoked, or canceled.

(iii) The applicant has not been convicted of any offense described in section 319b while operating a motor vehicle.

(iv) The applicant has not been convicted of a moving violation under state or local law relating to motor vehicle traffic control arising in connection with a traffic accident.

(v) The applicant is regularly employed in a job requiring the operation of a commercial motor vehicle.

(vi) The applicant qualifies under either of the following:

(A) He or she has passed a behind-the-wheel driving test given by a state with a commercial motor vehicle driver licensing and testing system and taken in a representative vehicle for that applicant's driver's license vehicle group designation.

(B) For at least 2 years immediately preceding application, the applicant has operated a vehicle representative of the commercial motor vehicle group or passenger vehicle for which he or she is applying. The applicant's employer or the applicant, if self-employed, shall provide evidence of this requirement.

(e) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement (H vehicle indorsement) shall provide his or her fingerprints which shall have been taken by a law enforcement official or a designated representative for investigation as required by the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272.

(2) Except as provided in this subsection, an applicant for an operator's or chauffeur's license may have his or her image captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card shall have his or her image captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image captured pursuant to this section shall appear on the applicant's operator's or chauffeur's license. Except as provided in this subsection, the secretary of state may retain and use a person's image described in this subsection only for programs administered by the secretary of state. Except as provided in this

subsection, the secretary of state shall not use a person's image unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature and certification by the applicant and shall be accompanied by the proper fee. The examiner shall collect the application fee and shall forward the fee to the secretary of state with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license. A service fee of \$1.00 shall be added to each fee collected for an original, renewal, duplicate, or corrected operator's or chauffeur's license. The service fee received and collected under this subsection shall be deposited in the state treasury to the credit of the general fund. The service fee shall be used to defray the expenses of the secretary of state. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(4) In conjunction with the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Written information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(iii) Written information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry described in subdivision (a)(ii), the secretary of state will forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, as required by subsection (6).

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(i), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state. If the application is for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall also check the applicant's driving record with the federal commercial driver license information system before issuing that group designation or indorsement.

(8) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall issue a renewal license only in person if the licensee has a driving record with a conviction or civil infraction determination obtained in the 48 months preceding renewal or if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. However, the secretary of state shall not refuse to issue a renewal license by mail or by other method because of a conviction or civil infraction determination for which fines and costs were waived under section 901a or section 907. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(9) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 C.F.R. part 383.

(10) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of part D of title IV of the social security act, 42 U.S.C. 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) As otherwise required by law.

(11) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(12) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (4); definitions.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be at least 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain a group A, a group B, or an F vehicle group designation if he or she is at least 16 years of age. Each written examination given an applicant for a vehicle group designation or indorsement on an operator's or chauffeur's license shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving test designed to test competency of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this state with safety to that person and other persons and property. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(4)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199. The driving test may be waived if the applicant has a valid license, indorsement, or vehicle group designation to operate that type or group of vehicle in another state, except that the driving test for a vehicle group designation or passenger vehicle indorsement may not be waived unless the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(2) The secretary of state shall waive the knowledge test and the driving skills test and issue a 1-year seasonal restricted vehicle group designation for an otherwise qualified person who desires to operate a group B or a group C vehicle for a farm related service industry under the following conditions:

(a) An applicant shall possess a good driving record. However, an applicant who has not held an operator's or chauffeur's license for at least 1 year is not eligible for a waiver. An applicant who has between 1 and 2 years of driving experience shall possess a good driving record for his or her entire driving history. An applicant who has more than 2 years of driving experience shall possess a good driving record for the 2 years immediately preceding application for a waiver.

(b) The seasons for which the seasonal restricted vehicle group designation is issued shall be from April 2 to June 30 and from September 2 to November 30 only of a 12-month period or, at the option of the applicant, for not more than 180 days from the date of issuance in a 12-month period subsequent to 1992. A seasonal restricted vehicle group designation under this subsection shall be issued, suspended, revoked, canceled, or renewed in accordance with this act. The good driving record shall be confirmed before each season and 180-day period.

(c) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall be operated only on routes within 150 miles from the place of business to the farm or farms being served.

(d) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall not transport a quantity of hazardous materials on which a placard is required except for the following:

(i) Diesel motor fuel in quantities of 1,000 gallons or less.

(ii) Liquid fertilizers in quantities of 3,000 gallons or less.

(iii) Solid fertilizers that are not transported with any organic substance.

(e) The commercial motor vehicle for which a seasonal restricted vehicle group designation is issued shall not include a bus or school bus.

(3) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(4) The secretary of state shall not issue a vehicle group designation or a vehicle indorsement to an applicant for an original vehicle group designation or vehicle indorsement under section 312e to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the violation occurred while the applicant was operating a type of vehicle that is operated under a vehicle group designation.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license suspended, revoked, canceled, or denied.

(d) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application if a suspension or revocation would have been imposed under this act had the applicant been licensed in this state in the original instance. This subdivision does not apply to a suspension or revocation that would have been imposed due to a temporary medical condition or pursuant to section 321a, 515, or 801c.

(e) The applicant is subject to a suspension or revocation under section 319b or would have been subject to a suspension or revocation under section 319b if the applicant had been issued a vehicle group designation or vehicle indorsement.

(f) The applicant has been disqualified from operating a commercial motor vehicle under title XII of Public Law 99-570, 100 Stat. 3207-170 or the applicant's license to operate a commercial motor vehicle has been suspended, revoked, denied, or canceled within 36 months immediately preceding the date of application.

(5) The secretary of state shall only consider bond forfeitures under subsection (4)(b) for violations that occurred on or after January 1, 1990 when determining the applicability of subsection (4).

(6) If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record from that jurisdiction. If 1 or more of the conditions described in subsection (4) exist in that jurisdiction when the secretary of state receives the copy, the secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license.

(7) Subsection (4)(a), (b), (d), and (f) do not apply to an applicant for an original vehicle group designation who at the time of application has a valid class 1, class 2, or class 3 indorsement under this act or a valid license to operate a commercial motor vehicle issued by any state in compliance with title XII of Public Law 99-570.

(8) As used in this section:

(a) "Farm related service industry" means custom harvesters, farm retail outlets and suppliers, agri-chemical business, or livestock feeders.

(b) "Good driving record" means the criteria required under regulations described at 49 C.F.R. 383.77 and 57 F.R. 75, P. 13650 (April 17, 1992).

257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; revocation for life the hazardous material indorsement; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; definitions; applicability of conditions.

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the licensee is convicted of or found responsible for 2 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(b) Suspension for 120 days if the licensee is convicted of or found responsible for 3 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 1 of the following:

(i) A violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.

(ii) Leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) A felony in which a commercial motor vehicle was used.

(iv) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled substance or both in his or her blood, breath, or urine while he or she was operating a commercial motor vehicle as required by a law or local ordinance of this state or another state.

(v) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(i) to (v) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(i) Any combination of 2 violations arising from 2 or more separate incidents under section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b while driving a commercial motor vehicle.

(ii) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(iii) Two violations of a felony in which a commercial motor vehicle was used.

(iv) Two refusals of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle in this state or another state, which refusals occurred in separate incidents.

(v) Two 6-point violations as provided in section 320a while operating a commercial motor vehicle.

(vi) Two violations, in any combination, of the offenses enumerated under subparagraph (i), (ii), (iii), (iv), or (v) arising from 2 or more separate incidents.

(f) Revocation for life if a licensee is convicted of or found responsible for any of the following:

(i) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(ii) A conviction of any offense described in subdivision (c) or (d) after having been approved for the issuance of a vehicle group designation under subdivision (e).

(iii) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately revoke for life the hazardous material indorsement (H vehicle indorsement) on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from the U.S. department of transportation that the person poses a security risk warranting denial under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56, 115 Stat. 272.

(3) The secretary of state shall immediately suspend all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle as defined in section 7a. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the licensee is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(i) The vehicle was used as an instrument of the felony.

(ii) The vehicle was used to transport a victim of the felony.

(iii) The vehicle was used to flee the scene of the felony.

(iv) The vehicle was necessary for the commission of the felony.

(b) “Serious traffic violation” means a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in the federal administrative regulations promulgated to implement the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170, improper lane use, following too closely, or any other serious traffic violation as defined in 49 C.F.R. 383.5 or as prescribed under this act.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) notwithstanding a suspension, restriction, revocation, or denial of an operator’s or chauffeur’s license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) When determining the applicability of conditions listed in this section, the secretary of state shall only consider violations that occurred after January 1, 1990.

257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (h). Except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Within 14 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each

case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) An attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(f) An attempt to commit an offense described in subdivisions (a) to (d).

(g) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(7) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

“You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver’s license shall be suspended by the secretary of state.”

(8) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(9) As used in subsections (10) and (11), “felony in which a commercial motor vehicle was used” means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(iii), 319b(1)(d), 319b(1)(e)(iii), or 319b(1)(f)(i), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

“You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver’s license shall be suspended or revoked by the secretary of state.”

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given under subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later

than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

- (a) The name and title of the person required to forward abstracts.
- (b) The court for which the certification is filed.
- (c) The time period covered by the certification.
- (d) The following statement:

“I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state.”.

- (e) Other information the secretary of state considers necessary.
- (f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state’s main office and the abstracts shall be open for public inspection during the office’s usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

- (a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state’s suspension, revocation, or denial of an operator’s or chauffeur’s license.

(c) A violation of chapter II that is not the basis for the secretary of state’s suspension, revocation, or denial of an operator’s or chauffeur’s license.

(d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred after January 1, 1990 in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator’s or chauffeur’s license.

(18) If a conviction or civil infraction determination is reversed upon appeal, the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal. The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

Effective date of §§ 257.307, 257.312f, 257.319b, and 257.732.

Enacting section 1. Sections 307, 312f, 319b, and 732 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, 257.312f, 257.319b, and 257.732, as amended by this amendatory act take effect April 22, 2002.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 260]

(SB 1034)

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 repealing section 348 (MCL 750.348).

The People of the State of Michigan enact:

Repeal of § 750.348.

Enacting section 1. Section 348 of the Michigan penal code, 1931 PA 328, MCL 750.348, is repealed.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 261]

(SB 1035)

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

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16q of chapter XVII (MCL 777.16q), as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

777.16q §§ 750.332 to 750.350a; felonies to which chapter applicable.

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

M.C.L.	Category	Class	Description	Stat Max
750.332	Property	H	Entering horse in race under false name	4
750.335a	Person	A	Indecent exposure by sexually delinquent person	Life
750.338	Pub ord	G	Gross indecency between males	5
750.338a	Pub ord	G	Gross indecency between females	5
750.338b	Pub ord	G	Gross indecency between males and females	5
750.349	Person	A	Kidnapping	Life
750.349a	Person	A	Prisoner taking a hostage	Life
750.350	Person	A	Kidnapping — child enticement	Life
750.350a	Person	H	Kidnapping — custodial interference	1

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1034 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 262]**(SB 1037)**

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 repealing section 494 (MCL 750.494).

The People of the State of Michigan enact:

Repeal of § 750.494.

Enacting section 1. Section 494 of the Michigan penal code, 1931 PA 328, MCL 750.494, is repealed.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 263]**(HB 5152)**

AN ACT to amend 1996 PA 354, entitled “An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties,” (MCL 487.3101 to 487.3804) by adding section 706a.

The People of the State of Michigan enact:

487.3706a Definitions; reorganization of existing mutual savings bank to mutual holding company; requirements; organization and incorporation of new savings bank subsidiary; approval.

Sec. 706a. (1) As used in this section:

(a) “Existing mutual savings bank” means a mutual savings bank engaged in the savings bank business before reorganization under this section.

(b) “Mutual holding company” means that term as defined in section 10(o) of the home owners’ loan act, chapter 64, titles III and IX of Public Law 101-73, 12 U.S.C. 1467a, and OTS regulations governing mutual holding companies.

(c) “New savings bank” means a savings bank not engaged in the savings bank business before the reorganization provided in this section.

(d) “OTS” means the office of thrift supervision, United States department of the treasury.

(2) An existing mutual savings bank may reorganize to establish a mutual holding company, if all of the following requirements are met:

(a) The reorganization plan complies in all respects with OTS mutual holding company laws and receives the approval of the OTS, and the OTS grants a federal charter to the newly created mutual holding company.

(b) The reorganization plan receives the approval of the office of financial and insurance services.

(c) The board of directors of the existing mutual savings bank has approved the plan of reorganization at a meeting called in accordance with the bank's articles of incorporation and bylaws.

(d) A majority of the total votes of the members of the existing mutual savings bank eligible to be cast shall have approved the plan of reorganization after a membership meeting called in accordance with the bank's articles of incorporation and bylaws.

(3) Persons as provided in section 301 may organize and incorporate as the incorporator or incorporators any new savings bank subsidiary of the existing mutual savings bank, having its principal office in the same city or village as the principal office of the existing mutual savings bank, if the new savings bank is organized for the sole purpose of effecting a reorganization plan in accordance with this section.

(4) The assets, liabilities, and banking business of the existing mutual savings bank shall not be transferred to any new savings bank subsidiary or federal savings bank subsidiary under the reorganization plan until the office of financial and insurance services or OTS approves a charter for the subsidiary to operate as a savings bank or federal savings bank.

(5) Unless the office of financial and insurance services determines in writing that the subsidiary charter application does not meet the requirements for a savings bank under this act, the office of financial and insurance services shall approve the subsidiary's charter application if the applicant represents, and the commissioner believes, the subsidiary will conduct substantially the same banking business as the existing mutual savings bank.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 264]

(HB 4848)

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 repealing section 486 (MCL 750.486).

The People of the State of Michigan enact:

Repeal of § 750.486.

Enacting section 1. Section 486 of the Michigan penal code, 1931 PA 328, MCL 750.486, is repealed.

This act is ordered to take immediate effect.

Approved May 8, 2002.

Filed with Secretary of State May 9, 2002.

[No. 265]**(HB 5151)**

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 600.9948) by adding section 2607.

The People of the State of Michigan enact:

600.2607 Stay pending appeal of judgment; amount of bond; limitation; rescission of limitation.

Sec. 2607. (1) The amount of a bond issued to stay execution on a judgment while an appeal is pending shall be determined according to the applicable Michigan court rules and statutory provisions. The bond shall not exceed \$25,000,000.00 regardless of the amount of the judgment. The maximum amount allowed for a bond under this subsection shall be adjusted on January 1 following the fifth year after the effective date of the amendatory act that added this section and on January 1 every 5 years after that adjustment by an amount determined by the state treasurer to reflect the annual aggregate percentage change in the Detroit consumer price index since the previous adjustment. As used in this subsection, “Detroit consumer price index” means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor and as certified by the state treasurer.

(2) If the appellee proves by a preponderance of the evidence that the party for whom the bond to stay execution has been limited is purposefully dissipating or diverting assets outside of the ordinary course of business for the purpose of avoiding ultimate payment of the judgment, the court shall rescind the limitation granted under subsection (1).

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003 and applies to an appeal filed on or after that date.

This act is ordered to take immediate effect.

Approved May 8, 2002.

Filed with Secretary of State May 9, 2002.

[No. 266]**(HB 5440)**

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