



# HOUSE BILL No. 4351

February 8, 1995, Introduced by Reps. Murphy, Middaugh, Alley and Hill and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," being sections 324.101 to 324.90101 of the Michigan Compiled Laws, by adding sections 107 and 90102 and parts 7, 16, 18, 19, 21, 25, 35, 37, 45, 59, 61, 63, 65, 85, 91, 93, 119, 193, and 195; to amend the headings of certain parts; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Act No. 451 of the Public Acts of 1994, being  
2 sections 324.101 to 324.90101 of the Michigan Compiled Laws, is  
3 amended by adding sections 107 and 90102 and parts 7, 16, 18, 19,  
4 21, 25, 35, 37, 45, 59, 61, 63, 65, 85, 91, 93, 119, 193, and 195  
5 and by amending the headings of certain parts to read as  
6 follows:

1 SEC. 107. IT IS THE INTENTION OF THE LEGISLATURE THAT  
 2 EDITORIAL CHANGES IN THE LANGUAGE OF STATUTES CODIFIED AS PARTS  
 3 WITHIN THIS ACT NOT BE CONSTRUED AS CHANGES TO THE MEANINGS OF  
 4 THOSE STATUTES.

5 ~~PART 7 FOREST AND MINERAL RESOURCES DEVELOPMENT~~

6 PART 7 FOREST AND MINERAL RESOURCE DEVELOPMENT

7 ~~Sec. 1. This act shall be known and may be cited as the~~  
 8 ~~"forest and mineral resource development fund act".~~

9 Sec. ~~2~~ 701. As used in this ~~act~~ PART, ~~:(a) "Board"~~  
 10 ~~means the forest and mineral resource development board created~~  
 11 ~~in section 3. (b) "Department" means the department of natural~~  
 12 ~~resources. (c) "Director" means the director of the department.~~  
 13 ~~(d) "Fund"~~ "FUND" means the forest and mineral resource develop-  
 14 ment fund created in section ~~5~~ 703.

15 ~~(e) "Person" means an individual, trust, firm, joint stock~~  
 16 ~~company, university or college, corporation or association, or a~~  
 17 ~~governmental unit or agency of a governmental unit.~~

18 ~~Sec. 3. (1) The forest and mineral resource development~~  
 19 ~~fund board is established within the department. The board shall~~  
 20 ~~consist of the following members:~~

21 ~~(a) Two representatives of the general public, appointed by~~  
 22 ~~the director, who are knowledgeable in the areas of forestry or~~  
 23 ~~mining.~~

24 ~~(b) The director or his or her authorized representative.~~

25 ~~(c) An individual appointed by the director who is knowl-~~  
 26 ~~edgeable in matters pertaining to the mineral industry.~~

1       ~~(d) An individual appointed by the director who is employed~~  
2 ~~by a university in this state that offers a doctorate degree~~  
3 ~~program in the area of forestry.~~

4       ~~(e) An individual appointed by the director who is employed~~  
5 ~~by a university in this state that offers a doctorate degree pro-~~  
6 ~~gram in mineral science.~~

7       ~~(f) The chairperson of the Michigan forest products industry~~  
8 ~~development council, created by Act No. 150 of the Public Acts of~~  
9 ~~1984, being sections 320.501 to 320.505 of the Michigan Compiled~~  
10 ~~Laws, or his or her designated representative.~~

11       ~~(2) The members appointed by the director shall serve for~~  
12 ~~2-year terms and successor members shall be appointed by the~~  
13 ~~director in the same manner and for the same terms as the origi-~~  
14 ~~nal members.~~

15       ~~(3) Official action of the board shall be by majority vote~~  
16 ~~of all of the board members.~~

17       ~~(4) The board shall meet immediately upon formation and then~~  
18 ~~shall meet at least quarterly at an office of the department, or~~  
19 ~~at other places in the state as may be designated by the board.~~  
20 ~~At the initial meeting, and annually thereafter, the board shall~~  
21 ~~select a chairperson who shall serve for a term of 1 year.~~

22       ~~(5) The business that the board may perform shall be con-~~  
23 ~~ducted at a public meeting of the board held in compliance with~~  
24 ~~the open meetings act, Act No. 267 of the Public Acts of 1976,~~  
25 ~~being sections 15.261 to 15.275 of the Michigan Compiled Laws.~~  
26 ~~Public notice of the time, date, and place of the meetings shall~~

1 ~~be given in the manner required by Act No. 267 of the Public Acts~~  
2 ~~of 1976.~~

3       Sec. ~~4~~ 702. The ~~board~~ DEPARTMENT shall do all of the  
4 following:

5       (a) Administer a grant and loan program pursuant to sections  
6 ~~6~~ 704 and ~~7~~ 705.

7       (b) Provide advice and recommendations to the legislature,  
8 the governor, and executive departments in order to promote the  
9 development of the forestry and forest products industry and the  
10 mineral extraction and utilization industry in this state.

11       (c) Develop programs and coordinate existing and proposed  
12 programs to encourage innovative and competitively viable eco-  
13 nomic development of forest and mineral related industry.

14       (d) Stimulate and encourage the forestry and forest products  
15 industry and the mineral extraction and utilization industry  
16 through grants and loans made under this ~~act~~ PART.

17       (e) Review existing laws and regulations pertaining to for-  
18 estry and the mineral industry and develop proposals for new laws  
19 or changes in existing law to improve this state's forest and  
20 mineral resource development as considered appropriate by the  
21 ~~board~~ DEPARTMENT.

22       (f) Promote and provide for educational programs for the  
23 general public and members of local government to increase aware-  
24 ness of the importance of the forestry and forest products indus-  
25 try and the mineral industry to this state.

26       (g) Consult with representatives of science, industry,  
27 labor, government, and other groups and utilize the services of

1 public and private organizations, including colleges and  
2 universities, as the ~~board~~ DEPARTMENT considers necessary or  
3 helpful.

4       Sec. ~~5~~ 703. (1) The forest and mineral resource develop-  
5 ment fund is created as a separate fund in the department of  
6 treasury to be administered and expended by the ~~board~~  
7 DEPARTMENT for the purpose of making grants and loans pursuant to  
8 sections ~~6~~ 704 and ~~7~~ 705.

9       (2) There shall be appropriated annually from the general  
10 fund of the state, or from any special revenue source that is  
11 dedicated to forest and mineral resource development or from  
12 funds made available by the private sector, a sufficient sum to  
13 carry out the requirements of this ~~act~~ PART. Of the money  
14 appropriated by the legislature, the ~~board~~ DEPARTMENT shall  
15 make grants and loans as provided in sections ~~6~~ 704 and ~~7~~ 705  
16 in a manner that as nearly as practicable results in an even dis-  
17 tribution of grants and loans to encourage the state's forestry  
18 and forest products industry and grants and loans to encourage  
19 the state's mineral industry.

20       (3) In addition to the appropriated funds, the fund shall  
21 include all repayments of principal and interest and earnings  
22 generated under a loan granted ~~pursuant to~~ UNDER this ~~act~~  
23 PART.

24       (4) Appropriations made to the fund and interest and earn-  
25 ings generated by the fund ~~shall~~ DO not lapse TO THE GENERAL  
26 FUND at the end of the fiscal year for which an appropriation was

1 made, but shall remain in the fund to be expended as provided in  
2 this ~~act~~ PART.

3       Sec. ~~6-~~ 704. (1) The ~~board~~ DEPARTMENT shall establish a  
4 forest and mineral resource development grant and loan program.  
5 The ~~board~~ DEPARTMENT shall promulgate rules ~~pursuant to the~~  
6 ~~administrative procedures act of 1969, Act No. 306 of the Public~~  
7 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
8 ~~Compiled Laws,~~ necessary to implement the grant and loan program  
9 provided in this ~~act~~ PART.

10       (2) The ~~board~~ DEPARTMENT shall annually publish informa-  
11 tion about grants and loans available under this ~~act~~ PART in a  
12 manner selected by the ~~board~~ DEPARTMENT as best calculated to  
13 give notice to persons likely to be interested in the grants or  
14 loans, or both.

15       (3) Information regarding grants and loans available under  
16 this ~~act~~ PART and application forms for grants and loans shall  
17 be distributed by the ~~board~~ DEPARTMENT upon request.

18       (4) An application for a grant or loan under this section  
19 shall be on a form provided by the ~~board~~ DEPARTMENT and shall  
20 contain information required by the ~~board~~ DEPARTMENT.

21       (5) The ~~board~~ DEPARTMENT may make a grant or a loan to a  
22 person as determined to be appropriate by the ~~board~~ DEPARTMENT  
23 for any of the following projects that pertain to new technolo-  
24 gies, innovative technologies, or procedures, products, or mar-  
25 keting techniques, to encourage the state's forestry or forest  
26 products industry or the mineral extraction and utilization  
27 industry:

- 1 (a) Market development projects.
- 2 (b) Resource base information development projects.
- 3 (c) Feasibility study projects.
- 4 (d) Research projects.
- 5 (e) Development projects.
- 6 (f) Research and development projects.
- 7 (6) The ~~board~~ DEPARTMENT may require that matching funds  
8 be provided as a condition for making a grant or loan under this  
9 section.
- 10 (7) The ~~board~~ DEPARTMENT in making grants and loans under  
11 this section shall consider all of the following:
- 12 (a) The potential for the project, if funded, to assist the  
13 forest products industry or the mineral industry in this state.
- 14 (b) The potential for the project, if funded, to create jobs  
15 in the forest products industry or the mineral industry in this  
16 state.
- 17 (c) If the applicant's project proposes the development of a  
18 new technology or product, the likelihood that the technology or  
19 product would enhance the competitiveness of this state's forest  
20 products industry or mineral industry.
- 21 (d) If the applicant's project involves the development of a  
22 new technology or product, whether the applicant provides a fea-  
23 sibility study with results supportive of project initiation.
- 24 (e) The potential for the project to be applied or utilized  
25 by persons in this state other than the applicant.
- 26 (f) The ability of the applicant to contribute matching  
27 funds for the project.

1 (g) If the applicant's project involves research, the  
2 likelihood that the applicant may qualify for further research  
3 grants or loans or follow-up grants or loans from other sources.

4 (h) Other factors as considered appropriate by the ~~board~~  
5 DEPARTMENT.

6 (8) In determining the rate of interest to be assessed on  
7 loans made under this ~~act~~ PART, the ~~board~~ DEPARTMENT shall  
8 select an interest rate that is below the average annual effec-  
9 tive prime lending rate for commercial banks as reported by the  
10 federal reserve system.

11 Sec. ~~7~~ 705. (1) An application for a grant or loan made  
12 under this ~~act~~ PART shall be reviewed and prioritized by the  
13 ~~board~~ DEPARTMENT each fiscal year.

14 (2) Not less than 60 days prior to the end of each fiscal  
15 year, the ~~board~~ DEPARTMENT shall report the following informa-  
16 tion regarding the grants or loans made under this ~~act~~ PART to  
17 the governor and the legislature:

18 (a) The name and address of each person to whom a grant or  
19 loan was issued during the reporting year.

20 (b) The nature of the project that received a grant or loan  
21 during the reporting year.

22 (c) The amount of money received by each person who received  
23 a grant or loan during the reporting year.

24 (d) The county in which the project is located.

25 (e) The number of new employment opportunities, if any, that  
26 resulted from grants or loans made during the reporting year.



1 (f) The number of new employment opportunities, if any, that  
2 are expected to result from grants or loans that are anticipated  
3 in the next reporting year.

4 PART 16 ENFORCEMENT OF LAWS FOR PROTECTION OF WILD BIRDS,  
5 WILD ANIMALS, AND FISH

6 Sec. ~~+~~ 1601. ~~It shall be the duty of the director of~~  
7 ~~conservation~~ THE DEPARTMENT and ~~of~~ any officer appointed by  
8 ~~him to enforce~~ THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

9 (A) ENFORCE the statutes and laws of this state for the pro-  
10 tection, propagation, or preservation of wild birds, wild  
11 animals, and fish. ~~, now in force or hereafter enacted, to~~  
12 ~~enforce the provisions of~~

13 (B) ENFORCE all other laws of this state ~~now existing or~~  
14 ~~hereafter enacted or promulgated which~~ THAT pertain to the  
15 powers and duties of the ~~director of conservation~~ DEPARTMENT or  
16 the commission. ~~of conservation; to bring~~

17 (C) BRING or cause to be brought or ~~to~~ prosecute or cause  
18 to be prosecuted actions and proceedings in the name of the  
19 people of ~~the~~ THIS state for the purpose of punishing any  
20 person for the violation of ~~said~~ statutes or laws DESCRIBED IN  
21 THIS SECTION. ~~Such actions and proceedings shall be brought in~~  
22 ~~the name of the people in like cases in the same courts and under~~  
23 ~~the same procedure as they may now or may hereafter be brought by~~  
24 ~~any individual or by the prosecuting attorneys of the several~~  
25 ~~counties under and by virtue of any statute or law now existing~~  
26 ~~or hereafter enacted.~~

1       Sec. ~~2~~ 1602. (1) The ~~director of conservation~~  
2 DEPARTMENT, or ~~any~~ AN officer appointed by ~~him~~ THE  
3 DEPARTMENT, may ~~make~~ FILE A complaint and ~~cause~~ COMMENCE pro-  
4 ceedings ~~to be commenced~~ against any person for a violation of  
5 any of the laws or statutes ~~mentioned~~ DESCRIBED in section ~~+~~  
6 ~~of this act~~ 1601, without the sanction of the prosecuting attor-  
7 ney of the county in which ~~such~~ THE proceedings are commenced.  
8 ~~, and in~~ IN such A case, ~~such~~ THE officer ~~shall~~ IS not ~~be~~  
9 obliged to furnish security for costs. ~~Said director~~ THE  
10 DEPARTMENT, or ~~any of said officers~~ AN OFFICER APPOINTED BY THE  
11 DEPARTMENT, may appear for the people in any court of competent  
12 jurisdiction in any cases for violation of any of ~~said~~ THE  
13 statutes or laws DESCRIBED IN SECTION 1601, ~~and~~ MAY prosecute  
14 the ~~same~~ CASES in the same manner and with the same authority  
15 as the prosecuting attorney of any county in which ~~such~~ THE  
16 proceedings are commenced, and may sign vouchers for the payment  
17 of jurors' or ~~witness'~~ WITNESSES' fees in ~~such~~ THOSE cases in  
18 the same manner and with the same authority as prosecuting attor-  
19 neys in criminal cases. Whenever ~~any of said officers have~~ AN  
20 OFFICER APPOINTED BY THE DEPARTMENT HAS probable cause to believe  
21 that any of the ~~aforsaid~~ statutes or laws MENTIONED IN  
22 SECTION 1601 have been or are being violated by any particular  
23 person, ~~they shall have~~ THE OFFICER HAS THE power to search,  
24 without warrant, any boat, conveyance, vehicle, automobile, fish  
25 box, fish basket, game bag, game coat, or any other receptacle or  
26 place, except dwellings or dwelling houses, or within the  
27 curtilage of any dwelling house, in which nets, hunting or

1 fishing ~~apparatus~~ APPARATUSES or appliances, wild birds, wild  
2 animals, or fish may be possessed, kept, or carried by ~~such~~ THE  
3 person, and ~~any of said officers~~ AN OFFICER APPOINTED BY THE  
4 DEPARTMENT may enter into or upon any private or public property  
5 for ~~such~~ THAT purpose or for the purpose of patrolling, ~~or~~  
6 investigating, or examining when he OR SHE has probable cause for  
7 believing that any of the ~~aforsaid~~ statutes or laws DESCRIBED  
8 IN SECTION 1601 have been or are being violated ~~thereon~~ ON THAT  
9 PROPERTY. The term "private property" as used ~~herein shall~~ IN  
10 THIS PART DOES not include dwellings or dwelling houses ~~or~~  
11 that which is within the curtilage of any dwelling house. ~~Said~~  
12 AN officer APPOINTED BY THE DEPARTMENT shall at any and all times  
13 seize and take possession of any and all nets, hunting or fishing  
14 ~~apparatus~~ APPARATUSES or appliances, or other property, wild  
15 birds, wild animals, or fish, or any part or parts thereof, which  
16 have been caught, taken, killed, shipped, or had in possession or  
17 under control, at a time, in a manner, or for a purpose, contrary  
18 to any of the ~~aforsaid~~ statutes or laws DESCRIBED IN  
19 SECTION 1601, and ~~such~~ THE seizure may be made without a  
20 warrant. ~~No~~ A common carrier ~~shall be held~~ IS NOT responsi-  
21 ble ~~in~~ FOR damages or otherwise to any owner, shipper, or con-  
22 signee by reason of any such seizure. When A complaint ~~shall~~  
23 ~~be~~ IS made on oath to any magistrate authorized to issue war-  
24 rants in criminal cases ~~or~~ that any wild birds, wild animals, or  
25 fish, ~~or~~ any part or parts ~~thereof~~ OF WILD BIRDS, WILD ANI-  
26 MALS, OR FISH, or any nets, hunting or fishing ~~apparatus~~  
27 APPARATUSES or appliances, or other property ~~or~~ have been or are

1 being killed, taken, ~~or~~ caught, ~~or~~ had in possession ~~,~~ or  
 2 ~~had~~ under control, or shipped, contrary to the ~~aforsaid~~  
 3 statutes or laws DESCRIBED IN SECTION 1601, and that the com-  
 4 plainant believes ~~same~~ THE PROPERTY to be stored, kept, or con-  
 5 cealed in any particular house or place, ~~such~~ THE magistrate,  
 6 if he ~~be~~ OR SHE IS satisfied that there is probable cause for  
 7 ~~such~~ THE belief, shall issue a warrant to search for ~~such~~ THE  
 8 property. ~~Such~~ THE warrant shall be directed to the ~~director~~  
 9 ~~of conservation~~ DEPARTMENT, or ~~any~~ AN officer appointed by  
 10 ~~him~~ THE DEPARTMENT, or to any other peace officer. All wild  
 11 birds, wild animals, ~~or~~ fish, ~~or~~ nets, ~~or~~ boats, ~~or~~ fish-  
 12 ing or hunting appliances or ~~apparatus~~ APPARATUSES, or automo-  
 13 biles ~~,~~ or other property ~~,~~ of any kind seized by ~~any of~~  
 14 ~~said officers~~ AN OFFICER shall be turned over to the ~~director~~  
 15 ~~of conservation~~ DEPARTMENT to be held by ~~him~~ THE DEPARTMENT  
 16 subject to the order of the court as ~~hereinafter~~ provided IN  
 17 THIS PART.

18 (2) For the purposes of this ~~act~~ PART, "probable cause" or  
 19 "probable cause to believe" ~~shall be considered to be~~ IS  
 20 present on the part of a peace officer ~~where~~ IF there are facts  
 21 ~~which~~ THAT would induce any fair-minded ~~man~~ PERSON of average  
 22 intelligence and judgment to believe that a law or statute had  
 23 been violated or was being violated contrary to any of the  
 24 ~~aforsaid~~ statutes or laws DESCRIBED IN SECTION 1601.

25 Sec. ~~3~~ 1603. (1) The following courts ~~shall~~ have juris-  
 26 diction to determine whether seized property shall be confiscated  
 27 as provided in section ~~4~~ 1604:

1 (a) The common pleas court of the city of Detroit, if the  
2 property is seized in the city of Detroit and if the property is  
3 not appraised by the officer seizing the property at more than  
4 \$10,000.00 in value.

5 (b) The district court, if the property is seized within  
6 this state, other than in a city having a municipal court or a  
7 common pleas court or in a village served by a municipal court,  
8 and if the property is not appraised by the officer seizing the  
9 property at more than \$10,000.00 in value.

10 (c) A municipal court, if the property is seized in a city  
11 having a municipal court or in a village served by a municipal  
12 court ~~—~~ and if the property is not appraised by the officer  
13 seizing the property at more than \$1,500.00 in value.

14 (d) The circuit court, if the property is seized within this  
15 state and if the property exceeds the value specified in subdivi-  
16 sion (a), (b), or (c) as appraised by the officer seizing the  
17 property.

18 (2) If the circuit court has jurisdiction under subsection  
19 (1), the proceeding shall be commenced in the county in which the  
20 property is seized.

21 (3) If the district court has jurisdiction under subsection  
22 (1), venue for a proceeding shall be as follows:

23 (a) In the county in which the property is seized, if the  
24 property is seized in a district of the first class.

25 (b) In the district in which the property is seized, if the  
26 property is seized in a district of the second or third class.

1       Sec. ~~4~~ 1604. (1) The officer seizing the property shall  
2 file a verified complaint in the court having jurisdiction and  
3 venue over the seizure of the property pursuant to section ~~3~~  
4 1603. The complaint shall set forth the kind of property seized,  
5 the time and place of the seizure, the reasons for the seizure,  
6 and a demand for the property's condemnation and confiscation.  
7 Upon the filing of the complaint, an order shall be issued  
8 requiring the owner to show cause why the property should not be  
9 confiscated. The substance of the complaint shall be stated in  
10 the order. The order to show cause shall fix the time for serv-  
11 ice of the order and for the hearing on the proposed condemnation  
12 and confiscation.

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

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

24       (b) By publishing a copy of the order in a newspaper once  
25 each week for 3 consecutive weeks in the county where the seizure  
26 was made and by sending a copy of the order by registered mail to  
27 the last known address of the owner. If the last known address

1 of the owner is not known, mailing a copy of the order is not  
2 required.

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

4 (3) Upon the hearing of the complaint, if the court deter-  
5 mines that the property mentioned in the petition was caught,  
6 killed, possessed, shipped, or used contrary to law, either by  
7 the owner or by a person lawfully in possession of the property  
8 under an agreement with the owner, an order may be made condem-  
9 ing and confiscating the property and directing its sale or other  
10 disposal by the ~~director of the~~ department, ~~of natural~~  
11 ~~resources,~~ the proceeds from which shall be paid into the state  
12 treasury and credited to the game and fish protection fund  
13 CREATED IN PART 435. If the owner or person lawfully in posses-  
14 sion of the property seized signs a property release, a court  
15 proceeding ~~shall~~ IS not ~~be~~ necessary. At the hearing, if the  
16 court determines that the property was not caught, killed, pos-  
17 sessed, shipped, or used contrary to law, the court shall order  
18 the ~~director of the~~ department ~~of natural resources~~ to return  
19 the property immediately to its owner.

20 Sec. ~~5~~ 1605. The proceedings for the condemnation and  
21 confiscation of any property under ~~the provisions of~~ this ~~act~~  
22 ~~shall be~~ PART ARE subject to review or certiorari as ~~herein~~  
23 provided IN THIS PART. A writ of certiorari may be issued within  
24 10 days after final judgment and determination in any condemna-  
25 tion proceeding for the purpose of reviewing any error in ~~such~~  
26 THE proceeding. Notice of ~~such~~ THE certiorari shall be served  
27 upon the ~~director of conservation~~ DEPARTMENT within 10 days

1 after the date of issue, in the same manner as notice is required  
2 to be given of certiorari for reviewing judgments rendered by a  
3 justice of the peace, and the writ shall be issued and served and  
4 bond given and approved in the same manner as is required for  
5 reviewing judgments by justices of the peace.

6       Sec. ~~6~~ 1606. (1) The ~~director of the~~ department ~~of~~  
7 ~~natural resources~~ and conservation officers appointed by the  
8 ~~director~~ DEPARTMENT are peace officers vested with all the  
9 powers, privileges, prerogatives, and immunities conferred upon  
10 peace officers by the general laws of this state; have the same  
11 power to serve criminal process as sheriffs; have the same right  
12 as sheriffs to require aid in executing process; and are entitled  
13 to the same fees as sheriffs in performing those duties.

14       (2) The ~~director~~ DEPARTMENT may commission state park  
15 officers to enforce within the boundaries of the state parks  
16 rules promulgated by the department ~~pursuant to the~~  
17 ~~Administrative Procedures Act of 1969, Act No. 306 of the Public~~  
18 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~  
19 ~~Michigan Compiled Laws,~~ and any laws of this state specified in  
20 those rules as enforceable by commissioned state park officers.  
21 In performing those enforcement activities, commissioned state  
22 park officers are vested with the powers, privileges, preroga-  
23 tives, and immunities conferred upon peace officers under the  
24 laws of this state.

25       (3) If a conservation officer or a state park officer com-  
26 missioned pursuant to subsection (2) arrests a person without  
27 warrant for a misdemeanor committed in the officer's presence



1 that is punishable by imprisonment for not more than 90 days or a  
2 fine, or both, instead of immediately bringing the person for  
3 arraignment by the court having jurisdiction, the officer may  
4 issue to and serve upon the person an appearance ticket ~~—~~ as  
5 authorized by sections 9a to 9g of chapter IV of the code of  
6 criminal procedure, Act No. 175 of the Public Acts of 1927, ~~as~~  
7 ~~amended,~~ being sections 764.9a to 764.9g of the Michigan  
8 Compiled Laws.

9 (4) An appearance pursuant to an appearance ticket may be  
10 made in person, by representation, or by mail. If appearance is  
11 made by representation or mail, a district judge, a municipal  
12 judge, or a judge of recorder's court of Detroit ~~—~~ may accept a  
13 plea of guilty and payment of a fine and costs on or before the  
14 definite court date indicated on the appearance ticket, or may  
15 accept a plea of not guilty for purposes of arraignment, both  
16 with the same effect as though the person personally appeared  
17 before the court. If appearance is made by representation or  
18 mail, a district court magistrate may accept a plea of guilty  
19 upon an appearance ticket and payment of a fine and costs on or  
20 before the definite court date indicated on the appearance ticket  
21 for those offenses within the magistrate's jurisdiction, as pre-  
22 scribed by section 8511 of the ~~Revised Judicature Act~~ REVISED  
23 JUDICATURE ACT of 1961, Act No. 236 of the Public Acts of 1961,  
24 ~~as amended,~~ being section 600.8511 of the Michigan Compiled  
25 Laws, or may accept a plea of not guilty for purposes of arraign-  
26 ment, if authorized to do so by the judge of the district court  
27 district, with the same effect as though the person personally

1 appeared before the court. The court, by giving not less than 5  
2 days' notice of the date of appearance, may require appearance in  
3 person at the place designated in the appearance ticket.

4 (5) This section does not prevent the execution of a warrant  
5 for the arrest of the person as in other cases of misdemeanors if  
6 necessary.

7 (6) If a person fails to appear, the court, in addition to  
8 the fine assessed if the person is found guilty for the offense  
9 committed, may add to the fine and costs levied against the  
10 person additional costs incurred in compelling the appearance of  
11 the person, which additional costs shall be returned to the gen-  
12 eral fund of the unit of government incurring the costs.

13 (7) The ~~director of the~~ department, ~~of natural~~  
14 ~~resources,~~ in conjunction with the Michigan state employees  
15 association of the American federation of state, county, and  
16 municipal employees and the Michigan professional employees soci-  
17 ety, shall study the feasibility of allowing full-time employees  
18 of the department ~~of natural resources~~ to perform the duties of  
19 conservation officers under certain circumstances.

20 Sec. ~~6a~~ 1607. (1) The ~~director of the~~ department ~~of~~  
21 ~~natural resources~~ may appoint persons to function as volunteer  
22 conservation officers. A volunteer conservation officer shall be  
23 appointed to assist a conservation officer in the performance of  
24 the conservation officer's duties. While a volunteer conserva-  
25 tion officer is assisting a conservation officer, the volunteer  
26 conservation officer ~~shall have~~ HAS the same immunity from  
27 civil liability as a conservation officer, and shall be treated

1 in the same manner as an officer or employee under section 8 of  
2 Act No. 170 of the Public Acts of 1964, being section 691.1408 of  
3 the Michigan Compiled Laws. The volunteer conservation officer  
4 shall not carry a firearm while functioning as a volunteer con-  
5 servation officer.

6 (2) As used in this section, "volunteer" means a person who  
7 provides his or her service as a conservation officer without  
8 pay.

9 (3) To qualify as a volunteer conservation officer, a person  
10 shall meet all of the following qualifications:

11 (a) Have no felony convictions. In determining whether the  
12 person has a felony conviction, the person shall present documen-  
13 tation to the department ~~of natural resources~~ that a criminal  
14 record check through the law enforcement ~~informational~~  
15 INFORMATION network has been conducted by a law enforcement  
16 agency.

17 (b) ~~Ten~~ HAVE COMPLETED 10 hours of training conducted by  
18 the law enforcement division of the department. ~~of natural~~  
19 ~~resources.~~

20 (4) Upon compliance with subsection (3) and upon recommenda-  
21 tion by the department, ~~of natural resources,~~ a person may be  
22 appointed as a volunteer conservation officer. An appointment  
23 shall be valid for 3 years. At the completion of the 3 years,  
24 the volunteer conservation officer shall comply with the require-  
25 ments of ~~subsections (3) and (4)~~ THIS SECTION in order to be  
26 reappointed as a volunteer conservation officer.

1 (5) A volunteer conservation officer's appointment ~~shall~~  
2 ~~be~~ IS valid only if the volunteer conservation officer is on  
3 assignment with, and in the company of, a conservation officer.  
4 Sec. ~~7~~ 1608. ~~Any~~ A person who ~~shall~~ knowingly or  
5 ~~wilfully obstruct~~ WILLFULLY OBSTRUCTS, ~~resist~~ RESISTS, or  
6 ~~oppose~~ OPPOSES the ~~director of conservation or~~ DEPARTMENT,  
7 ~~any~~ AN officer appointed by ~~him~~ THE DEPARTMENT, or any other  
8 peace officer in the performance of the duties and ~~the~~ execu-  
9 tion of the powers prescribed ~~herein~~ IN THIS PART or in any  
10 statute or law, ~~or~~ in making an arrest or search as provided  
11 ~~herein~~ IN THIS PART, or in serving or attempting to serve or  
12 execute any process or warrant issued by lawful authority, or who  
13 ~~shall obstruct, resist, oppose, assault, beat or wound~~  
14 OBSTRUCTS, RESISTS, OPPOSES, ASSAULTS, BEATS, OR WOUNDS the ~~said~~  
15 ~~director of conservation or~~ DEPARTMENT, any officer appointed by  
16 ~~him~~ THE DEPARTMENT, or any other peace officer while THE  
17 DEPARTMENT OR OFFICER IS lawfully making an arrest or search, ~~or~~  
18 ~~while~~ lawfully serving or attempting to serve or execute any  
19 such process or warrant, or ~~while~~ lawfully executing or  
20 attempting to execute ~~7~~ or lawfully performing or attempting to  
21 perform any of the powers and duties provided for in the  
22 ~~aforsaid~~ statutes or laws DESCRIBED IN SECTION 1601, ~~shall~~  
23 ~~be~~ IS guilty of a misdemeanor, ~~and shall be punished~~  
24 PUNISHABLE as provided ~~for~~ in section 479 of THE MICHIGAN PENAL  
25 CODE, Act No. 328 of the Public Acts of 1931, ~~as amended,~~ being  
26 section 750.479 of the MICHIGAN Compiled Laws. ~~of 1948.~~ In  
27 making an arrest or search as provided ~~herein~~ IN THIS PART, or

1 in serving or attempting to serve or execute any process or  
 2 warrant, the ~~director of conservation or~~ DEPARTMENT, any offi-  
 3 cer appointed by ~~him~~ THE DEPARTMENT, or any other peace officer  
 4 shall identify himself OR HERSELF by uniform, badge, insignia, or  
 5 official credentials.

6       Sec. ~~8~~ 1609. In all prosecutions for violation of the law  
 7 for the protection of game and fish, the sentencing court shall  
 8 assess, as costs, the sum of \$10.00, to be known as the judgment  
 9 fee. ~~, and when~~ WHEN collected, the judgment fee shall be paid  
 10 into the state treasury to the credit of the game and fish pro-  
 11 tection fund CREATED IN PART 435.

12       PART 18 UNIFORM TRANSBOUNDARY POLLUTION RECIPROCAL ACCESS

13       ~~Sec. 1. This act shall be known and may be cited as the~~  
 14 ~~"uniform transboundary pollution reciprocal access act".~~

15       Sec. ~~2~~ 1801. As used in this ~~act~~ PART:

16       ~~(a) "Person" means an individual, corporation, business~~  
 17 ~~trust, estate, trust, partnership, association, joint venture,~~  
 18 ~~government in its private or public capacity, governmental subdi-~~  
 19 ~~vision or agency, or any other legal entity.~~

20       (A) ~~(b)~~ "Reciprocating jurisdiction" means a state of the  
 21 United States of America, the District of Columbia, the  
 22 Commonwealth of Puerto Rico, or a territory or possession of the  
 23 United States of America ~~which~~ THAT has enacted a law identical  
 24 to this ~~act~~ PART or provides access to its courts and adminis-  
 25 trative agencies ~~which~~ THAT is substantially equivalent to the  
 26 access provided in this ~~act~~ PART.

1       Sec. ~~3~~ 1802. An action or other proceeding for injury or  
2 threatened injury to property or person in a reciprocating  
3 jurisdiction caused by pollution originating, or that may origi-  
4 nate, in this state may be brought in this state.

5       Sec. ~~4~~ 1803. A person who suffers, or is threatened with,  
6 injury to his or her person or property in a reciprocating juris-  
7 diction caused by pollution originating, or that may originate,  
8 in this state has the same rights to relief with respect to the  
9 injury or threatened injury, and may enforce those rights in this  
10 state as if the injury or threatened injury occurred in this  
11 state.

12       Sec. ~~5~~ 1804. The law to be applied in an action or other  
13 proceeding brought pursuant to this ~~act~~ PART, including what  
14 constitutes "pollution," is the law of this state, excluding  
15 choice of law rules.

16       Sec. ~~6~~ 1805. This ~~act~~ PART does not accord a person  
17 injured or threatened with injury in a jurisdiction outside of  
18 this state any rights superior to those that the person would  
19 have if injured or threatened with injury in this state.

20       Sec. ~~7~~ 1806. Any right provided in this ~~act~~ PART is in  
21 addition to and not in derogation of any other rights.

22       Sec. ~~8~~ 1807. The defense of sovereign immunity is appli-  
23 cable in any action or other proceeding brought pursuant to this  
24 ~~act~~ PART only to the extent that it would apply to a person  
25 injured or threatened with injury in this state.

26       Sec. ~~9~~ 1808. This ~~act~~ PART shall be applied and  
27 construed to carry out its general purpose to make uniform the

1 law with respect to the subject of this ~~act~~ PART among  
2 jurisdictions enacting it.

3 ~~Sec. 10. This act shall take effect December 31, 1988.~~

4 ~~PART 19 THE NATURAL RESOURCES TRUST FUND~~

5 PART 19 NATURAL RESOURCES TRUST FUND

6 ~~Sec. 1. This act may be known and shall be cited as the~~  
7 ~~"Michigan natural resources trust fund act".~~

8 Sec. ~~2~~ 1901. As used in this ~~act~~ PART:

9 (a) "Board" means the Michigan natural resources trust fund  
10 board established in section ~~7~~ 1905.

11 ~~(b) "Bondholder protection board" means the Michigan natu-~~  
12 ~~ral resources trust bondholder protection board created in~~  
13 ~~section 11.~~

14 ~~(c) "Department" means the department of natural resources.~~

15 (B) ~~(d)~~ "Economic development revenue bonds (oil and gas  
16 revenues), series 1982A, dated December 1, 1982" includes bonds  
17 refunding these bonds, provided that any refunding bonds mature  
18 no later than September 1, 1994.

19 (C) ~~(e)~~ "Local unit of government" means a county, city,  
20 township, village, school district, the Huron-Clinton metropoli-  
21 tan authority, or any authority composed of counties, cities,  
22 townships, villages, or school districts, or any combination  
23 thereof, which authority is legally constituted to provide public  
24 recreation.

25 (D) ~~(f)~~ "Total expenditures" means the amounts actually  
26 expended from the trust fund as authorized by section ~~4(1)~~  
27 1903(1) and (2).

1 (E) ~~(g)~~ "Trust fund" means the Michigan natural resources  
2 trust fund established in section 35 of article IX of the state  
3 constitution of 1963.

4 Sec. ~~3~~ 1902. (1) The Michigan natural resources trust  
5 fund is established in the state treasury. The trust fund shall  
6 consist of all bonuses, rentals, delayed rentals, and royalties  
7 collected or reserved by the state under provisions of leases for  
8 the extraction of nonrenewable resources from state owned lands.  
9 However, the trust fund shall not include bonuses, rentals,  
10 delayed rentals, and royalties collected or reserved by the state  
11 from the following sources:

12 (a) State owned lands acquired with money appropriated from  
13 the game and fish protection fund CREATED IN PART 435.

14 (b) State owned lands acquired with money appropriated from  
15 the subfund account created by former section 4 of the Kammer  
16 recreational land trust fund act of 1976, FORMER Act No. 204 of  
17 the Public Acts of 1976.

18 (c) State owned lands acquired with money appropriated from  
19 related federal funds made available to the state under chapter  
20 899, 50 Stat. 917, 16 U.S.C. 669 to 669b and 669c to 669i, com-  
21 monly known as the federal aid in wildlife restoration act, or  
22 chapter 658, 64 Stat. 430, 16 U.S.C. 777 to 777e, 777f to 777i,  
23 and 777k to 777l, commonly known as the federal aid in fish res-  
24 toration act.

25 (2) Notwithstanding subsection (1), until the trust fund  
26 reaches an accumulated principal of \$400,000,000.00,  
27 \$10,000,000.00 of the revenues from bonuses, rentals, delayed



1 rentals, and royalties described in this section otherwise  
2 dedicated to the trust fund that are received by the trust fund  
3 each state fiscal year shall be transferred to the state trea-  
4 surer for deposit into the Michigan state parks endowment fund  
5 created in section ~~11a of the Michigan state parks system act,~~  
6 ~~Act No. 149 of the Public Acts of 1960, being section 318.311a of~~  
7 ~~the Michigan Compiled Laws 74119.~~ However, until the trust fund  
8 reaches an accumulated principal of \$400,000,000.00, in any state  
9 fiscal year, not more than 50% of the total revenues from  
10 bonuses, rentals, delayed rentals, and royalties described in  
11 this section otherwise dedicated to the trust fund that are  
12 received by the trust fund each state fiscal year shall be trans-  
13 ferred to the Michigan state parks endowment fund. To implement  
14 this subsection, until the trust fund reaches an accumulated  
15 principal of \$400,000,000.00, the department shall transfer 50%  
16 of the money received by the trust fund each month pursuant to  
17 ~~section 3(+)~~ SUBSECTION (1) to the state treasurer for deposit  
18 into the Michigan state parks endowment fund. The department  
19 shall make this transfer on the last day of each month or as soon  
20 as practicable thereafter. However, not more than a total of  
21 \$10,000,000.00 shall be transferred in any state fiscal year pur-  
22 suant to this subsection.

23 (3) In addition to the contents of the trust fund described  
24 in subsection (1), the trust fund shall consist of money trans-  
25 ferred to the trust fund pursuant to section ~~12~~ 1909.

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

1 (5) The state treasurer shall direct the investment of the  
2 trust fund.

3 Sec. ~~4~~ 1903. (1) Subject to the limitations of this ~~act~~  
4 PART and of section 35 of article IX of the state constitution of  
5 1963, the interest and earnings of the trust fund in any 1 state  
6 fiscal year may be expended in subsequent state fiscal years only  
7 for the following purposes:

8 (a) The acquisition of land or rights in land for recrea-  
9 tional uses or protection of the land because of its environmen-  
10 tal importance or its scenic beauty.

11 (b) The development of public recreation facilities.

12 (c) The administration of the fund, including payments in  
13 lieu of taxes on state owned land purchased through the trust  
14 fund.

15 (2) In addition to the money described in subsection (1),  
16 33-1/3% of the money, exclusive of interest and earnings,  
17 received by the trust fund in any state fiscal year may be  
18 expended in subsequent state fiscal years for the purposes  
19 described in subsection (1). However, the authorization for the  
20 expenditure of money provided in this subsection does not apply  
21 after the state fiscal year in which the total amount of money in  
22 the trust fund, exclusive of interest and earnings and amounts  
23 authorized for expenditure under this section, exceeds  
24 \$200,000,000.00.

25 (3) An expenditure from the trust fund may be made in the  
26 form of a grant to a local unit of government, subject to the  
27 following conditions:

1 (a) The grant is used for the purposes described in  
2 subsection (1) and meets the requirements of either subdivision  
3 (b) or (c).

4 (b) A grant for the purposes described in subsection (1)(a)  
5 is matched by the local unit of government or public authority  
6 with at least 25% of the total cost of the project.

7 (c) A grant for the purposes described in subsection (1)(b)  
8 is matched by the local unit of government with 25% or more of  
9 the total cost of the project.

10 (4) Not less than 25% of the total amounts made available  
11 for expenditure from the trust fund from any state fiscal year  
12 shall be expended for acquisition of land and rights in land, and  
13 not more than 25% of the total amounts made available for expen-  
14 diture from the trust fund from any state fiscal year shall be  
15 expended for development of public recreation facilities.

16 (5) During the first 3 state fiscal years after October 1,  
17 1985, not less than 15% of the total expenditures from the trust  
18 fund shall be expended for development of public recreational  
19 facilities. However, at the request of the legislature or the  
20 governor, the board may suspend the requirement of this subsec-  
21 tion in order to permit the acquisition of land or rights in land  
22 of exceptional statewide significance.

23 Sec. ~~6~~ 1904. The amount accumulated in the trust fund  
24 shall not exceed \$400,000,000.00, exclusive of interest and earn-  
25 ings and amounts authorized for expenditure under this ~~act~~  
26 PART. Any amount of money that would be a part of the trust fund  
27 but for the limitation stated in this section shall be deposited

1 in the Michigan state parks endowment fund created in section  
2 ~~11a of the Michigan state parks systems act, Act No. 149 of the~~  
3 ~~Public Acts of 1960, being section 318.311a of the Michigan~~  
4 ~~Compiled Laws~~ 74119, until the Michigan state parks endowment  
5 fund reaches an accumulated principal of \$800,000,000.00. After  
6 the Michigan state parks endowment fund reaches an accumulated  
7 principal of \$800,000,000.00, any money that would be part of the  
8 Michigan state parks endowment fund but for this limitation ~~7~~  
9 shall be distributed as provided by law.

10 Sec. ~~7~~ 1905. (1) The Michigan natural resources trust  
11 fund board is established within the department. THE BOARD SHALL  
12 HAVE THE POWERS AND DUTIES OF AN AGENCY TRANSFERRED UNDER A TYPE  
13 I TRANSFER PURSUANT TO SECTION 3 OF THE EXECUTIVE ORGANIZATION  
14 ACT OF 1965, ACT NO. 380 OF THE PUBLIC ACTS OF 1965, BEING  
15 SECTION 16.103 OF THE MICHIGAN COMPILED LAWS. The ~~department~~  
16 BOARD shall BE ADMINISTERED UNDER THE SUPERVISION OF THE DEPART-  
17 MENT AND THE DEPARTMENT SHALL offer its cooperation and aid to  
18 the board and shall provide suitable offices and equipment for  
19 the board.

20 (2) The board shall consist of 5 members. The members shall  
21 include the director ~~of the department of natural resources~~ or  
22 a member of the commission ~~of natural resources,~~ as determined  
23 by the commission, ~~of natural resources,~~ and 4 residents of the  
24 state to be appointed by the governor with the advice and consent  
25 of the senate.

26 (3) The terms of the appointive members shall be 4 years,  
27 except that of those first appointed, 1 shall be appointed for 1

1 year, 1 shall be appointed for 2 years, 1 shall be appointed for  
2 3 years, and 1 shall be appointed for 4 years.

3 (4) The appointive members may be removed by the governor  
4 for inefficiency, neglect of duty, or malfeasance in office.

5 (5) Vacancies on the board shall be filled for the unexpired  
6 term in the same manner as the original appointments.

7 (6) The board may incur expenses necessary to carry out its  
8 powers and duties under this ~~act~~ PART and shall compensate its  
9 members for actual expenses incurred in carrying out their offi-  
10 cial duties.

11 Sec. ~~8~~ 1906. (1) The board shall elect a chairperson and  
12 establish its administrative procedures. The business which the  
13 board may perform shall be conducted at a public meeting of the  
14 board held in compliance with the open meetings act, Act No. 267  
15 of the Public Acts of 1976, being sections 15.261 to 15.275 of  
16 the Michigan Compiled Laws. Public notice of the time, date, and  
17 place of the meeting shall be given in the manner required by Act  
18 No. 267 of the Public Acts of 1976. The board shall meet not  
19 less than bimonthly and shall record its proceedings. A writing  
20 prepared, owned, used, in the possession of, or retained by the  
21 board in the performance of an official function shall be made  
22 available to the public in compliance with the freedom of infor-  
23 mation act, Act No. 442 of the Public Acts of 1976, being sec-  
24 tions 15.231 to 15.246 of the Michigan Compiled Laws.

25 (2) Before January 16 of each year, the board shall report  
26 to the governor and to the legislature detailing the operations  
27 of the board for the preceding 1-year period. The board shall

1 also make special reports as requested by the governor or the  
2 legislature.

3       Sec. ~~9~~ 1907. (1) The board shall determine which lands  
4 and rights in land within the state should be acquired and which  
5 public recreation facilities should be developed with money from  
6 the trust fund and shall submit to the legislature in January of  
7 each year a list of those lands and rights in land and those  
8 public recreation facilities that the board has determined should  
9 be acquired or developed with trust fund money, compiled in order  
10 of priority.

11       (2) This list shall be accompanied by estimates of total  
12 costs for the proposed acquisitions and developments.

13       (3) The board shall supply with each list a statement of the  
14 guidelines used in listing and assigning the priority of these  
15 proposed acquisitions and developments.

16       (4) The legislature shall approve by law the lands and  
17 rights in land and the public recreation facilities to be  
18 acquired or developed each year with money from the trust fund.

19       Sec. ~~10~~ 1908. (1) Beginning on ~~the effective date of~~  
20 ~~this act~~ OCTOBER 1, 1985, the board shall adopt as its own any  
21 decision made by the state recreational land acquisition trust  
22 fund board of trustees under the Kammer recreational land trust  
23 fund act of 1976, former Act No. 204 of the Public Acts of 1976,  
24 and shall administer to completion any project pending under that  
25 act.

26       (2) Appropriations made pursuant to former Act No. 204 of  
27 the Public Acts of 1976 shall remain valid after ~~the effective~~

1 ~~date of this act~~ OCTOBER 1, 1985 and may be expended until the  
2 projects approved through the appropriations are complete. Any  
3 funds appropriated pursuant to former Act No. 204 of the Public  
4 Acts of 1976 but unexpended after completion of the projects  
5 funded under that act shall be deposited in the trust fund and  
6 may be appropriated as natural resources trust funds.

7 (3) Funds available for appropriation under former Act  
8 No. 204 of the Public Acts of 1976 as of October 1, 1985, but not  
9 appropriated as of that date, may be appropriated by the legisla-  
10 ture under the terms and conditions of that act. Any funds  
11 appropriated as provided in this subsection but unexpended after  
12 completion of the projects for which the money was appropriated  
13 shall be deposited in the trust fund and may be appropriated as  
14 natural resources trust funds.

15 (4) The interest and earnings on money appropriated pursuant  
16 to former Act No. 204 of the Public Acts of 1976 or subsection  
17 (3) but not expended shall be deposited in the trust fund.

18 Sec. ~~+2~~ 1909. On ~~the effective date of this act~~ OCTOBER  
19 1, 1985, the state treasurer shall do the following:

20 (a) Transfer to the game and fish protection fund CREATED IN  
21 PART 435 any money in the subfund account created by former  
22 section 4 of the Kammer recreational land trust fund act of 1976,  
23 FORMER Act No. 204 of the Public Acts of 1976.

24 (b) Transfer to the trust fund any money remaining in the  
25 state recreational land acquisition trust fund created in the  
26 Kammer recreational land trust fund act of 1976, former Act

1 No. 204 of the Public Acts of 1976, after the transfer required  
2 by subdivision (a) is accomplished.

3 (c) Transfer to the trust fund any money or other assets in  
4 the heritage trust fund created in the heritage trust fund act of  
5 1982, former Act No. 327 of the Public Acts of 1982.

6 (d) Transfer from the general fund to the trust fund an  
7 amount of money equal to all the money received by the general  
8 fund between DECEMBER 22, 1984, the date on which section 35 of  
9 article IX became part of the state constitution of 1963, and  
10 OCTOBER 1, 1985, the effective date of ~~this act~~ FORMER ACT  
11 NO. 101 OF THE PUBLIC ACTS OF 1985, from bonuses, rentals,  
12 delayed rentals, and royalties collected or reserved by the state  
13 under provisions of leases for the extraction of nonrenewable  
14 resources from state owned lands, except money from bonuses,  
15 rentals, delayed rentals, and royalties excluded from the trust  
16 fund under section ~~3(1)~~ 1902(1).

17 Sec. ~~13~~ 1910. (1) On ~~the effective date of this act~~  
18 OCTOBER 1, 1985, the department ~~of natural resources~~ shall  
19 transfer any writing or document prepared, owned, used, in the  
20 possession of, or retained by the state recreational land acqui-  
21 sition trust fund board of trustees under former Act No. 204 of  
22 the Public Acts of 1976 to the ~~Michigan natural resources trust~~  
23 ~~fund~~ board.

24 (2) On ~~the effective date of this act~~ OCTOBER 1, 1985, the  
25 department of treasury shall transfer any writing or document  
26 prepared, owned, used, in the possession of, or retained by the  
27 heritage trust fund board of trustees under former Act No. 327 of



1 the Public Acts of 1982 ~~shall be transferred~~ to the ~~Michigan~~  
 2 ~~natural resources trust fund~~ board or the bondholder protection  
 3 board, as appropriate to the function of each board.

4 ~~Sec. 15. The following acts and parts of acts are~~  
 5 ~~repealed:~~

6 ~~(a) Act No. 327 of the Public Acts of 1982, being sections~~  
 7 ~~318.421 to 318.434 of the Michigan Compiled Laws.~~

8 ~~(b) Act No. 204 of the Public Acts of 1976, being sections~~  
 9 ~~318.401 to 318.413 of the Michigan Compiled Laws.~~

10 ~~Sec. 16. This act shall take effect October 1, 1985.~~

11 ~~PART 21 GENERAL REAL ESTATE POWERS~~

12 PART 21 GENERAL REAL ESTATE POWERS

13 SUBPART 1 SALE OF STATE LANDS FOR PUBLIC PURPOSES

14 Sec. ~~1~~ 2101. (1) The department ~~of natural resources~~  
 15 may sell sites to school districts and churches and ~~to~~ sell  
 16 lands for public purposes to public educational institutions; to  
 17 the United States; and to governmental units of the state and to  
 18 agencies thereof from tax reverted state lands under the control  
 19 of the department, at ~~such~~ A price ~~as shall be~~ fixed by a  
 20 formula ~~as~~ determined by the state tax commission. The depart-  
 21 ment may transfer jurisdiction of tax reverted state lands for  
 22 public purposes to any department, board, or commission of the  
 23 state. The application for the purchase or transfer of ~~such~~  
 24 TAX REVERTED STATE lands shall be made by the proper officers of  
 25 a school district, church, public educational institution, the  
 26 United States, governmental unit, agency, department, board, or

1 commission upon ~~blanks~~ FORMS prepared and furnished by the  
2 department for that purpose.

3 (2) The department may sell tax reverted lands to any agency  
4 described ~~above~~ IN SUBSECTION (1), and the transfer of ~~such~~  
5 THE lands ~~shall~~ IS not ~~be~~ subject to ~~any~~ A reverter  
6 clause. If a conveyance or transfer of lands is made to a gov-  
7 ernmental unit without ~~any~~ A reverter clause, the department  
8 may convey or transfer ~~such~~ THE lands at an appraisal value as  
9 determined by the state tax commission or at a nominal fee ~~which~~  
10 ~~shall include~~ THAT INCLUDES any amount paid by the department  
11 ~~of natural resources~~ for maintaining ~~said~~ THE lands in A con-  
12 dition ~~to protect~~ THAT IS PROTECTIVE OF the public health and  
13 safety. If lands are conveyed or transferred for a nominal fee  
14 and are subsequently sold by the governmental unit for a valuable  
15 consideration, the proceeds from ~~any~~ such A sale, after deduct-  
16 ing ~~said~~ THE fee and any amount paid by the local governmental  
17 units for maintaining ~~said~~ THE lands in A condition ~~to~~  
18 ~~protect~~ THAT IS PROTECTIVE OF the public health and safety,  
19 shall be accounted for to the state, county, township, and school  
20 district in which the lands are situated pro rata according to  
21 their several interests ~~therein~~ IN THE LANDS arising from the  
22 nonpayment of taxes and special assessments ~~thereon~~ ON THE  
23 LANDS as ~~such~~ THE interest ~~shall appear~~ APPEARS in the  
24 offices of the state treasurer ~~+~~ OR county, city, or village  
25 treasurers.

26 Sec. ~~2~~ 2102. Notwithstanding section ~~+~~ 2101, the  
27 department ~~of natural resources~~ may convey tax reverted land to

1 a public agency described in section ~~+~~ 2101 without monetary  
 2 consideration ~~—~~ but subject to a reverter to this state upon  
 3 termination of the use of the land for which the conveyance was  
 4 approved by the department ~~of natural resources,~~ or upon any  
 5 use of the land other than the use for which the conveyance was  
 6 approved.

7                   SUBPART 2 DELINQUENT TAXES ON PART-PAID LANDS

8           Sec. ~~+~~ 2103. (1) ~~That it shall be the duty of the com-~~  
 9 ~~missioner of the state land office, on the first day of~~ ON  
 10 October 1 of each year, ~~to~~ THE DEPARTMENT SHALL prepare lists  
 11 showing the descriptions of lands upon which taxes have been  
 12 assessed for the current year while the lands were part-paid, but  
 13 which had been patented by the state, and upon which taxes have  
 14 not been paid, and SHALL forward the ~~same~~ LISTS to the supervi-  
 15 sor of the township where the lands ~~lie~~ ARE LOCATED.

16           (2) ~~Sec. 2. It shall be the duty of the~~ THE supervisor of  
 17 the township receiving ~~such~~ A list ~~to~~ DESCRIBED IN SUBSECTION  
 18 (1) SHALL reassess the taxes ~~therein~~ reported ~~upon~~ IN THE  
 19 LIST FOR the same land.

20           (3) ~~Sec. 3. It shall be the duty of the~~ THE township  
 21 treasurer ~~to~~ SHALL collect and return the ~~same~~ TAXES in the  
 22 same manner as provided for the collection and return of other  
 23 taxes.

24                   SUBPART 3 EXCHANGE OF STATE LANDS

25           Sec. ~~+~~ 2104. Any of the lands under the control of the  
 26 ~~public domain commission~~ DEPARTMENT, the title to which is in  
 27 ~~the~~ THIS state ~~of Michigan,~~ and which may be sold and

1 conveyed or ~~which~~ are a part of the state ~~forest reserves~~  
2 LANDS, as well as ~~such~~ lands ~~hereafter~~ LATER acquired by  
3 ~~the~~ THIS state, ~~of Michigan~~ or any part or portion ~~thereof~~  
4 OF THOSE LANDS, may be exchanged for lands of equal area or  
5 approximately equal value belonging to the United States or owned  
6 by private individuals ~~whenever~~ IF in the opinion of the  
7 ~~public domain commission~~ DEPARTMENT it ~~shall be to~~ IS IN the  
8 ~~interests~~ INTEREST of the state ~~of Michigan so~~ to do SO.

9       Sec. ~~2~~ 2105. ~~Whenever in the opinion of the public~~  
10 ~~domain commission it shall be deemed for~~ IF THE DEPARTMENT  
11 DETERMINES THAT IT IS IN the best interests of the state to  
12 relinquish or convey to the United States under the laws of the  
13 United States any part or portion of the lands described in sec-  
14 tion ~~of this act~~ 2104 in exchange for other lands of equal  
15 area or approximately equal value to be selected by the ~~public~~  
16 ~~domain commission~~ DEPARTMENT from the unappropriated public  
17 lands in this state ~~belonging~~ THAT BELONG to the United States  
18 ~~which~~ AND THAT may be relinquished or conveyed to the state ~~of~~  
19 ~~Michigan~~ by the United States under the laws of the United  
20 States, the ~~public domain commission of the state of Michigan~~  
21 DEPARTMENT shall ~~file in the office of the commissioner of the~~  
22 ~~state land office~~ MAINTAIN a description of the lands belonging  
23 to the state ~~of Michigan which~~ THAT are to be relinquished or  
24 conveyed to the United States, and, upon MAKING arrangements  
25 ~~being made~~ with the proper authorities of the United States,  
26 the ~~said public domain commission~~ DEPARTMENT shall ~~direct the~~  
27 ~~commissioner of the state land office to~~ execute the proper

1 conveyance to the United States of the lands ~~so~~ to be  
 2 relinquished or conveyed. This conveyance shall be void ~~in the~~  
 3 ~~event that~~ IF the lands of an equal area or approximately equal  
 4 value are not relinquished or conveyed by the United States to  
 5 the state ~~of Michigan~~ in lieu ~~thereof~~ OF THE LANDS and in  
 6 accordance with selections made by the ~~public domain commission~~  
 7 DEPARTMENT.

8       Sec. ~~3~~ 2106. ~~Whenever in the opinion of the public~~  
 9 ~~domain commission it shall be to~~ IF THE DEPARTMENT DETERMINES  
 10 THAT IT IS IN the best interests of the state to exchange any of  
 11 the lands mentioned in section ~~of this act~~ 2104 for lands of  
 12 an equal area or of approximately equal value belonging to pri-  
 13 vate individuals, the ~~public domain commission~~ DEPARTMENT shall  
 14 ~~file in the office of the commissioner of the state land office~~  
 15 MAINTAIN a description of the lands to be conveyed and ~~also~~ a  
 16 description of the lands belonging to individuals to be deeded to  
 17 the state. Before any of ~~said~~ THE lands ~~shall be~~ ARE deeded  
 18 to an individual ~~or individuals~~ as ~~herein~~ provided IN THIS  
 19 SUBPART, the person or persons owning the lands to be deeded to  
 20 the state shall execute a conveyance of ~~such~~ THOSE lands to the  
 21 state. ~~of Michigan, whereupon it shall be the duty of the~~ THE  
 22 attorney general ~~to~~ SHALL examine the title to the lands ~~so~~  
 23 deeded to the state ~~of Michigan~~ and certify to the  
 24 ~~commissioner of the state land office~~ DEPARTMENT whether or not  
 25 ~~such~~ THE conveyance is sufficient to vest in the state a good  
 26 and sufficient title ~~thereto~~ TO THE LAND free from any liens or  
 27 ~~incumbrances~~ ENCUMBRANCES. If the attorney general ~~shall~~

1 ~~certify to the commissioner of the state land office~~ CERTIFIES  
 2 that ~~such~~ THE deed vests in the state ~~of Michigan~~ a good and  
 3 sufficient title to the DEEDED lands ~~so deeded~~ free from any  
 4 liens or ~~incumbrances~~ ENCUMBRANCES, ~~it shall be the duty of~~  
 5 ~~the commissioner of the state land office to~~ THE DEPARTMENT  
 6 SHALL execute a deed to ~~such person or persons~~ THE INDIVIDUAL  
 7 of the lands to be conveyed by the state selected by the ~~public~~  
 8 ~~domain commission~~ DEPARTMENT in lieu ~~thereof~~ OF THE LANDS.

9       Sec. ~~4~~ 2107. ~~Whenever any lands shall be acquired by~~ IF  
 10 the state ~~of Michigan~~ ACQUIRES LANDS under this ~~act~~ SUBPART,  
 11 UNDER FORMER ACT NO. 193 OF THE PUBLIC ACTS OF 1911, or pursuant  
 12 to the laws of the United States providing for an exchange of  
 13 lands between the United States and the state, ~~of Michigan,~~ the  
 14 lands ~~so~~ acquired by the state ~~of Michigan~~ shall ~~at once~~  
 15 become a part or portion of that class of lands to which the  
 16 lands relinquished in lieu ~~thereof~~ OF THE LANDS formerly  
 17 belonged, and shall be subject to the same supervision and con-  
 18 trol and ~~the~~ laws of the state ~~now in force or hereafter~~  
 19 ~~enacted as~~ TO WHICH the lands relinquished or conveyed by the  
 20 state would have been subject ~~to~~ had they remained the property  
 21 of the state. ~~Provided, however, That no~~ HOWEVER, AN appli-  
 22 cation from private individuals for the exchange of their lands  
 23 for lands proposed to be acquired by the state from the United  
 24 States under ~~the provisions of~~ section ~~of this act,~~ 2104  
 25 shall NOT be received, filed, or in any manner considered or  
 26 acted upon until after the state has received conveyance of  
 27 ~~such~~ THE lands from the United States, and then applications

1 from private individuals for the exchange of their lands  
 2 ~~therefor~~ shall be filed, considered, and acted upon only in the  
 3 order in which they are received.

4       Sec. ~~5~~ 2108. Any land that is exchanged, relinquished, or  
 5 otherwise conveyed to the United States under this ~~act~~ SUBPART  
 6 shall be conveyed pursuant to the property rights acquisition  
 7 act, ACT NO. 201 OF THE PUBLIC ACTS OF 1986, BEING SECTIONS 3.251  
 8 TO 3.262 OF THE MICHIGAN COMPILED LAWS.

9               SUBPART 4 RECORD OF DEEDS FOR TAX HOMESTEAD LANDS

10       Sec. ~~1~~ 2109. ~~It shall be the duty of the commissioner of~~  
 11 ~~the state land office to~~ THE DEPARTMENT SHALL record, in a suit-  
 12 able book or books kept for that purpose, true copies of all  
 13 deeds issued by ~~him~~ THE DEPARTMENT for tax homestead lands ~~,~~  
 14 under the laws of this state providing for the disposal of ~~such~~  
 15 TAX HOMESTEAD lands, and ~~such~~ THESE copies of deeds  
 16 ~~heretofore~~ issued ~~,~~ ~~or~~ AND DEEDS which may hereafter be  
 17 issued ~~,~~ are ~~hereby declared to be~~ legal records. ~~,~~ ~~and such~~  
 18 ~~record~~ THESE LEGAL RECORDS, or a transcript ~~thereof~~ OF THE  
 19 RECORDS, duly certified by the ~~commissioner of the state land~~  
 20 ~~office,~~ DEPARTMENT or other officer having custody of ~~such~~ THE  
 21 records, may be read in evidence in all courts of this state,  
 22 with the same force and effect as the original tax homestead  
 23 deed.

24       Sec. ~~2~~ 2110. ~~It shall be the duty of~~ THE registers of  
 25 deeds in the several counties of this state ~~,~~ ~~to~~ SHALL receive  
 26 ~~for record,~~ and record all ~~such~~ copies of tax homestead  
 27 deeds, duly certified to by the ~~commissioner of the state land~~

1 ~~office,~~ DEPARTMENT or other officer having the custody of the  
 2 records, ~~of the state land office,~~ and the record of ~~such~~ THE  
 3 certified copy ~~shall have~~ HAS the same force and effect as the  
 4 record of the original deed.

5 Sec. ~~3~~ 2111. The ~~commissioner of the state land office,~~  
 6 DEPARTMENT or other officer having charge of ~~such~~ THE records  
 7 ~~,~~ DESCRIBED IN THIS SUBPART shall, upon application from any  
 8 person, make a certified copy of any tax homestead deed, as  
 9 ~~herein~~ provided IN THIS SUBPART, upon the payment by  
 10 ~~applicants~~ THE APPLICANT of \$1.50 for each certified copy. ~~→~~  
 11 ~~Provided, That as~~ AS a condition precedent to the recording of a  
 12 copy of the deed, there shall be attached to ~~such~~ THE certified  
 13 copy a sworn statement of the grantee named in the ~~said~~ deed,  
 14 or his OR HER assign, heir, trustee, or grantee, that the origi-  
 15 nal deed has been lost or is not available for record, and any  
 16 person swearing falsely under ~~the provisions of~~ this ~~act shall~~  
 17 ~~be~~ SUBPART IS subject to ~~all~~ the ~~pains and~~ penalties of  
 18 perjury.

19 SUBPART 6 SALE AND RECLAMATION OF SWAMP LANDS

20 Sec. ~~1~~ 2120. (1) ~~That they~~ THE DEPARTMENT SHALL adopt  
 21 the notes of the surveys on file in the surveyor general's office  
 22 ~~,~~ as the basis upon which they will receive the swamp lands  
 23 granted to the state by an act of congress of September 28,  
 24 1850.

25 (2) ~~Sec. 6. Said~~ SWAMP lands DESCRIBED IN SUBSECTION (1)  
 26 shall only be sold ~~,~~ in the same legal subdivisions ~~,~~ in  
 27 which they ~~shall be~~ ARE received by the state, ~~nor shall any~~



1 AND NONE of ~~said~~ THE lands ~~be~~ ARE subject to private entry  
 2 until the ~~same shall~~ LANDS have been offered for sale at public  
 3 auction as ~~herein above~~ provided IN FORMER ACT NO. 187 OF THE  
 4 PUBLIC ACTS OF 1851.

5 (3) ~~Sec. 7.~~ The ~~commissioner of the land office is hereby~~  
 6 ~~authorized to~~ DEPARTMENT MAY procure all necessary books, maps,  
 7 or plats of ~~such~~ SWAMP lands as ~~may be~~ required for the  
 8 speedy and systematic transaction of the business of the ~~office~~  
 9 DEPARTMENT, and all proper charges for the ~~same~~ BOOKS, MAPS, OR  
 10 PLATS shall be paid out of ~~the fund aforesaid~~ FUNDS RECEIVED  
 11 FROM THE SALE OF LANDS UNDER FORMER ACT NO. 187 OF THE PUBLIC  
 12 ACTS OF 1851.

13 SUBPART 7 RECEIPT OF MONEY FROM SALE OF SWAMP LANDS

14 Sec. ~~+~~ 2121. ~~That the~~ THE state treasurer ~~be and he is~~  
 15 ~~hereby authorized to~~ MAY receive from the ~~general government~~  
 16 UNITED STATES any ~~moneys~~ MONEY that may have been received, or  
 17 that may hereafter be received, for any of the swamp lands  
 18 donated to this state, and ~~that~~ the ~~commissioner of the state~~  
 19 ~~land office be authorized to~~ DEPARTMENT MAY take an assignment  
 20 of all bounty land warrants received for any swamp lands sold in  
 21 this state since the act of congress approved September  
 22 ~~twenty eighth~~ 28, 1850, and ~~to~~ release the interest of the  
 23 state in any lands sold or entered with ~~said~~ THE warrants to  
 24 purchasers or their assigns.

25 ~~Sec. 2.~~ ~~That in case any person at the time of the passage~~  
 26 ~~of the act of congress granting to the state of Michigan the~~  
 27 ~~swamp lands in this state was in actual possession of any of said~~

1 ~~lands, and had made improvements thereon, with the intention of~~  
2 ~~securing a pre-emption right, by virtue of the laws of congress,~~  
3 ~~or in case of actual purchase of the United States his heirs or~~  
4 ~~assigns, he shall be entitled to purchase said lands at the mini-~~  
5 ~~mum price of \$1.25 per acre, within 1 year after this act takes~~  
6 ~~effect; Provided satisfactory evidence of such possession,~~  
7 ~~improvements and intention be filed with the commissioner of the~~  
8 ~~state land office before said lands are offered for sale, or~~  
9 ~~before said lands are sold to any other person; And provided~~  
10 ~~also, That no person shall be entitled to claim by pre-emption~~  
11 ~~right, more than 160 acres.~~

12 SUBPART 8 EASEMENTS OVER STATE OWNED LANDS

13 ~~Sec. 1. As used in this act, "department" means the~~  
14 ~~department of natural resources.~~

15 Sec. ~~2~~ 2123. The department may grant an easement over  
16 state owned land under the jurisdiction of the department to an  
17 individual only if all of the following conditions are met:

18 (a) The individual does not have other access to the  
19 individual's land.

20 (b) The easement does not conflict with an existing program  
21 or management plan of the department or a local ordinance.

22 (c) The roadway for which the easement is granted is open to  
23 public access and is not a roadway for the exclusive use of the  
24 grantee.

25 (d) The easement provides the logical and most feasible  
26 access to the individual's land.

1 (e) The width of the roadway is restricted to the minimum  
2 consistent with the quality of the road required.

3 (f) The individual agrees to construct, if necessary, and  
4 ~~to~~ maintain the road.

5 (g) The individual offers a similar roadway easement to the  
6 department across the land to which the easement is to provide  
7 access.

8 Sec. ~~3~~ 2124. The department shall not grant an easement  
9 over state owned land under the jurisdiction of the department if  
10 any of the following occur:

11 (a) The proposed easement is over land designated as a wil-  
12 derness area, wild area, or natural area under ~~Act No. 241 of~~  
13 ~~the Public Acts of 1972, being sections 322.751 to 322.763 of the~~  
14 ~~Michigan Compiled Laws~~ PART 351.

15 (b) The proposed easement is over land in an area closed to  
16 vehicular traffic pursuant to a management plan approved by the  
17 department.

18 (c) The construction or use of the new or existing roadway  
19 will result in unnecessary damage to ~~—~~ or destruction of ~~—~~  
20 the surface, soil, animal LIFE, fish or aquatic life, or  
21 property.

22 Sec. ~~4~~ 2125. (1) The department shall not grant an ease-  
23 ment over state owned land under the jurisdiction of the depart-  
24 ment to an individual unless that individual has an interest, as  
25 that term is defined in this section, in the land to which the  
26 easement is to provide access.

1 (2) As used in this section, "interest" means an estate in  
2 possession other than a chattel interest, which may be in  
3 severalty, joint tenancy, tenancy by the entireties, or tenancy  
4 in common.

5 (3) The words and phrases used in subsection (2) to define  
6 interest shall be construed pursuant to chapter 62 of the Revised  
7 Statutes of 1846, being sections 554.1 to 554.46 of the Michigan  
8 Compiled Laws; Act No. 126 of the Public Acts of 1925, being sec-  
9 tion 557.81 of the Michigan Compiled Laws; and Act No. 210 of the  
10 Public Acts of 1927, being sections 557.101 to 557.102 of the  
11 Michigan Compiled Laws.

12 Sec. ~~5~~ 2126. Before the department may grant an easement  
13 under this ~~act~~ SUBPART, the individual applying for the ease-  
14 ment shall pay charges as required by the department. The  
15 charges shall be the same as those charges required for the  
16 granting of an easement under Act No. 10 of the Public Acts of  
17 1953, ~~as amended,~~ being section 322.651 of the Michigan  
18 Compiled Laws.

19 Sec. ~~6~~ 2127. The revenues received from the charges  
20 levied under section ~~5~~ 2126, less amounts necessary to pay the  
21 expenses of administering this ~~act~~ SUBPART, shall be credited  
22 to the state fund from which the revenue is appropriated for the  
23 payment in lieu of taxes on the land crossed.

24 Sec. ~~7~~ 2128. (1) If the land to which an easement is  
25 granted by the department pursuant to this ~~act~~ SUBPART OR  
26 FORMER ACT NO. 421 OF THE PUBLIC ACTS OF 1982 is subsequently  
27 subdivided, as this term is defined by section 102 of THE

1 SUBDIVISION CONTROL ACT, Act No. 288 of the Public Acts of 1967,  
2 being section 560.102 of the Michigan Compiled Laws, the easement  
3 shall terminate.

4 (2) If an individual who obtains an easement pursuant to  
5 this ~~act~~ SUBPART violates the terms of the easement, the ease-  
6 ment shall terminate, and any rights in the easement shall termi-  
7 nate, after opportunity for a hearing under THE ADMINISTRATIVE  
8 PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969,  
9 ~~as amended,~~ being sections 24.201 to ~~24.315~~ 24.328 of the  
10 Michigan Compiled Laws, is provided.

11 SUBPART 9 EASEMENTS FOR PUBLIC UTILITIES

12 Sec. ~~+~~ 2129. The ~~commission of natural resources~~  
13 DEPARTMENT may grant easements, upon terms and conditions the  
14 ~~commission~~ DEPARTMENT determines just and reasonable, for state  
15 and county roads and for the purpose of constructing, erecting,  
16 laying, maintaining, and operating pipelines, ~~+~~ electric lines,  
17 telecommunication systems, and facilities for the intake, trans-  
18 portation, and discharge of water, including pipes, conduits,  
19 tubes, and structures usable in connection with the lines, tele-  
20 communication systems, and facilities, over, through, under, and  
21 upon any and all lands belonging to the state which are under the  
22 jurisdiction of the ~~commission of natural resources or the~~  
23 department ~~of natural resources,~~ and over, through, under, and  
24 upon any and all of the unpatented overflowed lands, made lands,  
25 and lake bottomlands belonging to or held in trust by ~~the~~ THIS  
26 state. ~~of Michigan.~~ Except as otherwise specifically provided  
27 by law, revenue received as the result of the granting of an

1 easement shall be deposited in the state fund from which revenues  
 2 are appropriated for the payment in lieu of taxes required to be  
 3 paid in relation to state land under ~~Act No. 91 of the Public~~  
 4 ~~Acts of 1925, being sections 211.491 to 211.493 of the Michigan~~  
 5 ~~Compiled Laws~~ SUBPART 14.

6 SUBPART 10 LAND EXCHANGE FACILITATION FUND

7 ~~Sec. 1. This act shall be known and may be cited as "the~~  
 8 ~~land exchange facilitation fund act".~~

9 Sec. ~~2~~ 2130. As used in this ~~act~~ SUBPART:

10 (a) "Board" means the Michigan natural resources trust fund  
 11 board established in ~~section 7 of the Michigan natural resources~~  
 12 ~~trust fund act, Act No. 101 of the Public Acts of 1985, being~~  
 13 ~~section 318.507 of the Michigan Compiled Laws~~ PART 19.

14 ~~(b) "Commission" means the commission of natural~~  
 15 ~~resources.~~

16 ~~(c) "Department" means the department of natural resources.~~

17 (B) ~~(d)~~ "Fund" means the land exchange facilitation fund  
 18 created in section ~~6~~ 2134.

19 (C) ~~(e)~~ "Land" includes lands, tenements, and real estate  
 20 ~~—~~ and rights to and interests in lands, tenements, and real  
 21 estate.

22 Sec. ~~3~~ 2131. (1) Except as otherwise provided in subsec-  
 23 tion (2), the ~~commission~~ DEPARTMENT may designate as surplus  
 24 land any state owned land that is under the control of the  
 25 department and that has been dedicated for public use and may,  
 26 ~~authorize the department,~~ on behalf of the state, ~~to~~ sell

1 that land if the ~~commission~~ DEPARTMENT determines all of the  
2 following:

3 (a) That the sale will not diminish the quality or utility  
4 of other state owned land.

5 (b) That the sale is not otherwise restricted by law.

6 (c) That the sale is in the best interests of the state. ~~of~~  
7 ~~Michigan.~~

8 (d) That 1 or both of the following conditions are met:

9 (i) The land has been dedicated for public use for not less  
10 than 5 years immediately preceding its sale and is not needed to  
11 meet a department objective.

12 (ii) The land is occupied for a private use through inadver-  
13 tent trespass.

14 (2) The ~~commission~~ DEPARTMENT shall not authorize the sale  
15 of surplus land as provided in subsection (1) if the proceeds  
16 from the sale of the land will cause the fund to exceed  
17 \$500,000.00.

18 Sec. ~~4~~ 2132. (1) The department may sell surplus land at  
19 a price of not less than its fair market value as determined by  
20 an appraisal.

21 (2) The sale of surplus land shall be conducted by the  
22 department through 1 of the following methods:

23 (a) A sealed or oral bid public auction sale.

24 (b) A negotiated sale.

25 ~~(3) If the fair market value of surplus land in a negoti-~~  
26 ~~ated sale will exceed \$150,000.00, the department shall not enter~~

1 ~~into negotiations on that negotiated sale without prior approval~~  
2 ~~of the commission.~~

3 (3) ~~(4)~~ The sale of surplus land through a sealed or oral  
4 bid public auction sale shall be to the highest bidder. A bid  
5 shall not be accepted for less than the fair market value of the  
6 surplus land as determined by an appraisal.

7 (4) ~~(5)~~ A notice of the sale of surplus land shall be  
8 given as provided in section ~~5~~ 2133.

9 (5) ~~(6)~~ The proceeds from the sale of surplus land shall  
10 be deposited into the fund.

11 (6) ~~(7)~~ Surplus land that is sold under this ~~act~~ SUBPART  
12 shall be conveyed by quitclaim deed approved by the attorney gen-  
13 eral and shall reserve to the state all rights to coal, oil, gas,  
14 and other minerals, excluding sand and gravel, found on, within,  
15 and under the land.

16 Sec. ~~5~~ 2133. (1) A notice of a sealed or oral bid public  
17 auction sale of surplus lands shall be published at least once in  
18 a newspaper as defined in section 1461 of the revised judicature  
19 act of 1961, Act No. 236 of the Public Acts of 1961, being  
20 section 600.1461 of the Michigan Compiled Laws, not less than 10  
21 days before the sale. The newspaper shall be published in the  
22 county where the surplus lands are located. If a newspaper is  
23 not published in the county where the surplus lands are located,  
24 the notice shall be published in a newspaper in a county nearest  
25 to the county in which the lands are located. A notice shall  
26 describe the general location of the surplus lands to be offered  
27 at the sale and the date, time, and place of the sale. Upon



1 request, the department shall furnish a list of surplus lands  
2 being offered for sale at public auction. The surplus land sale  
3 list shall include all of the following:

4 (a) The date, time, and place of sale.

5 (b) Descriptions of surplus lands being offered.

6 (c) The conditions of sale.

7 (2) A notice of a negotiated sale of surplus lands shall be  
8 published at least once in a newspaper as defined in section 1461  
9 of the revised judicature act of 1961 not less than 10 days  
10 before the ~~commission~~ DEPARTMENT authorizes the sale. The  
11 newspaper shall be published in the county where the surplus  
12 lands are located. If a newspaper is not published in the county  
13 where the surplus lands are located, the notice shall be pub-  
14 lished in a newspaper in a county nearest to the county in which  
15 the lands are located. A notice shall describe the general loca-  
16 tion of the surplus lands offered in a negotiated sale and the  
17 date, time, and place that the ~~commission~~ DEPARTMENT will meet  
18 to authorize the sale. Upon request, the department shall fur-  
19 nish a list of surplus lands being offered in a negotiated sale.  
20 The surplus land negotiated sale list shall include both of the  
21 following:

22 (a) The date, time, and place that the ~~commission~~  
23 DEPARTMENT will meet to authorize the sale.

24 (b) Descriptions of surplus lands being offered.

25 Sec. ~~6~~ 2134. (1) A land exchange facilitation fund is  
26 created in the state treasury. The fund shall be administered by

1 the department and shall be used only as provided in section ~~7~~  
2 2135.

3 (2) Any money, including interest earned by the fund,  
4 remaining in the fund at the end of a fiscal year shall be car-  
5 ried over in the fund to the next and succeeding fiscal years and  
6 shall not be credited to or revert to the general fund.

7 Sec. ~~7~~ 2135. (1) Money from the fund shall be used by the  
8 department only for the following purposes:

9 (a) Upon the recommendation of the ~~commission~~ DEPARTMENT  
10 and authorization of the board, the purchase of land for natural  
11 resources management, administration, and public recreation that  
12 has been approved by the legislature for purchase pursuant to  
13 section ~~9~~ 1908. ~~of the Michigan natural resources trust fund~~  
14 ~~act, Act No. 101 of the Public Acts of 1985, being section~~  
15 ~~318.509 of the Michigan Compiled Laws, or other law.~~

16 (b) The costs of advertising, appraisals, negotiations, and  
17 closings incurred by the department in the sale of surplus land.

18 (c) The costs of appraisals, negotiations, and closings  
19 incurred by the department in the purchase of land authorized by  
20 this ~~act~~ SUBPART.

21 (2) If the board does not authorize or reject a recommenda-  
22 tion of the ~~commission~~ DEPARTMENT to purchase land within 60  
23 days, the department may purchase the land identified in the  
24 recommendation.

25 (3) The report required by section 506 ~~4 of Act No. 17 of~~  
26 ~~the Public Acts of 1921, being section 299.4 of the Michigan~~  
27 ~~Compiled Laws,~~ shall include a summary of all the disbursements

1 of money from the fund for the purposes enumerated in subsection  
2 (1).

3       Sec. ~~8~~ 2136. This ~~act shall~~ SUBPART DOES not ~~be con-~~  
4 ~~strued to~~ limit the authority of the department to do 1 or both  
5 of the following:

6       (a) To exchange land as provided in ~~Act No. 193 of the~~  
7 ~~Public Acts of 1911, being sections 322.481 to 322.485 of the~~  
8 ~~Michigan Compiled Laws~~ SUBPART 3.

9       (b) To sell land as provided in the general property tax  
10 act, Act No. 206 of the Public Acts of 1893, being sections 211.1  
11 to 211.157 of the Michigan Compiled Laws.

12       ~~Sec. 9. This act shall not take effect unless Senate Bill~~  
13 ~~No. 261 of the 85th Legislature is enacted into law.~~

14       SUBPART 11 CONSERVATION AND HISTORIC PRESERVATION EASEMENT

15       ~~Sec. 1. This act shall be known and may be cited as the~~  
16 ~~"conservation and historic preservation easement act".~~

17       Sec. ~~2~~ 2140. As used in this ~~act~~ SUBPART:

18       (a) "Conservation easement" means an interest in land  
19 ~~which~~ THAT provides limitation on the use of land or a body of  
20 water ~~or~~ or requires or prohibits certain acts on or with  
21 respect to the land or body of water, whether or not the interest  
22 is stated in the form of a restriction, easement, covenant, or  
23 condition in a deed, will, or other instrument executed by or on  
24 behalf of the owner of the land or body of water or in an order  
25 of taking, which interest is appropriate to retaining or main-  
26 taining the land or body of water, including improvements on the  
27 land or body of water, predominantly in its natural, scenic, or

1 open condition, or in an agricultural, farming, open space, or  
2 forest use, or similar use or condition.

3 (b) "Historic preservation easement" means an interest in  
4 land ~~which~~ THAT provides a limitation on the use of a structure  
5 or site that is listed as a national historic landmark ~~pursuant~~  
6 ~~to the historic sites act of 1935, Public Law 74-292~~ UNDER CHAP-  
7 TER 593, 49 STAT. 593, 16 U.S.C. 461 TO 467, COMMONLY KNOWN AS  
8 THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT; is listed on  
9 the national register of historic places pursuant to the national  
10 historic preservation act of 1966, Public Law 89-665, 16  
11 U.S.C. 470 TO 470a, 470b, AND 470c TO 470x-6; is listed on the  
12 state register of historic sites pursuant to Act No. 10 of the  
13 Public Acts of 1955, BEING SECTIONS 399.151 TO 399.152 OF THE  
14 MICHIGAN COMPILED LAWS; or is recognized under a locally estab-  
15 lished historic district created pursuant to THE LOCAL HISTORIC  
16 DISTRICTS ACT, Act No. 169 of the Public Acts of 1970, BEING  
17 SECTIONS 399.201 TO 399.215 OF THE MICHIGAN COMPILED LAWS, or  
18 requires or prohibits certain acts on or with respect to the  
19 structure or site, whether or not the interest is stated in the  
20 form of a restriction, easement, covenant, or condition in a  
21 deed, will, or other instrument executed by or on behalf of the  
22 owner of the structure or site or in an order of taking, ~~which~~  
23 IF THE interest is appropriate to the preservation or restoration  
24 of the structure or site.

25 Sec. ~~3~~ 2141. A conservation easement granted to a govern-  
26 mental entity or to a charitable or educational association,  
27 corporation, trust, or other legal entity ~~shall be~~ IS

1 enforceable against the owner of the land or body of water  
2 subject to the easement despite a lack of privity of estate or  
3 contract, a lack of benefit running to particular land or a body  
4 of water, or the fact that the benefit may be assigned to another  
5 governmental entity or legal entity, including a conservation  
6 easement executed before ~~the effective date of this act~~  
7 MARCH 31, 1981. The easement shall be recorded with the register  
8 of deeds in the county in which the land is located to be effec-  
9 tive against a bona fide purchaser for value without actual  
10 notice.

11       Sec. ~~4~~ 2142. A historic preservation easement granted to  
12 a governmental entity or to a charitable or educational associa-  
13 tion, corporation, trust, or other legal entity whose purposes  
14 include the preservation or restoration of structures or sites  
15 described in section ~~2(b) shall be~~ 2140(B) IS enforceable  
16 against the owner of the structure or site subject to the ease-  
17 ment despite a lack of privity of estate or contract, a lack of  
18 benefit running to the particular structure or site, or the fact  
19 that the benefit may be assigned to another governmental entity  
20 or legal entity whose purposes include the preservation or resto-  
21 ration of structures or sites described in section ~~2(b)~~  
22 2140(B), including a historic preservation easement executed  
23 before ~~the effective date of this act~~ MARCH 31, 1981. The  
24 easement shall be recorded with the register of deeds in the  
25 county in which the land is located to be effective against a  
26 bona fide purchaser for value without actual notice.

1           Sec. ~~5~~ 2143. This ~~act~~ SUBPART does not render  
2 UNENFORCEABLE a restriction, easement, covenant, or condition  
3 ~~which~~ THAT does not have the benefit of this ~~act~~ SUBPART.  
4 ~~unenforceable, because of the provisions of this act.~~

5           Sec. ~~6~~ 2144. (1) A conservation easement or historic pre-  
6 servation easement is an interest in real estate, and a document  
7 creating 1 of those easements shall be considered a conveyance of  
8 real estate and shall be recorded in accord with ~~the provisions~~  
9 ~~of~~ Act No. 103 of the Public Acts of 1937, ~~as amended,~~ being  
10 ~~section~~ SECTIONS 565.201 TO 565.203 of the Michigan Compiled  
11 Laws, in relation to the execution and recording of instruments.  
12 The easement shall be enforced either by an action at law or by  
13 an injunction or other equitable proceedings.

14           (2) A conservation easement ~~described in section 2(a)~~ may  
15 be assigned to a governmental or other legal entity, which shall  
16 acquire that interest in the same manner as the governmental  
17 entity or legal entity acquires an interest in land.

18           (3) A historic preservation easement ~~described in section~~  
19 ~~2(b)~~ may be assigned to a governmental or other legal entity  
20 whose purposes include the preservation or restoration of struc-  
21 tures or sites described in section ~~2(b)~~ 2140(B), ~~which~~ AND  
22 THE GOVERNMENTAL OR LEGAL ENTITY shall acquire that interest in  
23 the same manner as the governmental entity or legal entity  
24 acquires an interest in land.

25           ~~Sec. 7. This act shall take effect 30 days after it is~~  
26 ~~enacted into law.~~

1 SUBPART 12 ACQUISITION OF SURFACE LANDS FOR WATER QUALITY CONTROL  
2       Sec. ~~+~~ 2145. The business of mining and beneficiating  
3 low-grade iron ore, as defined in Act No. 77 of the Public Acts  
4 of 1951, ~~as amended,~~ being sections 211.621 to ~~211.625~~  
5 211.626 of the MICHIGAN Compiled Laws, ~~of 1948,~~ and the busi-  
6 ness of THE beneficiating and agglomerating of underground iron  
7 ore as defined in Act No. 68 of the Public Acts of 1963, being  
8 sections 207.271 to 207.279 of the MICHIGAN Compiled Laws, ~~of~~  
9 ~~1948,~~ are declared to be in the public interest and necessary to  
10 the public welfare, and the acquisition of private property for  
11 development of an adequate water supply, FOR DEVELOPMENT OF the  
12 necessary storage, AND FOR processing and treatment of liquid and  
13 solid wastes or other ~~non-marketable~~ NONMARKETABLE products  
14 resulting from ~~such~~ THE business is declared to be for a public  
15 purpose. The department ~~of conservation is authorized to~~ MAY  
16 acquire by condemnation parcels of land that are needed for the  
17 establishment of areas, settling ponds, and basins for ~~such~~ THE  
18 storage, processing, and treatment OF THE WASTES OR OTHER  
19 PRODUCTS, together with the necessary appurtenant canals, pipe-  
20 lines, power lines, sluiceways, roadways, dams, and dikes. ~~+~~  
21 ~~and~~ THE DEPARTMENT shall lease, convey, or exchange such parcels  
22 of land to any person ~~, corporation or association~~ engaged in  
23 or proposing to engage in the business of mining and beneficiat-  
24 ing low-grade iron ore or ~~the~~ beneficiating and agglomerating  
25 ~~of~~ underground iron ore, or both, upon a showing to the satis-  
26 faction of the department that ~~such~~ THE person ~~, corporation~~  
27 ~~or association~~ has acquired at least 75% of the necessary land

1 and that ~~it~~ THE PERSON has been unable to purchase the  
2 remaining necessary parcels at a fair market value, and upon the  
3 further showing to the satisfaction of the department that ~~such~~  
4 THE remaining parcels are necessary for the development and oper-  
5 ation of ~~such~~ THE water supply areas, settling ponds, and  
6 basins ~~in order~~ to prevent the unlawful pollution of waters of  
7 the state or to comply with the requirements of other public  
8 agencies of the state. ~~Nothing in this act shall be construed~~  
9 ~~as authorizing~~ THIS SUBPART DOES NOT AUTHORIZE the taking of any  
10 property owned by a political subdivision of the state or devoted  
11 to or used for a public or railroad purpose or THE TAKING of any  
12 private property lying within the limits of any incorporated city  
13 or village or lands within a recorded plat in an unincorporated  
14 village.

15       Sec. ~~2~~ 2146. The department shall provide adequate com-  
16 pensation for any owner-occupied residences of owner-occupied or  
17 ~~operated~~ OWNER-OPERATED farmland that it condemns pursuant to  
18 this ~~act~~ SUBPART to enable the owners of ~~such~~ THE property to  
19 purchase like property suitable to their needs and in standard  
20 condition from the proceeds of ~~such~~ THE compensation, which  
21 shall ~~as~~ AT a minimum be equal to the valuation of ~~such~~ THE  
22 housing or agricultural land as of the date when proceedings for  
23 the condemnation ~~thereof~~ were initiated by the department.

24       Sec. ~~3~~ 2147. The department shall require as a condition  
25 for the issuance of any lease or conveyance authorized by this  
26 ~~act~~ SUBPART the payment by the lessee of the full amount of  
27 compensation made or to be made by the department for the lands



1 it has condemned. ~~Such~~ THE lease shall contain provisions  
 2 ~~which will~~ THAT protect the ownership of ~~any~~ materials  
 3 ~~which~~ THAT are deposited upon ~~such~~ THE lands.

4 SUBPART 13 TAX ON TAX REVERTED, RECREATION, AND FOREST LANDS

5 Sec. ~~+~~ 2150. (1) On December 1 of each year, there shall  
 6 be paid into the treasury of each county in which are located tax  
 7 reverted, recreation, or forest lands under the control and  
 8 supervision of the department, ~~of natural resources,~~ and any  
 9 other lands held by the department, except lands purchased after  
 10 January 1, 1933 for natural resource purposes, a tax of \$2.50 per  
 11 acre ~~+~~ or major portion ~~thereof,~~ OF AN ACRE on all the lands  
 12 that belong to the state on December 1 in each year. This tax  
 13 shall be in lieu of all other taxes now levied against the state  
 14 land under any existing law. State land on which payments in  
 15 lieu of taxes are made pursuant to ~~Act No. 91 of the Public Acts~~  
 16 ~~of 1925, as amended, being sections 211.491 to 211.493 of the~~  
 17 ~~Michigan Compiled Laws~~ SUBPART 14 are exempt from this ~~act~~  
 18 SUBPART. The department of treasury shall make a detailed state-  
 19 ment of account between the state and each county in which the  
 20 lands are situated, including the descriptions of the lands, and  
 21 render the ~~same~~ STATEMENT to the county treasurer of the  
 22 county. The department of treasury shall cause a warrant to be  
 23 drawn on the state treasurer payable for the amount indicated on  
 24 the statement of account to be due TO the county. The county  
 25 treasurer of each county shall immediately make up a detailed  
 26 statement of the account between the county and each township and  
 27 school district, prorating the amount received by the county

1 according to the number of acres of the lands located in each  
2 unit. The proration shall be 40% to county general fund, 40% to  
3 township general fund, and 20% to school operating fund. The  
4 county treasurer shall immediately issue his or her warrant to  
5 each of the units according to the statement.

6 (2) The tax on tax reverted, recreation, ~~or~~ forest lands,  
7 OR OTHER LANDS under the control of the department ~~of natural~~  
8 ~~resources~~ on which payments are made under this ~~act~~ SUBPART  
9 shall be paid from the general fund.

10 Sec. ~~2~~ 2151. The department ~~of natural resources~~ shall  
11 enter upon its records against each description of the land the  
12 amounts provided by this ~~act~~ SUBPART and shall certify the  
13 ~~same~~ AMOUNTS to the department of treasury, which shall draw a  
14 warrant on the state treasurer ~~therefor~~ FOR THOSE AMOUNTS, the  
15 tax on tax reverted, recreation, ~~or~~ forest lands, OR OTHER  
16 LANDS under the control of the department to be paid out of any  
17 ~~moneys~~ MONEY in the general fund not otherwise appropriated.  
18 The amounts shall be forwarded by the department OF TREASURY to  
19 the county treasurers.

20 SUBPART 14 PAYMENT IN LIEU OF TAXES ON CERTAIN STATE LANDS

21 Sec. ~~+~~ 2152. For the purpose of this ~~act~~ SUBPART, the  
22 ~~director of the~~ department ~~of natural resources~~ shall furnish  
23 the state tax commission with a list of all real property owned  
24 by the state and controlled by the department ~~of natural~~  
25 ~~resources, which~~ THAT was or is acquired on ~~and~~ OR after  
26 January 1, 1933 ~~—~~ by purchase from the owner or owners

1 ~~thereof~~ OF THE REAL PROPERTY and the Mason game farm, showing  
2 all descriptions.

3       Sec. ~~2~~ 2153. The valuation of ~~such~~ lands DESCRIBED IN  
4 SECTION 2152, for the purposes of this ~~act~~ SUBPART, shall be  
5 fixed by the state tax commission on or before February 1 of each  
6 year, and the state tax commission shall, on or before February  
7 15 of each year, make a report to the ~~several~~ assessing dis-  
8 tricts of the state in which ~~such~~ THE lands are located, giving  
9 a description of the land in ~~such~~ THE assessing district ~~so~~  
10 held by the state with the valuation ~~thereof~~ as fixed by the  
11 state tax commission. The state tax commission shall furnish a  
12 value to the assessing officers ~~which~~ THAT shall be at the same  
13 value as other property is assessed in the assessment district.  
14 In fixing ~~such~~ THE valuation, the state tax commission shall  
15 not include improvements made to or placed upon such lands. Upon  
16 receipt of the report by the assessing officer, he OR SHE shall  
17 enter upon the assessment rolls of each ~~township, city, village~~  
18 MUNICIPALITY or assessing district the respective descriptions of  
19 ~~such~~ THE lands with the FIXED value ~~so fixed,~~ and assess such  
20 lands for the purposes of this ~~act~~ SUBPART at the same rate as  
21 other real property in ~~such~~ THE assessing district, except that  
22 adjustment to the value certified by the state tax commission may  
23 be made by the assessing officer to reflect any general adjust-  
24 ment of assessed valuation from the prior year THAT IS not  
25 included in the state tax commission computation. If an adjust-  
26 ment to the value certified by the state tax commission is made,  
27 the assessing officer shall certify to the department, ~~of~~

1 ~~conservation,~~ not later than the first Wednesday after the first  
2 Monday in March, the amount and percentage of any general adjust-  
3 ment of assessed valuation and THE AMOUNT AND PERCENTAGE of any  
4 change in the assessment roll; the relation of the total valua-  
5 tion to that reported by the state tax commission; and the  
6 adjusted total of conservation land. ~~No assessment~~ ASSESSMENTS  
7 for special improvements shall NOT be included.

8       Sec. ~~3~~ 2154. (1) The treasurer or other officer charged  
9 with the collection of taxes for an assessing district shall for-  
10 ward a statement of the assessment to the Lansing office of the  
11 department, ~~of natural resources,~~ which shall review the state-  
12 ment and, if the amount of the assessment has been determined  
13 according to this ~~act~~ SUBPART, authorize the state treasurer to  
14 pay the amount of the assessment by warrant on the state  
15 treasury.

16       (2) If the amount of the assessment is not paid within the  
17 time provided for the payment of property taxes pursuant to the  
18 general property tax act, Act No. 206 of the Public Acts of 1893,  
19 being sections 211.1 to 211.157 of the Michigan Compiled Laws,  
20 interest and penalties may be imposed by the local property tax  
21 collecting unit in the same manner provided for delinquent prop-  
22 erty taxes in Act No. 206 of the Public Acts of 1893. However,  
23 interest and penalties shall not be imposed for a tax that is  
24 collected in the summer for the first time by a local property  
25 tax collecting unit.

## 1           SUBPART 15 PROTECTION OF STATE OWNED LANDS

2       ~~Sec. 1. This act shall be known and may be cited as the~~  
3 ~~"state owned lands protection act".~~

4       Sec. ~~2~~ 2155. As used in this ~~act:~~ (a) ~~"Damages"~~  
5 SUBPART, "DAMAGES" means the fair market value on the stump or at  
6 the mill, whichever is greater ~~—~~ of a forest product cut or  
7 removed, or the fair and actual value of any other property  
8 removed or damaged in trespass, plus any other damages caused  
9 before, during, or after the cutting or removal.

10       ~~(b) "Department" means the director or the department of~~  
11 ~~natural resources or his or her designee.~~

12       ~~(c) "Director" means the director of the department.~~

13       Sec. ~~3~~ 2156. (1) Unless a person has the written permis-  
14 sion of the department or is acting as authorized in R 299.321 or  
15 R 299.331 of the Michigan administrative code, a person shall not  
16 enter upon, or induce or direct any person to enter upon, any  
17 state owned land and cut, or induce or direct to be cut, or  
18 remove, or induce or direct to be removed, any logs, posts,  
19 poles, ties, shrubs, or trees, or any other forest product. In  
20 addition, a person shall not injure or remove, or induce or  
21 direct any other person to injure or remove, any buildings,  
22 fences, improvements, sand, gravel, marl or other minerals, or  
23 other property belonging to or appertaining to state owned land.

24       (2) A person shall not accept or receive by purchase or oth-  
25 erwise a forest product, improvement, or other property unlaw-  
26 fully cut or removed, or both, knowing the property to have been

1 unlawfully cut or removed, or both, in violation of subsection  
2 (1).

3       Sec. ~~4~~ 2157. (1) If the damages are \$100.00 or less, for  
4 a first violation of section ~~3~~ 2156, a person is responsible  
5 for a civil fine of not more than \$500.00. If the damages are  
6 \$100.00 or less, for a second or subsequent violation of  
7 section ~~3~~ 2156, a person is guilty of a misdemeanor, punishable  
8 by imprisonment for not more than 90 days, or a fine of not less  
9 than \$50.00 or more than \$500.00, or both, and the costs of  
10 prosecution.

11       (2) If the damages are more than \$100.00 but less than  
12 \$1,000.00, a person who violates section ~~3~~ 2156 is guilty of a  
13 misdemeanor, punishable by imprisonment for not more than 180  
14 days, or a fine of not less than \$500.00 or more than \$5,000.00,  
15 or both, and the costs of prosecution.

16       (3) If the damages are \$1,000.00 or more, a person who will-  
17 fully violates section ~~3~~ 2156 is guilty of a felony, punishable  
18 by imprisonment for not more than 180 days, or a fine of not less  
19 than \$1,000.00 or more than \$10,000.00, and the costs of  
20 prosecution.

21       Sec. ~~5~~ 2158. (1) In addition to the penalties provided  
22 for in section ~~4~~ 2157, a person convicted of violating this  
23 ~~act~~ SUBPART shall forfeit in a civil action filed by the state  
24 a sum of up to 3 times the actual damages, but not less than  
25 \$50.00, that were caused by the unlawful act, and court costs and  
26 attorney fees. In addition, the material or other property cut  
27 or removed shall be seized by the state, and title to the

1 property shall be in the state. In addition, equipment used to  
2 violate this ~~act~~ SUBPART may be seized and disposed of to the  
3 best advantage of the state as determined by the department as  
4 required under sections ~~3~~ 1603 and ~~4 of Act No. 192 of the~~  
5 ~~Public Acts of 1929, being sections 300.13 and 300.14 of the~~  
6 ~~Michigan Compiled Laws~~ 1604.

7 (2) A court in which a conviction for a violation of this  
8 ~~act~~ SUBPART is obtained shall order the defendant to forfeit to  
9 the state a sum as set forth in subsection (1). If 2 or more  
10 defendants are convicted of a violation of this ~~act~~ SUBPART,  
11 the forfeiture shall be declared against them jointly.

12 (3) If a defendant fails to pay upon conviction the sum  
13 ordered by the court to be forfeited, the court shall either  
14 impose a sentence and require the defendant, as a condition of  
15 the sentence, to satisfy the forfeiture in the amount prescribed  
16 and fix the manner and time of payment, or make a written order  
17 permitting the defendant to pay the sum to be forfeited in  
18 installments at those times and in those amounts that in the  
19 opinion of the court the defendant is able to pay.

20 (4) If a defendant defaults in payment of the sum forfeited  
21 or of an installment of that sum, the court on motion of the  
22 department or upon its own motion may require the defendant to  
23 show cause why the default should not be treated as a civil con-  
24 tempt, and the court may issue a summons or warrant of arrest for  
25 his or her appearance. Unless the defendant shows that the  
26 default was not due to an intentional refusal to obey the order  
27 of the court ~~—~~ or a failure to make a good faith effort to

1 obtain the funds required for the payment, the court shall find  
2 that the default constitutes a civil contempt.

3 (5) If in the opinion of the court the defendant's default  
4 in the payment of the forfeiture does not constitute civil con-  
5 tempt, the court may enter an order allowing the defendant addi-  
6 tional time for payment, reducing the amount of the forfeiture or  
7 of each installment, or revoking the forfeiture or the unpaid  
8 portion of the forfeiture, in whole or in part.

9 (6) A default in the payment of the forfeiture or an  
10 installment payment may be collected by any means authorized for  
11 the enforcement of a judgment under chapter 60 of the revised  
12 judicature act of 1961, Act No. 236 of the Public Acts of 1961,  
13 being sections 600.6001 to 600.6098 of the Michigan Compiled  
14 Laws.

15 (7) A court receiving forfeiture damages shall remit the  
16 damages with an abstract or register of actions to the depart-  
17 ment, which shall deposit the damages with the state treasurer,  
18 who shall deposit the damages in the fund that was used to pur-  
19 chase the land on which the violation occurred.

20 (8) All money received by the disposal of seized property  
21 under this ~~act~~ SUBPART shall be deposited with the state  
22 treasurer, who shall deposit the money in the fund that was used  
23 to purchase the land on which the violation occurred.

24 ~~Sec. 6. Act No. 126 of the Public Acts of 1939, being sec-~~  
25 ~~tions 322.131 to 322.138 of the Michigan Compiled Laws, is~~  
26 ~~repealed.~~



1 SUBPART 16 CERTIFIED COPIES OF FIELD NOTES, MAPS,  
 2 RECORDS, AND PAPERS

3 Sec. ~~+~~ 2160. ~~That the commissioner of the state land~~  
 4 ~~office is hereby authorized and required, on~~ UPON RECEIPT OF AN  
 5 application of any person, and ~~on~~ payment by ~~such person~~ THE  
 6 APPLICANT of the fees ~~allowed by law, to~~ PROVIDED FOR IN THIS  
 7 PART, THE DEPARTMENT SHALL make and deliver to ~~such person,~~ THE  
 8 APPLICANT a true copy of any field notes, maps, records, or  
 9 papers ~~in his office,~~ POSSESSED BY THE DEPARTMENT appertaining  
 10 to land titles ~~,~~ or to the original surveys of any of the lands  
 11 in this state. ~~,~~ and any such SUCH A TRUE copy, when ~~duly~~  
 12 certified to by ~~such commissioner~~ THE DEPARTMENT under ~~his~~  
 13 ITS seal, ~~of office,~~ or the record thereof when ~~duly~~ recorded  
 14 in the office of the register of deeds of the proper county, may  
 15 be admitted in evidence in all courts and places in which the  
 16 title or boundary of any land ~~shall come~~ IS in question, and  
 17 shall have the same force and effect, as evidence, as though ~~the~~  
 18 ~~act of congress approved June twelfth, in the year 1840, entitled~~  
 19 ~~"An act for the discontinuance of the office of surveyor general~~  
 20 ~~in the several districts so soon as the surveys therein can be~~  
 21 ~~completed, for abolishing land offices under certain circum-~~  
 22 ~~stances, and for other purposes,"~~ CHAPTER XXXVI, 5 STAT. 384,  
 23 had named the ~~commissioner of the state land office, of the~~  
 24 ~~respective states, instead of the secretary of state, of the~~  
 25 ~~respective states,~~ DEPARTMENT as the officer to whom the sur-  
 26 veyor general should deliver ~~over~~ all the field notes, maps,

1 records, and other papers appertaining to land titles. ~~, as in~~  
 2 ~~and by said act provided.~~

3 Sec. ~~2~~ 2161. ~~From and after the passage of this act,~~  
 4 ~~the~~ THE following schedule of prices and charges shall be  
 5 observed ~~in the state land office, to wit~~ BY THE DEPARTMENT:

6 (A) For field and meander notes, per SURVEY township, ~~8~~  
 7 ~~dollars, for~~ \$8.00.

8 (B) FOR each official certificate with seal, ~~1 dollar, for~~  
 9 \$1.00.

10 (C) FOR township plats showing vacant state lands only,  
 11 each, 25 cents. ~~, for~~

12 (D) FOR township plats showing vacant state lands with  
 13 streams, each, 50 cents. ~~, for~~

14 (E) FOR copies of all records and papers ~~which~~ THAT the  
 15 ~~commissioner~~ DEPARTMENT may be required to furnish by law, for  
 16 each 100 words, 15 cents. ~~, for~~

17 (F) FOR tax statements on each description of land, per  
 18 year, 6 cents.

19 Sec. ~~3~~ 2162. The fees received for all services under  
 20 this ~~act~~ PART shall be paid into the state treasury and cred-  
 21 ited to the general fund.

22 PART 25 ENVIRONMENTAL EDUCATION

23 ~~Sec. 1. This act shall be known and may be cited as the~~  
 24 ~~"environmental education act".~~

25 Sec. ~~2~~ 2501. The purpose of this ~~act~~ PART is to facili-  
 26 tate an understanding by citizens of this state of the natural  
 27 environment including an understanding of basic sciences,

1 ecological sciences, and of the connection between human beings,  
2 air, land, water, and other living things, as well as how these  
3 systems relate to the global environment, thus making it possible  
4 for human beings to make informed decisions regarding protection  
5 and conservation of the environment and utilization of the natu-  
6 ral resources in a wise and prudent fashion.

7 Sec. ~~3~~ 2502. As used in this ~~act~~ PART:

8 (a) "Coordinator" means the coordinator of environmental  
9 education provided for in section ~~4~~ 2503.

10 ~~(b) "Department" means the director of the department of~~  
11 ~~natural resources or his or her designee.~~

12 ~~(c) "Director" means the director of the department of natu-~~  
13 ~~ral resources.~~

14 (B) ~~(d)~~ "Environmental education" means the teaching of  
15 factual information ~~of~~ REGARDING the natural environment,  
16 including basic sciences, ecological sciences, agricultural  
17 sciences, and other relevant subject matter, and the interdisci-  
18 plinary process of developing a citizenry that is knowledgeable  
19 about the total environment and has the capacity and the commit-  
20 ment to engage in inquiry, problem solving, decision making, and  
21 action that will assure environmental quality.

22 Sec. ~~4~~ 2503. The department shall appoint a coordinator  
23 of environmental education within the department of natural  
24 resources. The coordinator's primary responsibilities shall be  
25 to do the following:

26 (a) Coordinate the efforts of the department ~~of natural~~  
27 ~~resources~~ related to environmental education.

1 (b) Work with the department of education and with local  
2 education institutions, not-for-profit educational and environ-  
3 mental organizations, broadcasting entities, and private sector  
4 interests to support development of curricula, special projects,  
5 and other activities ~~—~~ to increase understanding of the basic  
6 sciences and of natural resources and the environment.

7 (c) Provide technical assistance to school districts,  
8 schools, and educators wishing to undertake projects including,  
9 but not limited to, water quality, air quality monitoring, or  
10 habitat protection.

11 (d) If an environmental education advisory committee is  
12 established pursuant to section ~~5~~ 2504, coordinate with the  
13 department in staffing the advisory committee.

14 (e) Provide assistance to the commission ~~of natural~~  
15 ~~resources~~ in implementing statewide environmental education  
16 strategies developed by the department and the department of  
17 education.

18 (f) Assist in identifying grants or other sources of funding  
19 for innovative educators and students of environmental  
20 education.

21 (g) Recommend the appropriate mechanism for establishment of  
22 a clearinghouse of environmental education materials, which would  
23 make environmental education materials available to educators  
24 throughout the state.

25 (h) Provide or support existing training and professional  
26 development programs for educators.

1 (i) Assist in the incorporation of environmental education  
2 into curriculum objectives for the state's elementary and  
3 secondary schools and develop appropriate assessment mechanisms.

4 (j) Promote awareness of section 1171a of the school code of  
5 1976, Act No. 451 of the Public Acts of 1976, being section  
6 380.1171a of the Michigan Compiled Laws.

7 Sec. ~~5~~ 2504. (1) The director may establish an environ-  
8 mental education advisory committee. If the director establishes  
9 an environmental education advisory committee, the advisory com-  
10 mittee shall be broadly representative of the following:

11 (a) Executive agencies.

12 (b) Environmental or conservation organizations.

13 (c) Business or industry.

14 (d) Individuals with knowledge and experience in general  
15 education.

16 (e) Individuals with knowledge and practical experience in  
17 environmental education.

18 (f) Individuals with knowledge and experience in the produc-  
19 tion of food and fiber products.

20 (g) The general public.

21 (2) If the director establishes an environmental education  
22 advisory committee under subsection (1), the director shall  
23 charge the advisory committee with 1 or more of the following  
24 responsibilities:

25 (a) To advise the coordinator, the department, and the  
26 department of education on matters related to environmental  
27 education in this state.

1 (b) To assist in coordination of and promotion of  
2 environmental education activities in the state.

3 (c) To coordinate and assist in the development of a scope  
4 and sequence model for environmental education in the state's  
5 elementary and secondary schools.

6 (d) To assist in the incorporation of environmental educa-  
7 tion into curriculum objectives for the state's elementary and  
8 secondary schools and TO develop appropriate assessment  
9 mechanisms.

10 (e) To coordinate and assist in the compilation of curricu-  
11 lum materials to assist in the utilization of the scope and  
12 sequence model developed pursuant to subdivision (c) and to meet  
13 curriculum objectives.

14 (f) To assist the coordinator in implementing a statewide  
15 environmental education strategies.

16 (g) To recommend appropriate teacher training.

17 (h) To perform other duties as identified by the director.

18 (3) The business ~~which~~ THAT an environmental education  
19 advisory committee established under this section may perform  
20 shall be conducted at a public meeting of the advisory committee  
21 held in compliance with the open meetings act, Act No. 267 of the  
22 Public Acts of 1976, being sections 15.261 to 15.275 of the  
23 Michigan Compiled Laws. If established pursuant to this section,  
24 the environmental education advisory committee shall actively  
25 solicit public testimony at its meetings.

26 (4) ~~Within 3 years after the effective date of this act~~ BY  
27 JULY 19, 1997, the director shall prepare and submit to the

1 legislature a report that evaluates the effectiveness of this  
2 ~~act~~ PART and that recommends whether the environmental educa-  
3 tion advisory committee, if established pursuant to this section,  
4 should be continued.

5       Sec. ~~6~~ 2505. (1) The environmental education fund is cre-  
6 ated within the state treasury.

7       (2) The state treasurer shall direct the investment of the  
8 fund. The state treasurer may receive money or other assets from  
9 any source for deposit into the fund. Interest and earnings from  
10 fund investments shall be credited to the fund.

11       (3) Twenty-five percent of the civil fines collected annu-  
12 ally under the following PARTS OR THEIR PREDECESSOR acts, but not  
13 more than \$150,000.00 in any fiscal year, shall be appropriated  
14 to the fund:

15       (a) ~~Act No. 245 of the Public Acts of 1929, being sections~~  
16 ~~323.1 to 323.13a of the Michigan Compiled Laws~~ PART 31.

17       (b) ~~The hazardous waste management act, Act No. 64 of the~~  
18 ~~Public Acts of 1979, being sections 299.501 to 299.551 of the~~  
19 ~~Michigan Compiled Laws~~ PART 111.

20       (c) ~~The solid waste management act, Act No. 64 of the~~  
21 ~~Public Acts of 1978, being sections 299.401 to 299.437 of the~~  
22 ~~Michigan Compiled Laws~~ PART 115.

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

25       (5) Money in the fund shall be used to implement this ~~act~~  
26 PART and may be used for the establishment and operation of a  
27 clearinghouse of environmental education materials, which would

1 make environmental education materials available to educators  
2 throughout the state.

3 ~~PART 35 IRON ORE BENEFICIATION~~

4 PART 35 USE OF WATER IN MINING LOW-GRADE IRON ORE

5 Sec. ~~2~~ 3501. As used in this ~~act~~ PART:

6 (A) ~~(1)~~ "Low-grade iron ore" means iron-bearing rock in  
7 the Upper Peninsula of this state ~~which~~ THAT is not merchant-  
8 able as ore in its natural state and from which merchantable ore  
9 can be produced only by beneficiation or treatment.

10 (B) ~~(2)~~ "Low-grade iron ore mining property" includes the  
11 ore beneficiation or treatment plant ~~—~~ AND other necessary  
12 buildings, facilities, and lands located in the Upper Peninsula  
13 of this state.

14 ~~(3) "Commission" means the state water resources~~  
15 ~~commission.~~

16 Sec. ~~1~~ 3502. Substantial deposits of low-grade iron ore  
17 are located in the Upper Peninsula of this state. The develop-  
18 ment and continuation of the industry of mining and beneficiating  
19 ~~such~~ low-grade ores will provide employment and generally  
20 improve economic conditions in that area and will be in the  
21 public interest and for the public welfare of this state. As the  
22 mining and beneficiating of the low-grade iron ore requires con-  
23 siderable quantities of water, it is necessary that persons  
24 engaged in or about to engage in the mining and beneficiation of  
25 ~~such~~ LOW-GRADE IRON ores be assured of an adequate and continu-  
26 ing supply of water for ~~such~~ THE operations to protect the  
27 large capital expenditures required for mills, plants, and other



1 improvements. ~~It is, therefor, declared that the~~ THEREFORE,  
2 THE use of water ~~as herein defined~~ in connection with the  
3 mining and beneficiation of ~~such~~ low-grade iron ores is in the  
4 public interest, for the public welfare, and for a public  
5 purpose, ~~and~~ and permits for the use of water or waters ~~as~~  
6 ~~herein defined,~~ may be issued by the ~~commission~~ DEPARTMENT in  
7 connection with the mining and beneficiation of ~~such~~ low-grade  
8 iron ores as ~~herein~~ provided IN THIS PART.

9       Sec. ~~3~~ 3503. The ~~commission~~ DEPARTMENT may grant per-  
10 mits for the drainage, diversion, control, or use of water when  
11 necessary for the operation of a low-grade iron ore mining  
12 property. The operator of the low-grade iron ore mining property  
13 may make application for the permit to the ~~commission~~  
14 DEPARTMENT in the form prescribed by the ~~commission and which~~  
15 DEPARTMENT. THE APPLICATION shall contain ~~such~~ information and  
16 data as may be prescribed by the ~~commission~~ DEPARTMENT in its  
17 rules and regulations. Not later than 60 days following receipt  
18 of ~~any such~~ AN application, the ~~commission~~ DEPARTMENT shall  
19 fix the time and place for a public hearing ~~thereon~~ ON THE  
20 APPLICATION and shall publish notice of the hearing. The notice  
21 shall be published twice in each county involved in at least 1  
22 newspaper of general circulation in the county. At the hearing,  
23 the applicant and any other interested party may appear, present  
24 witnesses, and submit evidence. Following the hearing, the  
25 ~~commission~~ DEPARTMENT may grant the permit and publish notice  
26 ~~thereof~~ OF THE GRANTING OF THE PERMIT, in the manner provided

1 for publication of notice of hearing, upon finding the following  
2 conditions:

3 (A) ~~(1)~~ That the proposed drainage, diversion, control, or  
4 use of waters is necessary for the mining of substantial deposits  
5 of low-grade iron ore, and that other feasible and economical  
6 methods of obtaining a continuing supply of water ~~therefor~~ FOR  
7 THAT PURPOSE are not available to the applicant. ~~→~~

8 (B) ~~(2)~~ That the proposed drainage, diversion, control, or  
9 use of waters will not unreasonably impair the interests of the  
10 public or of riparians in lands or waters or the beneficial  
11 public use ~~thereof~~ OF LANDS, and will not endanger THE public  
12 health or safety.

13 Sec. ~~4~~ 3504. Neither the state nor any of its officers,  
14 agents, or employees shall incur any liability because of the  
15 issuance of a permit under this ~~act~~ PART or of any act or omis-  
16 sion of the permittee ~~→~~ OR his OR HER agents or servants ~~→~~  
17 under or in connection with ~~any~~ A permit ISSUED UNDER THIS  
18 PART.

19 Sec. ~~5~~ 3505. Every permit granted UNDER THIS PART shall  
20 be for ~~such~~ A term as ~~shall be~~ IS necessary to permit the  
21 mining to exhaustion and beneficiation of all low-grade iron ore  
22 referred to in the PERMIT application, but not to exceed 50  
23 years. The ~~commission~~ DEPARTMENT may prescribe in the permit  
24 such time as it ~~deems~~ CONSIDERS reasonable for the commencement  
25 or completion of any operations or construction under the permit  
26 or the exercise of the rights granted ~~thereby~~ IN THE PERMIT.  
27 The original term of the permit or the time allowed for the

1 performance of any condition ~~thereof~~ IN THE PERMIT may be  
2 extended by the ~~commission~~ DEPARTMENT upon application of the  
3 permittee.

4       Sec. ~~6~~ 3506. Every permit issued by the ~~commission~~  
5 DEPARTMENT under ~~the provisions of~~ this ~~act~~ PART shall give  
6 to the permittee the right to use the water specified ~~therein~~  
7 IN THE PERMIT at ~~such~~ THE times, in ~~such~~ THE manner, ~~and~~ in  
8 ~~such~~ THE quantity, and under ~~such~~ THE circumstances as ~~is~~  
9 specified ~~therein~~ IN THE PERMIT, ~~all~~ subject to the condi-  
10 tions ~~therein~~ contained IN THE PERMIT, and shall be irrevocable  
11 except for a breach or violation of the terms and conditions  
12 ~~thereof~~ OF THE PERMIT. If the ~~commission~~ DEPARTMENT finds,  
13 upon consideration of the needs of the applicant, the public  
14 interest to be served by the use of the water by the applicant,  
15 and all other facts relating to the use of the water, that the  
16 public interest requires the inclusion in the permit of a provi-  
17 sion ~~which~~ THAT will authorize modification or revocation  
18 ~~thereof~~ OF THE PERMIT, then the ~~commission~~ DEPARTMENT may  
19 provide ~~therefor~~ FOR MODIFICATION OR REVOCATION OF THE PERMIT  
20 by including in the permit the specific grounds upon which the  
21 permit may be modified or revoked by the ~~commission~~ DEPARTMENT  
22 in the public interest. ~~No~~ A permit issued pursuant to this  
23 ~~act~~ PART shall NOT be revoked for breach or violation of the  
24 terms and conditions ~~thereof~~ OF THE PERMIT or be revoked or  
25 modified upon ~~such~~ other grounds ~~as may be~~ specified in the  
26 permit unless the permittee has been given an opportunity to be  
27 heard ~~thereon~~ ON THE GROUNDS FOR THE PROPOSED REVOCATION OR

1 MODIFICATION after 30 days' written notice to the permittee.  
2 ~~No~~ A permit shall NOT be revoked for breach or violation of the  
3 terms and conditions ~~thereof~~ OF THE PERMIT unless the permittee  
4 has been given an opportunity to correct or remedy the alleged  
5 breach or violation within a reasonable time and has failed to do  
6 so. Every notice shall specify the grounds for the proposed  
7 revocation or modification and, in the event of a proposed modi-  
8 fication, the extent ~~thereof~~ OF THE MODIFICATION. If A viola-  
9 tion of the conditions of a permit exists ~~which~~ THAT in the  
10 judgment of the ~~chairman of the commission so~~ DEPARTMENT  
11 threatens the public interest in the waters involved as to  
12 require abatement without first giving 30 days' written notice to  
13 the permittee, ~~he~~ THE DEPARTMENT may issue an emergency order  
14 for abatement, which order shall have the same validity as if a  
15 30 days' written notice had been given and the permittee HAD BEEN  
16 granted a hearing. The emergency order shall remain in force no  
17 longer than 21 days from its effective date. Failure to comply  
18 with an emergency order constitutes grounds for revocation of the  
19 permit.

20 Sec. ~~7~~ 3507. (1) The ~~authority to administer this act is~~  
21 ~~hereby conferred upon the commission which shall be charged with~~  
22 ~~the responsibility of~~ DEPARTMENT IS RESPONSIBLE FOR enforcing  
23 ~~the provisions hereof; and such authority shall be exercised by~~  
24 ~~and through such officer or employee of the commission as the~~  
25 ~~commission shall designate~~ THIS PART.

26 (2) At any hearing, the ~~commission~~ DEPARTMENT, or its duly  
27 authorized agents, ~~shall have~~ HAS THE power to administer

1 oaths, to take testimony and compel the introduction of written  
2 evidence, to issue subpoenas, and to compel the attendance of  
3 witnesses.

4 Sec. ~~8~~ 3508. The ~~commission~~ DEPARTMENT shall ~~make~~  
5 PROMULGATE rules ~~and regulations in accordance with the provi-~~  
6 ~~sions of Act No. 88 of the Public Acts of 1943, as amended, being~~  
7 ~~sections 24.71 to 24.82 of the Compiled Laws of 1948, and all~~  
8 ~~proceedings under this act shall be in conformity with the provi-~~  
9 ~~sions of Act No. 197 of the Public Acts of 1952, as amended,~~  
10 ~~being sections 24.101 to 24.110 of the Compiled Laws of 1948, and~~  
11 ~~any~~ TO IMPLEMENT THIS PART. ANY interested person ~~shall have~~  
12 HAS the right of judicial review from any decision, order, or  
13 permit made or granted by the ~~commission in accordance with the~~  
14 ~~provisions of said act~~ DEPARTMENT UNDER THE ADMINISTRATIVE PRO-  
15 CEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,  
16 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

17 ~~PART 37 WATER POLLUTION CONTROL FACILITIES~~

18 PART 37 WATER POLLUTION CONTROL FACILITIES; TAX EXEMPTION

19 Sec. ~~4~~ 3701. As used in this ~~act~~ PART:

20 (a) "Facility" means any disposal system, including disposal  
21 wells, or any treatment works, appliance, equipment, machinery,  
22 or installation constructed, used, or placed in operation primar-  
23 ily for the purpose of reducing, controlling, or eliminating  
24 water pollution caused by industrial waste.

25 (b) "Industrial waste" means any liquid, gaseous, or solid  
26 waste substance resulting from any process of industry,  
27 manufacture, trade, or business, or from the development,

1 processing, or recovery of any paper or wood, which is capable of  
2 polluting the waters of the state.

3 (c) "Treatment works" means any plant, pumping station,  
4 incinerator, or other works or reservoir used primarily for the  
5 purpose of treating, stabilizing, isolating, or holding indus-  
6 trial waste.

7 (d) "Disposal system" means A system used primarily for dis-  
8 posing of or isolating industrial waste and includes pipelines or  
9 conduits, pumping stations and force mains, and all other con-  
10 structions, devices, appurtenances, and facilities used for col-  
11 lecting or conducting water-borne industrial waste to a point of  
12 disposal, treatment, or isolation, except that which is necessary  
13 to the manufacture of products.

14 Sec. ~~2~~ 3702. (1) An application for a water pollution  
15 control tax exemption certificate shall be filed with the state  
16 tax commission in ~~such~~ A manner and in ~~such~~ A form as ~~may~~  
17 ~~be~~ prescribed by the STATE TAX commission. The application  
18 shall contain plans and specifications of the facility, including  
19 all materials incorporated or to be incorporated ~~therein~~ IN THE  
20 FACILITY and a descriptive list of all equipment acquired or to  
21 be acquired by the applicant for the purpose of industrial waste  
22 pollution control, together with the proposed operating procedure  
23 for the control facility.

24 (2) Before issuing a certificate, the state tax commission  
25 shall seek approval of the ~~water resources commission~~  
26 DEPARTMENT and give notice in writing by certified mail to the  
27 department of ~~revenue~~ TREASURY and to the assessor of the

1 taxing unit in which the facility is located or to be located,  
 2 and shall afford to the applicant and the assessor an opportunity  
 3 for a hearing. Tax exemption granted under this ~~act~~ PART shall  
 4 be reduced to the extent of any commercial or productive value  
 5 derived from any materials captured or recovered by any  
 6 facility.

7       Sec. ~~3~~ 3703. If the ~~water resources commission~~  
 8 DEPARTMENT finds that the facility is designed and operated pri-  
 9 marily for the control, capture, and removal of industrial waste  
 10 from the water, and is suitable, reasonably adequate, and meets  
 11 the intent and purposes of ~~Act No. 245 of the Public Acts of~~  
 12 ~~1929, as amended, being sections 323.1 to 323.12a of the Compiled~~  
 13 ~~Laws of 1948, he~~ PART 31, THE DEPARTMENT shall ~~so~~ notify the  
 14 state tax commission, ~~who~~ WHICH shall issue a certificate. The  
 15 effective date of the certificate ~~shall be~~ IS the date ~~of~~  
 16 ~~issue of~~ ON WHICH the certificate IS ISSUED.

17       Sec. ~~4~~ 3704. (1) For the period subsequent to the effec-  
 18 tive date of the certificate and continuing ~~so~~ AS long as the  
 19 certificate is in force, a facility covered ~~thereby~~ BY THE  
 20 CERTIFICATE is exempt from real and personal property taxes  
 21 imposed under THE GENERAL PROPERTY TAX ACT, Act No. 206 of the  
 22 Public Acts of 1893, ~~as amended,~~ being sections 211.1 to  
 23 211.157 of the Michigan Compiled Laws.

24       (2) Tangible personal property purchased and installed as a  
 25 component part of the facility shall be exempt from BOTH OF THE  
 26 FOLLOWING:

1 (a) Sales taxes imposed under THE GENERAL SALES TAX ACT, Act  
2 No. 167 of the Public Acts of 1933, ~~as amended,~~ being sections  
3 205.51 to 205.78 of the Michigan Compiled Laws.

4 (b) Use taxes imposed under THE USE TAX ACT, Act No. 94 of  
5 the Public Acts of 1937, being sections 205.91 to 205.111 of the  
6 Michigan Compiled Laws.

7 (3) The certificate shall state the total acquisition cost  
8 of the facility entitled to exemption.

9 Sec. ~~5~~ 3705. The state tax commission shall send a water  
10 pollution control tax exemption certificate, when issued, by cer-  
11 tified mail to the applicant, and certified copies by certified  
12 mail to the assessor of the taxing unit in which any property to  
13 which the ~~same~~ CERTIFICATE relates is located or to be located  
14 and to the department of ~~revenue~~ TREASURY, which copies shall  
15 be filed of record in their offices. Notice of the STATE TAX  
16 commission's refusal to issue a certificate shall be sent by cer-  
17 tified mail to the applicant, to the department of ~~revenue~~  
18 TREASURY, and to the assessor.

19 Sec. ~~6~~ 3706. (1) The state tax commission, on notice by  
20 certified mail to the applicant and opportunity for a hearing,  
21 ~~shall~~ on its own initiative or on complaint of the ~~water~~  
22 ~~resource commission~~ DEPARTMENT, the department of ~~revenue~~  
23 TREASURY, or ~~by~~ the assessor of the taxing unit in which any  
24 property to which the certificate relates is located, SHALL  
25 modify or revoke the certificate ~~whenever~~ IF any of the follow-  
26 ing ~~appears~~ APPEAR:



1 (a) The certificate was obtained by fraud or  
2 misrepresentation.

3 (b) The holder of the certificate has failed substantially  
4 to proceed with the construction, reconstruction, installation,  
5 or acquisition of a facility or to operate the facility for the  
6 purpose and degree of control specified in the certification ~~—~~  
7 or an amended certificate.

8 (c) The facility covered by the certificate is no longer  
9 used for the primary purpose of pollution control and is being  
10 used for a different purpose.

11 (2) On the mailing by certified mail to the certificate  
12 holder, the department of ~~revenue~~ TREASURY, and the local  
13 assessor of notice of the action of the state tax commission mod-  
14 ifying or revoking a certificate, the certificates shall cease to  
15 be in force or shall remain in force only as modified. ~~When~~ IF  
16 a certificate is revoked because IT WAS obtained by fraud or mis-  
17 representation, all taxes ~~which~~ THAT would have been payable if  
18 ~~no~~ A certificate had NOT been issued ~~shall be~~ ARE immediately  
19 due and payable with the maximum interest and penalties pre-  
20 scribed by applicable law. ~~No~~ A statute of limitations shall  
21 NOT operate in the event of fraud or misrepresentation.

22 Sec. ~~7~~ 3707. A party aggrieved by the issuance, ~~or~~  
23 refusal to issue, revocation, or modification of a pollution con-  
24 trol tax exemption certificate may appeal from the finding and  
25 order of the state tax commission in the manner and form and  
26 within the time provided by ~~Act No. 197 of the Public Acts of~~  
27 ~~1952, as amended~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT

1 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
2 24.328 OF THE MICHIGAN COMPILED LAWS.

3       Sec. ~~-8-~~ 3708. The state tax commission may ~~adopt such~~  
4 PROMULGATE rules ~~and regulations~~ as it ~~deems~~ CONSIDERS neces-  
5 sary for the administration of this ~~act subject to the provi-~~  
6 ~~sions of Act No. 88 of the Public Acts of 1943, as amended, being~~  
7 ~~sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject~~  
8 ~~to Act No. 197 of the Public Acts of 1952, as amended, being sec-~~  
9 ~~tions 24.101 to 24.110 of the Compiled Laws of 1948~~ PART. These  
10 rules ~~and regulations~~ shall not abridge the authority of the  
11 ~~water resources commission~~ DEPARTMENT to determine whether or  
12 not industrial waste pollution control exists within the meaning  
13 of this ~~act~~ PART.

14 ~~PART 45 BONDS FOR PREVENTION AND ABATEMENT OF WATER POLLUTION~~  
15 PART 45 BONDS FOR PREVENTION AND ABATEMENT OF WATER POLLUTION

16       Sec. ~~+~~ 4501. The ~~terms~~ TERM "municipality" or  
17 "municipalities" as ~~herein~~ used ~~shall be construed to mean~~ IN  
18 THIS PART MEANS and ~~include any~~ INCLUDES A county, city, vil-  
19 lage, township, school district, metropolitan district, port dis-  
20 trict, drainage district, authority, or other governmental  
21 authority, agency, or department within or of the state with  
22 power to acquire, construct, improve, or operate facilities for  
23 the prevention or abatement of water pollution, or any combina-  
24 tion ~~thereof~~ OF SUCH GOVERNMENTAL AGENCIES.

25       Sec. ~~-2-~~ 4502. The legislature hereby determines ~~that~~ ALL  
26 OF THE FOLLOWING:

1 (A) THAT it is essential for the public health, safety, and  
2 welfare of the state and the residents ~~thereof~~ OF THE STATE to  
3 undertake a complete program of construction of facilities to  
4 abate and prevent pollution of the water in and adjoining the  
5 state, the program to be undertaken by the state in cooperation  
6 with any municipalities ~~—~~ AND with such aid from the United  
7 States government or its agencies as is available. ~~It is fur-~~  
8 ~~ther determined that~~

9 (B) THAT abating and preventing pollution of the water in  
10 and adjoining the state is essential to the encouragement of  
11 business, industrial, agricultural, and recreational activities  
12 within the state. ~~It is further determined that~~

13 (C) THAT the encouragement of business, industrial, agricul-  
14 tural, and recreational activities in the state by abating and  
15 preventing pollution of the water in and adjoining the state will  
16 benefit the economy of the state by encouraging businesses and  
17 industries to locate or expand within the state in order to pro-  
18 vide more employment within the state. ~~It is further determined~~  
19 ~~that~~

20 (D) THAT abating and preventing pollution of the water in  
21 and adjoining the state is in furtherance of the purpose and the  
22 public policy of the state as expressed in sections 51 and 52 of  
23 article ~~4~~ IV of the state constitution of 1963 and to carry out  
24 the remaining unfunded portions of the program for which electors  
25 of the state authorized the issuance of general obligation  
26 bonds.

1           Sec. ~~3~~ 4503. The state shall borrow the sum of  
2 \$335,000,000.00 and issue the general obligation bonds of the  
3 state, pledging the faith and credit of the state for the payment  
4 of the principal and interest ~~thereon~~ ON THE BONDS, for the  
5 purpose of providing money for the planning, acquisition, and  
6 construction of facilities for the prevention and abatement of  
7 water pollution, consisting of trunk and interceptor sewers,  
8 sewage treatment plants and facilities, improvements and addi-  
9 tions to existing sewage treatment plants and facilities, and  
10 such other structures, devices, or facilities as will prevent or  
11 abate water pollution, and for the making of grants, loans, and  
12 advances to municipalities, in accordance with conditions,  
13 methods, and procedures ~~therefor to be~~ established by law.

14           Sec. ~~4~~ 4504. (1) The bonds shall be issued in 1 or more  
15 series, each series to be in such principal amount, to be dated,  
16 to have such maturities which may be either serial, term, or term  
17 and serial, to bear interest at ~~such~~ A rate or rates ~~not~~ to  
18 exceed 6% per annum if issued before September 19, 1982 ~~and~~  
19 not to exceed 18% per annum if issued on or after September 19,  
20 1982, to be subject or not subject to prior redemption and, if  
21 subject to prior redemption with such call premiums, to be pay-  
22 able at such place or places, to have or NOT have ~~not~~ such pro-  
23 visions for registration as to principal only or as to both prin-  
24 cipal and interest, AND to be in such form and to be executed in  
25 such manner as ~~shall be~~ determined by resolution to be adopted  
26 by the administrative board. The administrative board may in the  
27 resolution provide for the investment and reinvestment of bond

1 sales proceeds ~~—~~ and such other details for ~~said~~ THE bonds  
2 and the security ~~thereof~~ OF THE BONDS as may be ~~deemed~~  
3 CONSIDERED to be necessary and advisable. The bonds or any  
4 series ~~thereof~~ OF THE BONDS shall be sold for not less than the  
5 par value ~~thereof~~ OF THE BONDS and may be sold, as authorized  
6 by the state administrative board, either at a public sale or at  
7 a publicly negotiated sale. Unless an exception from prior  
8 approval is available pursuant to subsection (2), the bonds prior  
9 to their issuance shall be approved by the ~~municipal finance~~  
10 ~~commission or its successor agency~~ DEPARTMENT OF TREASURY, but,  
11 except as provided by subsection (2), shall not otherwise be  
12 subject to the municipal finance act, Act No. 202 of the Public  
13 Acts of 1943, ~~as amended,~~ being sections 131.1 to 139.3 of the  
14 Michigan Compiled Laws.

15 (2) The requirement of subsection (1) for obtaining the  
16 prior approval of the ~~municipal finance commission or its suc~~  
17 ~~cessor agency~~ DEPARTMENT OF TREASURY before issuing bonds under  
18 this ~~act~~ PART shall be subject to sections 10 and 11 of  
19 chapter III of Act No. 202 of the Public Acts of 1943, being  
20 sections 133.10 and 133.11 of the Michigan Compiled Laws, and the  
21 department of treasury ~~shall have~~ HAS the same authority as  
22 provided by section 11 of chapter III of Act No. 202 of the  
23 Public Acts of 1943 to issue an order providing or denying an  
24 exception from the prior approval required by subsection (1) for  
25 bonds authorized by this ~~act~~ PART.

26 Sec. ~~5~~ 4505. The proceeds of sale of the bonds or any  
27 series ~~thereof~~ OF THE BONDS and any premium and accrued

1 interest received on the delivery ~~thereof~~ OF THE BONDS shall be  
2 deposited in the treasury in a separate account and shall be dis-  
3 bursed from the separate account only for the purposes for which  
4 the bonds have been authorized and FOR the expense of issuing  
5 ~~said~~ THE bonds. Proceeds of sale of ~~said~~ THE bonds or any  
6 series ~~thereof~~ OF THE BONDS shall be expended for the purposes  
7 set forth in this ~~act~~ PART in ~~such~~ THE manner ~~as shall be~~  
8 provided by law.

9       Sec. ~~6~~ 4506. Bonds issued under this ~~act shall be~~ PART  
10 ARE fully negotiable under the ~~provisions of~~ UNIFORM COMMERCIAL  
11 CODE, Act No. 174 of the Public Acts of 1962, ~~as amended,~~ being  
12 sections 440.1101 to ~~440.9994~~ 440.11102 of the MICHIGAN  
13 Compiled Laws, ~~of 1948,~~ and the bonds and the interest ~~thereon~~  
14 ~~shall be~~ ON THE BONDS ARE exempt from all taxation by the state  
15 or any of its political subdivisions.

16       Sec. ~~7~~ 4507. Bonds issued under ~~the provisions of~~  
17 FORMER ACT NO. 76 OF THE PUBLIC ACTS OF 1968 OR this ~~act~~ PART  
18 are ~~hereby made~~ securities in which all banks, bankers, savings  
19 banks, trust companies, savings and loan associations, investment  
20 companies, and other persons carrying on a banking business; ~~—~~  
21 all insurance companies, insurance associations, and other per-  
22 sons carrying on an insurance business; and all administrators,  
23 executors, guardians, trustees, and other fiduciaries may prop-  
24 erly and legally invest any funds, including capital, belonging  
25 to them or within their control.

26       Sec. ~~8~~ 4508. The question of borrowing the sum of  
27 \$335,000,000.00 and issuing bonds of the state for the purpose

1 set forth in this ~~act~~ PART shall be submitted to A vote of the  
 2 electors of the state qualified to vote ~~thereon~~ ON THE QUESTION  
 3 in accordance with ~~the provisions of~~ SECTION 15 OF article ~~9,~~  
 4 ~~section 15~~ IX of the ~~Michigan~~ STATE constitution of 1963, at  
 5 the general November election to be held on November 5, 1968.

6 The question submitted shall be substantially as follows:

7 "Shall the state of Michigan borrow the sum of  
 8 \$335,000,000.00 and issue general obligation bonds of the state  
 9 therefor pledging the full faith and credit of the state for the  
 10 payment of principal and interest thereon for the purpose of  
 11 planning, acquiring and constructing facilities for the preven-  
 12 tion and abatement of water pollution and for the making of  
 13 grants, loans and advances to municipalities, political subdivi-  
 14 sions and agencies of the state for such purposes, the method of  
 15 repayment of said bonds to be from the general fund of the  
 16 state?

17 Yes [ ]

18 No [ ]".

19 Sec. ~~9~~ 4509. The secretary of state shall take such steps  
 20 and perform all acts as are necessary to properly submit ~~said~~  
 21 THE question to the electors of the state qualified to vote  
 22 ~~thereon~~ ON THE QUESTION at the general November election to be  
 23 held on November 5, 1968.

24 Sec. ~~10~~ 4510. After the issuance of the bonds authorized  
 25 by FORMER ACT NO. 76 OF THE PUBLIC ACTS OF 1968 OR this ~~act~~  
 26 PART, or any series ~~thereof it shall be the duty of~~ OF THE  
 27 BONDS, the legislature ~~and the legislature hereby covenants that~~

1 ~~it will~~ SHALL each year make appropriations fully sufficient to  
 2 pay promptly when due the principal of and interest on all out-  
 3 standing bonds authorized by FORMER ACT NO. 76 OF THE PUBLIC ACTS  
 4 OF 1968 OR this ~~act~~ PART and all costs incidental to the pay-  
 5 ment ~~thereof~~ OF THAT PRINCIPAL AND INTEREST.

6       Sec. ~~++~~ 4511. ~~No bonds~~ BONDS shall NOT be issued under  
 7 this ~~act~~ PART unless the question set forth in section ~~8 of~~  
 8 ~~this act~~ 4508 is approved by a majority vote of the qualified  
 9 electors voting ~~thereon~~ ON THE QUESTION at the general November  
 10 election to be held on November 5, 1968.

11       ~~Sec. 12. This act shall be finally effective at such time~~  
 12 ~~as the question set forth in section 8 is approved by a majority~~  
 13 ~~vote of the qualified electors of the state as required by arti-~~  
 14 ~~cle 9, section 15 of the Michigan constitution of 1963.~~

15       ~~PART 59 AIR POLLUTION CONTROL FACILITY TAX EXEMPTION~~

16       PART 59 AIR POLLUTION CONTROL FACILITY; TAX EXEMPTION

17       Sec. ~~+~~ 5901. As used in this ~~act~~ PART, "facility" means  
 18 machinery, equipment, structures, or any part or accessories  
 19 ~~thereof~~ OF MACHINERY, EQUIPMENT, OR STRUCTURES, installed or  
 20 acquired for the primary purpose of controlling or disposing of  
 21 air pollution ~~which~~ THAT if released would render the air harm-  
 22 ful or inimical to the public health or to property within this  
 23 state. ~~It~~ FACILITY includes an incinerator equipped with a  
 24 pollution abatement device in effective operation. ~~It~~ FACILITY  
 25 does not include an air conditioner, dust collector, fan, or  
 26 other similar facility for the benefit of personnel or of a



1 business. ~~"~~ Facility ~~"~~ also means the following, if the  
2 installation was completed on or ~~since~~ AFTER July 23, 1965:

3 (a) Conversion or modification of a fuel burning system to  
4 effect air pollution control. The fuel burner portion only of  
5 the system ~~shall be~~ IS eligible for tax exemption.

6 (b) Installation of a new fuel burning system to effect air  
7 pollution control. The fuel burner portion only of the system  
8 ~~shall be~~ IS eligible for tax exemption.

9 (c) A process change involving production equipment made ~~so~~  
10 ~~as~~ to satisfy the requirements of ~~the air pollution Act No. 348~~  
11 ~~of the Public Acts of 1965, as amended, being sections 336.11 to~~  
12 ~~336.36 of the Compiled Laws of 1948,~~ PART 55 and rules promul-  
13 gated ~~thereunder~~ UNDER THAT PART. The maximum cost allowed  
14 shall be 25% of the cost of the new process unit but shall not  
15 exceed the cost of the conventional control equipment applied on  
16 the basis of the new process production rate on the preexisting  
17 process.

18 Sec. ~~2~~ 5902. (1) An application for a pollution control  
19 tax exemption certificate shall be filed with the state tax com-  
20 mission in ~~such~~ A manner and in ~~such~~ A form as ~~may be~~ pre-  
21 scribed by the STATE TAX commission. The application shall con-  
22 tain plans and specifications of the facility, including all  
23 materials incorporated or to be incorporated ~~therein~~ IN THE  
24 FACILITY and a descriptive list of all equipment acquired or to  
25 be acquired by the applicant for the purpose of pollution  
26 control, together with the proposed operating procedure for the  
27 control facility.

1 (2) Before issuing a certificate, the state tax commission  
 2 shall seek approval of the ~~director of public health~~ DEPARTMENT  
 3 and give notice in writing by certified mail to the department  
 4 ~~of revenue~~ OF TREASURY and to the assessor of the taxing unit  
 5 in which the facility is located or to be located, and shall  
 6 afford to the applicant and the assessor an opportunity for a  
 7 hearing. Tax exemption granted under this ~~act~~ PART shall be  
 8 reduced to the extent of any commercial or productive value  
 9 derived from any materials captured or recovered by any air pol-  
 10 lution control facility as defined in ~~section 4~~ THIS PART.

11 Sec. ~~3~~ 5903. If the ~~director of public health~~  
 12 DEPARTMENT finds that the facility is designed and operated pri-  
 13 marily for the control, capture, and removal of pollutants from  
 14 the air, and is suitable, reasonably adequate, and meets the  
 15 intent and purposes of ~~the air pollution act, Act. No. 348 of~~  
 16 ~~the Public Acts of 1965, as amended, being sections 336.11 to~~  
 17 ~~336.36 of the Compiled Laws of 1948,~~ PART 55 and rules promul-  
 18 gated ~~thereunder, he~~ UNDER THAT PART, THE DEPARTMENT shall ~~so~~  
 19 notify the state tax commission, ~~who~~ WHICH shall issue a  
 20 certificate. The effective date of the certificate ~~shall be~~ IS  
 21 the date ~~of issue of~~ ON WHICH the certificate IS ISSUED.

22 Sec. ~~4~~ 5904. (1) For the period subsequent to the effec-  
 23 tive date of the certificate and continuing ~~so long~~ as LONG AS  
 24 the certificate is in force, a facility covered by the certifi-  
 25 cate is exempt from real and personal property taxes imposed  
 26 under THE GENERAL PROPERTY TAX ACT, Act No. 206 of the Public

1 Acts of 1893, ~~as amended,~~ being sections 211.1 to 211.157 of  
2 the Michigan Compiled Laws.

3 (2) Tangible personal property purchased and installed as a  
4 component part of the facility ~~shall be~~ IS exempt from BOTH OF  
5 THE FOLLOWING:

6 (a) Sales taxes imposed under THE GENERAL SALES TAX ACT, Act  
7 No. 167 of the Public Acts of 1933, ~~as amended,~~ being sections  
8 205.51 to 205.78 of the Michigan Compiled Laws.

9 (b) Use taxes imposed under THE USE TAX ACT, Act No. 94 of  
10 the Public Acts of 1937, ~~as amended,~~ being sections 205.91 to  
11 205.111 of the Michigan Compiled Laws.

12 (3) The certificate shall state the total acquisition cost  
13 of the facility entitled to exemption.

14 Sec. ~~5~~ 5905. The state tax commission shall send an air  
15 pollution control tax exemption certificate, when issued, by cer-  
16 tified mail to the applicant, and certified copies by certified  
17 mail to the assessor of the taxing unit in which any property to  
18 which the ~~same~~ CERTIFICATE relates is located or to be located  
19 and to the department of ~~revenue~~ TREASURY, which copies shall  
20 be filed of record in their offices. Notice of the STATE TAX  
21 commission's refusal to issue a certificate shall be sent by cer-  
22 tified mail to the applicant, to the department of ~~revenue~~  
23 TREASURY, and to the assessor.

24 Sec. ~~6~~ 5906. (1) The state tax commission, on notice by  
25 certified mail to the applicant and opportunity for a hearing,  
26 shall, on its own initiative or on complaint of the ~~director of~~  
27 ~~public health~~ DEPARTMENT, the department of ~~revenue~~ TREASURY,

1 or ~~by~~ the assessor of the taxing unit in which any property to  
 2 which the certificate relates is located, modify or revoke the  
 3 certificate ~~whenever~~ IF any of the following ~~appears~~ APPEAR:

4 (a) The certificate was obtained by fraud or  
 5 misrepresentation.

6 (b) The holder of the certificate has failed substantially  
 7 to proceed with the construction, reconstruction, installation,  
 8 or acquisition of a facility or to operate the facility for the  
 9 purpose and degree of control specified in the certification ~~T~~  
 10 or an amended certificate.

11 (c) The facility covered by the certificate is no longer  
 12 used for the primary purpose of pollution control and is being  
 13 used for a different purpose.

14 (d) Substantial noncompliance with ~~Act No. 348 of the~~  
 15 ~~Public Acts of 1965, as amended,~~ PART 55 or any rule promulgated  
 16 ~~thereunder~~ UNDER THAT PART.

17 (2) On the mailing by certified mail to the certificate  
 18 holder, the department of ~~revenue~~ TREASURY, and the local  
 19 assessor of notice of the action of the state tax commission mod-  
 20 ifying or revoking a certificate, the certificate shall cease to  
 21 be in force or shall remain in force only as modified. ~~When~~ IF  
 22 a certificate is revoked because IT WAS obtained by fraud or mis-  
 23 representation, all taxes ~~which~~ THAT would have been payable if  
 24 ~~no~~ A certificate had NOT been issued ~~shall be~~ ARE immediately  
 25 due and payable with the maximum interest and penalties pre-  
 26 scribed by applicable law. ~~No~~ A statute of limitations shall  
 27 NOT operate in the event of fraud or misrepresentation.

1       Sec. ~~7~~ 5907. A party aggrieved by the issuance, ~~or~~  
 2 refusal to issue, revocation, or modification of a pollution con-  
 3 trol tax exemption certificate may appeal from the finding and  
 4 order of the state tax commission in the manner and form and  
 5 within the time provided by ~~Act No. 197 of the Public Acts of~~  
 6 ~~1952, as amended~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT  
 7 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
 8 24.328 OF THE MICHIGAN COMPILED LAWS.

9       Sec. ~~8~~ 5908. The state tax commission may adopt ~~such~~  
 10 rules ~~and regulations~~ as it ~~deems~~ CONSIDERS necessary for the  
 11 administration of this ~~act subject to the provisions of Act~~  
 12 ~~No. 88 of the Public Acts of 1943, as amended, being sections~~  
 13 ~~24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act~~  
 14 ~~No. 197 of the Public Acts of 1952, as amended, being sections~~  
 15 ~~24.101 to 24.110 of the Compiled Laws of 1948~~ PART. These rules  
 16 ~~and regulations~~ shall not abridge the authority of the  
 17 ~~director of public health~~ DEPARTMENT to determine whether or  
 18 not air pollution control exists within the meaning of this ~~act~~  
 19 PART.

20                   ~~PART 61 EMISSIONS FROM VESSELS~~

21                   PART 61 EMISSIONS FROM VESSELS

22       Sec. ~~1~~ 6101. A marine vessel while navigating in  
 23 ~~Michigan~~ THE waters OF THIS STATE within 1 mile of land shall  
 24 not blow flues unless necessary under AN emergency condition for  
 25 the safe navigation of the vessel or to alleviate or extinguish a  
 26 flash fire in the boiler up-takes or during departure-arrival  
 27 operations.

1           Sec. ~~-2-~~ 6102. A person who is convicted of violating this  
2 ~~act~~ PART is guilty of a misdemeanor, ~~and shall be fined~~  
3 PUNISHABLE BY A FINE OF not more than \$1,000.00. Each occurrence  
4 ~~shall be considered~~ IS a separate offense.

5   ~~PART 63 MOTOR VEHICLES EMISSIONS INSPECTION AND MAINTENANCE~~

6           PART 63 MOTOR VEHICLE EMISSIONS TESTING FOR WEST MICHIGAN

7           ~~Sec. 1. This act shall be known and may be cited as the~~  
8 "motor vehicle emissions inspection and maintenance program  
9 act".

10          Sec. ~~-2-~~ 6301. For the purposes of this ~~act~~ PART, the  
11 words and phrases contained in sections ~~-3-~~ 6302 to ~~-5-~~ 6304 have  
12 the meanings ascribed to them in those sections.

13          Sec. ~~-3-~~ 6302. (1) "Alternative fuel" means the following  
14 fuel sources used to propel a motor vehicle:

15           (a) Compressed natural gas.

16           (b) Diesel fuel.

17           (c) Electric power.

18           (d) Propane.

19           (e) Any other source as defined by rule promulgated by the  
20 department.

21          (2) "Certificate of compliance" means a serially numbered  
22 written instrument or document that is issued to the owner of a  
23 motor vehicle upon passing an inspection or reinspection and is  
24 evidence that the motor vehicle complies with the standards and  
25 criteria adopted by the ~~state transportation~~ department under  
26 this ~~act~~ PART. The department shall consult with the  
27 department of natural resources when appropriate to determine

1 that rules and standards will comply with federal requirements  
2 and sound environmental considerations.

3 (3) "Certificate of waiver" means a serially numbered writ-  
4 ten document or sticker indicating that the standards and cri-  
5 teria of the department have been met for a motor vehicle pursu-  
6 ant to ~~the requirements of this act~~ PART.

7 (4) "Clean air act" means chapter 360, 69 Stat. 322, 42  
8 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a,  
9 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to  
10 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617,  
11 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to  
12 7661f, and 7671 to 7671q. Clean air act includes the regulations  
13 promulgated under the clean air act.

14 (5) "Consumer protection" means protecting the public from  
15 unfair or deceptive practices.

16 (6) "Contractor" means a person who enters into a contract  
17 with the department to operate public motor vehicle inspection  
18 stations under this ~~act~~ PART.

19 (7) "Cut point" means the level of pollutants emitted that  
20 is used in determining whether a particular make and model of  
21 motor vehicle passes or fails all or a part of an inspection.

22 (8) "Department" means the state transportation department.

23 Sec. ~~4~~ 6303. (1) "Emission control device" means a cata-  
24 lytic converter, thermal reactor, or other component part used by  
25 a vehicle manufacturer to reduce emissions or to comply with  
26 emission standards prescribed by regulations promulgated by the

1 United States environmental protection agency under the clean air  
2 act.

3 (2) "Initial inspection" means an inspection performed on a  
4 motor vehicle for the first time in a test cycle.

5 (3) "Inspection" means testing of a motor vehicle for com-  
6 pliance with emission control requirements of this ~~act~~ PART and  
7 the clean air act.

8 (4) "Maintenance" means the repair or adjustment of a motor  
9 vehicle to bring that motor vehicle into compliance with emission  
10 control requirements of this ~~act~~ PART and rules promulgated  
11 under this ~~act~~ PART.

12 (5) "Motor vehicle" OR "VEHICLE" means a self-propelled  
13 vehicle as defined in section 79 of the Michigan vehicle code,  
14 Act No. 300 of the Public Acts of 1949, being section 257.79 of  
15 the Michigan Compiled Laws, of 10,000 pounds or less gross vehi-  
16 cle weight, which is required to be registered for use upon the  
17 public streets and highways of this state under the Michigan  
18 vehicle code, Act No. 300 of the Public Acts of 1949, being sec-  
19 tions 257.1 to 257.923 of the Michigan Compiled Laws. For pur-  
20 poses of this ~~act~~ PART, motor vehicle includes those vehicles  
21 owned by the government of the United States, this state, and any  
22 political subdivision of this state.

23 (6) "National ambient air quality standards" means the air  
24 quality standards for outside air as established in the clean air  
25 act.

26 Sec. ~~5~~ 6304. (1) ~~"Person" means an individual,~~  
27 ~~partnership, corporation, association, governmental entity, or~~



1 ~~other legal entity.~~ (2) "Pollutants" means nitrogen oxides,  
2 carbon monoxide, hydrocarbons, and other toxic substances emitted  
3 from the operation of a motor vehicle.

4 (2) ~~(3)~~ "Public inspection station" means a facility for  
5 motor vehicle inspection operated under contract with the depart-  
6 ment as provided in this ~~act~~ PART.

7 ~~(4) "Rules" means rules promulgated pursuant to the admin-~~  
8 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~  
9 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
10 ~~Laws.~~

11 (3) ~~(5)~~ "Tamper with" means to remove or render inopera-  
12 tive, ~~or~~ TO cause to be removed or rendered inoperative, or to  
13 make less operative ~~—~~ an emission control device ~~—~~ or an ele-  
14 ment of an emission control device that is required by the clean  
15 air act to be installed in or on a motor vehicle.

16 (4) ~~(6)~~ "Test-only network" means a network of inspection  
17 stations that perform official vehicle emissions inspections and  
18 in which owners and employees of those stations, or companies  
19 owning those stations, are contractually or legally barred from  
20 engaging in motor vehicle repair or service, motor vehicle parts  
21 sales, and motor vehicle sale and leasing, either directly or  
22 indirectly, and are barred from referring vehicle owners to par-  
23 ticular providers of motor vehicle repair services.

24 Sec. ~~6~~ 6305. (1) There is established a motor vehicle  
25 emissions inspection and maintenance program fund to be main-  
26 tained as a separate fund in the state treasury and to be  
27 administered by the department. Money received and collected for

1 vehicle emissions inspections under this ~~act~~ PART shall be  
2 deposited in the state treasury to the credit of the motor vehi-  
3 cle emissions inspection and maintenance program fund.

4 (2) The vehicle emissions inspection account is created in  
5 the motor vehicle emissions inspection and maintenance program  
6 fund. Money in the vehicle emissions inspection account shall be  
7 appropriated by the legislature for the purposes of a public edu-  
8 cation program to be conducted by the department, start-up costs  
9 required to implement requirements of the motor vehicle emissions  
10 inspection and maintenance program under this ~~act~~ PART, admin-  
11 istration and oversight by the department, enforcement of the  
12 motor vehicle emissions inspection and maintenance program  
13 through the vehicle registration process by the department of  
14 state, gasoline inspection and testing, and other activities  
15 related to the motor vehicle emissions inspection and maintenance  
16 program.

17 (3) Funds remaining in the motor vehicle emissions inspec-  
18 tion and maintenance program fund at the end of a fiscal year  
19 shall not lapse TO THE GENERAL FUND but shall remain in the motor  
20 vehicle emissions inspection and maintenance program fund for  
21 appropriation in the following year.

22 Sec. ~~7~~ 6306. (1) Each motor vehicle subject to this ~~act~~  
23 PART shall be inspected for emissions as provided in this ~~act~~  
24 PART. A person shall not operate a motor vehicle subject to this  
25 ~~act~~ PART whose certificate of compliance has expired or who has  
26 not received a time extension or waiver and ~~the~~ WHOSE vehicle  
27 fails to meet emission cut points established by the department

1 or other emission control requirements established by the  
2 department in this ~~act~~ PART. If a vehicle subject to testing  
3 under this ~~act~~ PART has not been tested within the previous 12  
4 months, the prospective seller of the vehicle shall have the  
5 vehicle tested and complete necessary repairs before offering the  
6 vehicle for sale.

7 (2) To enforce this section, the department shall implement  
8 and administer a motor vehicle emissions inspection and mainte-  
9 nance program designed to meet the performance standards for a  
10 motor vehicle emissions inspection and maintenance program as  
11 established by the United States environmental protection agency  
12 in 40 C.F.R. 51.351. The motor vehicle emissions inspection and  
13 maintenance program shall include the following test procedures  
14 and components:

15 (a) Biennial testing.

16 (b) Test-only network.

17 (c) Transient mass-emission evaporative system, purge, and  
18 pressure testing on 1981 and later model year vehicles using the  
19 IM240 driving cycle.

20 (d) Two-speed idle testing, antitampering, and pressure test  
21 on 1975 to 1980 vehicles ~~according to~~ IN ACCORDANCE WITH the  
22 following:

23 (i) Visual antitampering inspection of the catalytic con-  
24 verter, gas cap, PCV valve, air pump, and fuel inlet restrictor  
25 on light-duty gas vehicles and light-duty gas trucks of 10,000  
26 pounds or less gross vehicle weight.

1       (ii) Pressure test of the evaporative system for light-duty  
2 gas vehicles and light-duty gas trucks of 10,000 pounds or less  
3 gross vehicle weight.

4       (e) On-board diagnostic check for vehicles so equipped.

5       (3) The cut points set forth in test procedures, quality  
6 control requirements, and equipment specifications issued by the  
7 United States environmental protection agency are hereby adopted  
8 for the emissions testing program authorized in this ~~act~~ PART.

9       (4) Equipment and test procedures shall meet the require-  
10 ments of appendices A through E to subpart S of 40 C.F.R. 51 and  
11 the test procedures, quality control requirements, and equipment  
12 specifications issued by the United States environmental protec-  
13 tion agency.

14       (5) Vehicles shall be subject to inspection according to the  
15 following:

16       (a) The first initial inspection under this ~~act~~ PART for  
17 each even numbered model year vehicle shall take place within 6  
18 months before the expiration of the vehicle registration in an  
19 even numbered calendar year.

20       (b) The first initial inspection under this ~~act~~ PART for  
21 each odd numbered model year vehicle shall take place within 6  
22 months before the expiration of the vehicle registration in an  
23 odd numbered calendar year.

24       (6) The motor vehicle emissions inspection and maintenance  
25 program shall be implemented by January 1, 1995 ~~—~~ in the coun-  
26 ties of Kent, Ottawa, and Muskegon. However, those counties  
27 containing areas ~~which~~ THAT would be in attainment of the

1 national ambient air quality standards for ozone, given baseline  
2 emissions for that county, but for emissions emanating from out-  
3 side of the state are excluded if the United States environmental  
4 protection agency determines, based on a study of formation and  
5 transport of ozone, that the control of emissions in those areas  
6 would not significantly contribute to the attainment of the  
7 national ambient air quality standards for ozone as promulgated  
8 under the clean air act.

9 (7) The department, in consultation with the department of  
10 state and the department of natural resources, may promulgate  
11 rules for the administration of the motor vehicle emissions  
12 inspection and maintenance program, including, but not limited  
13 to, ALL OF THE FOLLOWING:

14 (a) Standards for public inspection station equipment,  
15 including emission testing equipment.

16 (b) Emission test cut points and other emission control  
17 requirements based on the clean air act and the state implementa-  
18 tion plan.

19 (c) Exemptions from inspections as authorized under this  
20 ~~act~~ PART.

21 (d) Standards and procedures for the issuance of certifi-  
22 cates of compliance and certificates of waiver from inspection  
23 and maintenance program requirements.

24 (e) Rules to ensure that owners of motor vehicles registered  
25 in this state who temporarily reside out of state are not unduly  
26 inconvenienced by the requirements of this ~~act~~ PART. The rules  
27 may include ANY OF THE FOLLOWING:

1 (i) Reciprocal agreements with other states that require  
2 motor vehicle inspections that are at least as stringent as those  
3 required under this ~~act~~ PART and rules promulgated under this  
4 ~~act~~ PART.

5 (ii) Provision for time extensions of not more than 2 years  
6 for persons temporarily residing in a state, the District of  
7 Columbia, or a territory of the United States with which  
8 ~~Michigan~~ THIS STATE has not entered into a reciprocal agreement  
9 for vehicle emissions inspection and maintenance. ~~(iii)~~  
10 Additional time extensions shall be granted to persons temporar-  
11 ily residing out of state because of military service.

12 (8) The department may promulgate rules to require the  
13 inspection of motor vehicles through the use of remote sensing  
14 devices. These rules may provide for use of remote sensing  
15 devices for research purposes, but shall not provide for any  
16 checklanes or other measures by which motorists will be stopped  
17 on highways or other areas open to the general public.

18 (9) Upon receipt of documentation from the department, the  
19 department of state may suspend the registration of any vehicle  
20 that is not in compliance with this ~~act~~ PART and the rules  
21 promulgated under this ~~act~~ PART and for which the required cer-  
22 tificate of compliance has not been obtained.

23 (10) The department of natural resources shall submit an  
24 application requesting redesignation of the Grand Rapids ozone  
25 nonattainment area consisting of the counties of Kent and Ottawa  
26 and the Muskegon ozone nonattainment area consisting of the  
27 county of Muskegon to the UNITED STATES environmental protection

1 agency not later than November 14, 1993. If the application for  
2 redesignation is approved by the UNITED STATES environmental pro-  
3 tection agency, implementation of the motor vehicle emissions  
4 inspection and maintenance program authorized by this ~~act~~ PART  
5 is suspended and shall only be reimplemented if required as a  
6 contingency measure included in a maintenance plan approved by  
7 the UNITED STATES environmental protection agency as part of the  
8 redesignation as an ozone attainment area. The department may  
9 only implement the contingency measure if there is observation of  
10 an actual violation of the ozone national ambient air quality  
11 standard under 40 C.F.R. 50.9 during the maintenance period.

12 (11) Implementation of a MOTOR vehicle emissions inspection  
13 and maintenance program authorized by this ~~act~~ PART shall be  
14 suspended if the classification of the Grand Rapids and Muskegon  
15 ozone nonattainment areas ~~are~~ IS adjusted from moderate ozone  
16 nonattainment areas to transitional or marginal nonattainment  
17 areas by the UNITED STATES environmental protection agency pursu-  
18 ant to its authority under section 181 of the clean air act, 42  
19 U.S.C. 7511, or if the UNITED STATES environmental protection  
20 agency determines that a motor vehicle emissions inspection and  
21 maintenance program is not applicable or is not necessary for  
22 either of these areas to meet the requirements of the clean air  
23 act.

24 Sec. ~~8~~ 6307. (1) The department of state shall not renew  
25 the registration of a motor vehicle subject to this ~~act~~ PART  
26 unless the vehicle has been inspected as provided in this ~~act~~

1 PART and a certificate of compliance or a certificate of waiver  
2 has been issued.

3 (2) Certificates of compliance and certificates of waiver  
4 issued under this ~~act~~ PART are valid for 2 years.

5 (3) If not exempted by this ~~act~~ PART or rules promulgated  
6 under this ~~act~~ PART, a person shall not drive a motor vehicle  
7 registered in an area required to have a motor vehicle emissions  
8 inspection and maintenance program without a valid certificate of  
9 compliance or certificate of waiver.

10 Sec. ~~9~~ 6308. Any area in ~~Michigan~~ THIS STATE subject to  
11 this ~~act~~ PART that is redesignated by the United States envi-  
12 ronmental protection agency as being in attainment with the  
13 national ambient air quality standards for ozone and has demon-  
14 strated maintenance of the standards without a MOTOR vehicle  
15 emissions inspection and maintenance program ~~shall be~~ IS exempt  
16 from the requirements of this ~~act~~ PART. However, if the main-  
17 tenance plan for any such redesignated area as approved by the  
18 United States environmental protection agency includes an inspec-  
19 tion and maintenance program as part of its contingency plan, the  
20 department, in consultation with the department of natural  
21 resources, shall implement the required inspection and mainte-  
22 nance program.

23 Sec. ~~9a~~ 6309. The state should pursue judicial relief,  
24 either alone or in cooperation with other states, from the  
25 requirements or penalties imposed by the clean air act. ~~or regu-~~  
26 ~~lations promulgated under that act.~~



1       Sec. ~~10~~ 6310. (1) The department, in consultation with  
2 the department of state, may establish an inspection fee not to  
3 exceed \$24.00 adjusted annually by the percentage increase or  
4 decrease in the Detroit consumer price index rounded to the near-  
5 est whole dollar. In establishing the fee or other funding  
6 sources, the department shall include the direct and indirect  
7 costs of the vehicle emissions inspection, estimated start-up  
8 costs, estimated cost for a public information program, adminis-  
9 tration and oversight by the department, and enforcement costs by  
10 the department of state. The fee, if established, shall be paid  
11 by the motor vehicle owner to the operator of the inspection sta-  
12 tion at the time of an initial vehicle emissions inspection.

13       (2) Initial inspections must take place within 6 months  
14 before the expiration of the registration for the vehicle or the  
15 expiration of the certificate of compliance, time extension, or  
16 certificate of waiver issued under this ~~act~~ PART. Vehicles  
17 subject to this ~~act~~ PART that are not required to be registered  
18 in ~~Michigan~~ THIS STATE shall be presented for inspection during  
19 each biennial inspection period at a time set by the department.

20       (3) The owner of a motor vehicle subject to this ~~act~~ PART  
21 that has failed an initial vehicle emissions inspection ~~shall~~  
22 ~~be~~ IS entitled to 1 free reinspection after the completion of  
23 necessary repairs designed to bring the vehicle into compliance  
24 with clean air act standards.

25       (4) By the fifteenth day of each month, each inspection sta-  
26 tion shall remit the amount of the inspection fee required for  
27 administration and oversight under the contractual agreement

1 entered into with the department to the department of treasury  
2 for deposit in the motor vehicle emissions inspection and mainte-  
3 nance program fund.

4 Sec. ~~+2-~~ 6311. The following vehicles are exempt from the  
5 inspection requirements of this ~~act~~ PART:

6 (a) Motor vehicles that are exempted by rules promulgated by  
7 the department because of prohibitive inspection problems or  
8 inappropriateness for inspection.

9 (b) A motor vehicle manufactured before the 1975 model  
10 year.

11 (c) Vehicles that are licensed as historic vehicles under  
12 section 803a of the Michigan vehicle code, Act No. 300 of the  
13 Public Acts of 1949, being section 257.803a of the Michigan  
14 Compiled Laws.

15 (d) A motor vehicle that has as its only fuel source an  
16 alternative fuel.

17 (e) A motorcycle.

18 (f) A motor vehicle used for covert monitoring of inspection  
19 facilities.

20 (g) A new motor vehicle, immediately after issuance of the  
21 vehicle's first title ~~-7-~~ until the year of the next biennial  
22 inspection for the vehicle model year according to section ~~-7(5)-~~  
23 6306(5).

24 Sec. ~~+3-~~ 6312. (1) The department shall contract with a  
25 private entity or entities for the design, construction, equip-  
26 ment, establishment, maintenance, and operation of public

1 inspection stations to conduct vehicle emissions inspections as  
2 required by this ~~act~~ PART.

3 (2) The department shall seek to obtain the highest quality  
4 service for the lowest cost through a competitive evaluation pro-  
5 cess for contractors.

6 (3) The department shall provide adequate public notice of  
7 the requests for proposals by advertising in a newspaper of gen-  
8 eral circulation in the state not later than ~~the effective date~~  
9 ~~of this act~~ NOVEMBER 13, 1993. The department shall award the  
10 contract with reasonable promptness by written notice to the  
11 responsible offeror whose proposal has been evaluated and is  
12 determined to be the most advantageous to the state, taking into  
13 consideration the requirements of this ~~act~~ PART and rules  
14 promulgated under this ~~act~~ PART, or as otherwise required by  
15 the department of management and budget.

16 (4) In addition to the other requirements of this ~~act~~  
17 PART, the director OF THE DEPARTMENT shall give balanced consid-  
18 eration during the contractor evaluation process to all of the  
19 following factors:

20 (a) The public convenience of the inspection station,  
21 including the provisions for average mileage to an inspection  
22 station and the waiting time at a station.

23 (b) The unit cost per inspection.

24 (c) The degree of technical content of the proposal, includ-  
25 ing test-accuracy specifications and quality of testing services,  
26 and the data and methodology used to prepare the network design,  
27 and other technological aspects of the proposal.

1 (d) The experience of the contractor and the probability of  
2 a successful performance by the contractor, including an evalu-  
3 ation of the capacity, resources, and technical and management  
4 skills to adequately construct, equip, operate, and maintain a  
5 sufficient number of public inspection stations to meet the  
6 demand.

7 (e) The financial stability of the contractor. The depart-  
8 ment may make reasonable inquiries to determine the financial  
9 stability of an offeror. The failure of an offeror to promptly  
10 supply information in connection with such an inquiry is grounds  
11 for a determination of nonresponsibility with respect to that  
12 offeror.

13 Sec. ~~+4-~~ 6313. In addition to any other provisions of this  
14 ~~act~~ PART, the contract authorized by section ~~+3-~~ 6312 shall  
15 contain all of the following provisions:

16 (a) The minimum requirements for adequate staff, equipment,  
17 management, and hours of operation of inspection stations.

18 (b) The submission of reports and documentation concerning  
19 the operation of official inspection stations as required by this  
20 ~~act~~ PART.

21 (c) Surveillance to ensure compliance with vehicular emis-  
22 sions standards, procedures, rules, regulations, and laws.

23 Sec. ~~+5-~~ 6314. (1) The number and locations of the public  
24 inspection stations shall provide convenient service for motor-  
25 ists and shall be consistent with all of the following:

26 (a) The network of stations shall be sufficient to assure  
27 short driving distances and to assure that waiting times to get a

1 vehicle inspected do not exceed 15 minutes more than 4 times a  
2 month.

3 (b) When there are more than 4 vehicles in a queue waiting  
4 to be tested, spare lanes shall be opened and additional staff  
5 employed to reduce wait times.

6 (c) A person shall not be required to make an appointment  
7 for a vehicle inspection.

8 (d) There shall be adequate queuing space for each inspec-  
9 tion lane at each inspection station to accommodate ~~—~~ on the  
10 station property ~~—~~ all motor vehicles waiting for inspection.

11 (e) There shall be at least 2 inspection stations located  
12 within each county subject to the motor vehicle emissions inspec-  
13 tion and maintenance program under this ~~act~~ PART.

14 (2) Public inspection stations shall inspect and reinspect  
15 motor vehicles in accordance with this ~~act~~ PART.

16 (3) A public inspection station shall inspect and reinspect  
17 motor vehicles in accordance with the rules promulgated under  
18 this ~~act~~ PART by the department. The inspection station shall  
19 issue a certificate of compliance for a motor vehicle that has  
20 been inspected and determined to comply with the standards and  
21 criteria of the department pursuant to the rules promulgated  
22 under section ~~6~~ 6305. If a certificate of compliance is not  
23 issued, the inspection station shall provide a written inspection  
24 report describing the reason for rejection and, if appropriate,  
25 the repairs needed or likely to be needed to bring the vehicle  
26 into compliance with the standards and criteria.

1           (4) Stations shall provide a process by which vehicles being  
2 reinspected shall be accommodated before vehicles waiting for an  
3 initial inspection.

4           Sec. ~~16~~ 6315. (1) A certificate of waiver shall be issued  
5 for a motor vehicle that fails an initial inspection and a subse-  
6 quent reinspection if the actual cost of maintenance already per-  
7 formed AND designed to bring the vehicle into compliance with  
8 clean air act standards in accordance with the inspection report  
9 is at least \$300.00, adjusted in January of each year by the  
10 increase or decrease in the Detroit consumer price index rounded  
11 to the nearest whole dollar.

12           (2) The costs covered by vehicle warranty and the costs nec-  
13 essary to repair or replace any emission control equipment that  
14 has been removed, dismantled, tampered with, misfueled, or other-  
15 wise rendered inoperative shall not be considered in determining  
16 eligibility for a certificate of waiver pursuant to  
17 subsection (1).

18           (3) Owners of vehicles subject to a transient IM240 emission  
19 test may apply to the department for a certificate of waiver  
20 after failing an initial inspection and a subsequent reinspection  
21 even though the dollar limit stated in subsection (1) for the  
22 cost of maintenance already performed has not been met. The  
23 department shall perform a complete, documented physical and  
24 functional diagnosis and inspection. If the diagnosis and  
25 inspection shows that no additional emission-related repairs are  
26 needed ~~—~~ or that the vehicle presents prohibitive inspection

1 problems or is inappropriate for inspection, the department may  
2 issue a certificate of waiver.

3 (4) Issuance of a certificate of waiver shall be conditioned  
4 upon meeting the criteria established by regulations promulgated  
5 by the United States environmental protection agency in 40  
6 C.F.R. 51.360.

7 (5) A temporary certificate of waiver, valid for not more  
8 than 15 days, may be issued to a motor vehicle to allow time for  
9 necessary maintenance and reinspection. A temporary certificate  
10 of waiver may be issued not more than twice for the same motor  
11 vehicle.

12 Sec. ~~48~~ 6316. (1) The department, directly or by con-  
13 tract, shall implement continuing education programs to begin 6  
14 months before the commencement of the public inspection program  
15 in a county. A continuing education program shall consist of a  
16 component designed to educate the general public about the MOTOR  
17 vehicle EMISSIONS inspection and maintenance program and a compo-  
18 nent to inform those who will perform maintenance requirements  
19 under this ~~act~~ PART.

20 (2) The department shall institute procedures and mechanisms  
21 to protect the public from fraud and abuse by inspectors, mechan-  
22 ics, and others involved in the inspection and maintenance  
23 program. This shall include a challenge mechanism by which a  
24 vehicle owner can contest the results of an inspection. It shall  
25 include mechanisms for protecting whistleblowers and following up  
26 on complaints by the public or others involved in the process.

1 It shall include a program to assist owners in obtaining  
2 warranty-covered repairs for eligible vehicles that fail a test.

3 (3) The department shall evaluate, inspect, and provide  
4 quality assurance for the inspection and maintenance program  
5 established under this ~~act~~ PART to ensure proper and accurate  
6 emission inspection results. The department shall be responsible  
7 for issuance of certificates of waiver and time extensions.

8 (4) The department shall compile data and undertake studies  
9 necessary to evaluate the cost, effectiveness, and benefits of  
10 the motor vehicle inspection program. The department shall com-  
11 pile data on failure rate, compliance rate, the number of certifi-  
12 cates issued, and other similar matters in accordance with 40  
13 C.F.R. 51.365 and 51.366. The department shall make an annual  
14 report on the operation of the motor vehicle inspection program  
15 to the standing committees of the legislature that primarily  
16 address issues pertaining to public health or protection of the  
17 environment by January 1, 1995, and each year thereafter.

18 Sec. ~~19~~ 6317. A contractor shall not issue a certificate  
19 of compliance for a motor vehicle that has not been inspected and  
20 has not met or exceeded emission cut points established by the  
21 department in accordance with this ~~act~~ PART and the rules  
22 promulgated under this ~~act~~ PART.

23 Sec. ~~20~~ 6318. (1) An employee, owner, or operator of a  
24 public inspection station shall not furnish information about the  
25 name or other description of a repair facility or other place  
26 where maintenance may be obtained. The department shall develop  
27 guidelines for provision of this information in cooperation with



1 the department of state, and shall provide the house and senate  
2 standing committees dealing with transportation matters with  
3 those guidelines before January 1, 1995.

4 (2) Each public inspection station shall furnish the follow-  
5 ing information upon failure of the vehicle to pass inspection:

6 (a) A written inspection report listing each reason that the  
7 vehicle failed the emissions inspection.

8 (b) A notice which states the following:

9 "A vehicle's failure to pass the emissions inspection  
10 may be related to a malfunction covered under  
11 warranty."

12 (3) Certificates of waiver shall be available at each public  
13 inspection station pursuant to section ~~16~~ 6315.

14 Sec. ~~21~~ 6319. A person shall not tamper with a motor  
15 vehicle that has been certified to comply with this ~~act~~ PART  
16 and the rules promulgated under this ~~act~~ PART so that the motor  
17 vehicle is no longer in compliance. For purposes of this ~~act~~  
18 PART, tampering does not include the alteration of a motor vehi-  
19 cle by employees of the department for purposes of monitoring and  
20 enforcement of this ~~act~~ PART.

21 Sec. ~~22~~ 6320. A person shall not provide false informa-  
22 tion to a public inspection station or the department about esti-  
23 mated or actual repair costs or repairs needed to bring a motor  
24 vehicle into compliance. A person shall not claim an amount  
25 spent for repair if the repairs were not made or the amount not  
26 spent.

1           Sec. ~~23~~ 6321. (1) A person who violates section ~~19~~  
 2 6317, ~~or~~ forges, counterfeits, or alters an inspection  
 3 certificate, or ~~who~~ knowingly possesses an unauthorized inspec-  
 4 tion certificate ~~,~~ is guilty of a misdemeanor, punishable by  
 5 imprisonment for ~~a term~~ not ~~to exceed~~ MORE THAN 1 year or by  
 6 a fine OF not ~~to exceed~~ MORE THAN \$1,000.00. Each violation  
 7 constitutes a separate offense.

8           (2) Except as otherwise provided in subsection (1), a person  
 9 who violates section ~~20~~ 6318, ~~21~~ 6319, or ~~22~~ 6320 is guilty  
 10 of a misdemeanor.

11           (3) A person who drives a motor vehicle in violation of this  
 12 ~~act~~ PART or rules promulgated under this ~~act~~ PART is subject  
 13 to a civil fine of not more than \$500.00. Each violation consti-  
 14 tutes a separate offense.

15           ~~Sec. 26. This act shall not take effect unless House Bill~~  
 16 ~~No. 5016 of the 87th Legislature is enacted into law.~~

17                                 ~~PART 65 MOTOR VEHICLE TESTING~~

18           PART 65 MOTOR VEHICLE EMISSIONS TESTING FOR SOUTHEAST MICHIGAN

19           ~~Sec. 1. This act shall be known and may be cited as the~~  
 20 ~~"motor vehicle emissions testing program act".~~

21           Sec. ~~2~~ 6501. For the purposes of this ~~act~~ PART, the  
 22 words and phrases contained in sections ~~3~~ 6502 to ~~5~~ 6504 have  
 23 the meanings ascribed to them in those sections.

24           Sec. ~~3~~ 6502. (1) "Certificate of compliance" means a  
 25 serially numbered written instrument or document that is issued  
 26 to the owner of a motor vehicle upon passing an inspection or  
 27 reinspection and is evidence that the motor vehicle complies with

1 the standards and criteria adopted by the ~~state transportation~~  
2 department under this ~~act~~ PART.

3 (2) "Certificate of waiver" means a serially numbered writ-  
4 ten document or sticker indicating that the standards and cri-  
5 teria of the department have been met for a motor vehicle pursu-  
6 ant to the requirements of this ~~act~~ PART.

7 (3) "Clean air act" means chapter 360, 69 Stat. 322, 42  
8 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a,  
9 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to  
10 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617,  
11 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to  
12 7661f, and 7671 to 7671q. Clean air act includes the regulations  
13 promulgated under the clean air act.

14 (4) "Consumer protection" means protecting the public from  
15 unfair or deceptive practices.

16 (5) "Cut point" means the level of pollutants emitted that  
17 is used in determining whether a particular make and model of  
18 motor vehicle passes or fails all or a part of an inspection.

19 (6) "Department" means the state transportation department.

20 Sec. ~~4~~ 6503. (1) "Emission control device" means a cata-  
21 lytic converter, thermal reactor, or other component part used by  
22 a vehicle manufacturer to reduce emissions or to comply with  
23 emission standards prescribed by regulations promulgated by the  
24 United States environmental protection agency under the clean air  
25 act.

1 (2) "Fleet testing station" means a testing station that is  
2 authorized to conduct inspections on 10 or more vehicles owned or  
3 leased by 1 person.

4 (3) "Initial inspection" means an annual inspection per-  
5 formed on a motor vehicle for the first time in a test cycle.

6 (4) "Inspection" means testing of a motor vehicle for com-  
7 pliance with emission control requirements of this ~~act~~ PART and  
8 the clean air act.

9 (5) "Maintenance" means the repair or adjustment of a motor  
10 vehicle to bring that motor vehicle into compliance with emission  
11 control requirements of this ~~act~~ PART and rules promulgated  
12 under this ~~act~~ PART.

13 (6) "Motor vehicle" means a self-propelled vehicle as  
14 defined in section 79 of the Michigan vehicle code, Act No. 300  
15 of the Public Acts of 1949, being section 257.79 of the Michigan  
16 Compiled Laws, that has a gross vehicle weight rating of 10,000  
17 pounds or less and which is required to be registered for use  
18 upon the public streets and highways of this state under Act  
19 No. 300 of the Public Acts of 1949, being sections 257.1 to  
20 257.923 of the Michigan Compiled Laws. For purposes of this  
21 ~~act~~ PART, motor vehicle includes those vehicles owned by the  
22 government of the United States, this state, and any political  
23 subdivision of this state.

24 (7) "National ambient air quality standards" means the air  
25 quality standards for outside air as established in the clean air  
26 act.

1           Sec. ~~5~~ 6504. (1) ~~"Person" means an individual,~~  
2 ~~partnership, corporation, association, governmental entity, or~~  
3 ~~other legal entity.~~ (2) "Pollutants" means nitrogen oxides,  
4 carbon monoxide, hydrocarbons, and other toxic substances emitted  
5 from the operation of a motor vehicle.

6           ~~(3) "Rules" means rules promulgated pursuant to the admin-~~  
7 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~  
8 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
9 ~~Laws.~~

10           (2) ~~(4)~~ "Tamper with" means to remove or render inopera-  
11 tive, ~~or~~ TO cause to be removed or rendered inoperative, or to  
12 make less operative ~~—~~ an emission control device ~~—~~ or an ele-  
13 ment of an emission control device that is required by the clean  
14 air act to be installed in or on a motor vehicle.

15           (3) ~~(5)~~ "Test cycle" means a 12-month period corresponding  
16 with the expiration date for registration of the vehicle.

17           (4) ~~(6)~~ "Testing station" means a facility for motor vehi-  
18 cle inspection as provided in this ~~act~~ PART.

19           Sec. ~~6~~ 6505. (1) Access to records of the department and  
20 the department of state shall be in accordance with the freedom  
21 of information act, Act No. 442 of the Public Acts of 1976, being  
22 sections 15.231 to 15.246 of the Michigan Compiled Laws.

23           (2) Requests for access to records shall be in writing and  
24 shall identify the specific record.

25           (3) There shall be a reasonable charge for the reproduction  
26 and mailing of identifiable records.

1       Sec. ~~7~~ 6506. Not later than January 1, 1996, the  
2 department shall implement and administer a decentralized motor  
3 vehicle emissions inspection test and repair program in compli-  
4 ance with former section 172(b)(11)(B) of the clean air act in  
5 effect before November 15, 1990 in the counties of Wayne,  
6 Oakland, and Macomb. The inspection and maintenance program  
7 shall be ~~carried out~~ IMPLEMENTED by licensed testing stations  
8 as authorized by the department.

9       Sec. ~~8~~ 6507. (1) The department may implement and admin-  
10 ister only under 1 of the conditions set forth in subsection (2)  
11 a decentralized motor vehicle emissions inspection test and  
12 repair program designed to meet the performance standards for a  
13 motor vehicle emissions testing program as established by the  
14 United States environmental protection agency in 40 C.F.R. 51.352  
15 in the counties of Wayne, Oakland, and Macomb, using bar 90 test-  
16 ing equipment, including a visual antitampering check, or an  
17 equivalent system approved by the United States environmental  
18 protection agency. This inspection and maintenance program, if  
19 implemented, shall be carried out by licensed testing stations as  
20 authorized by the department. The visual antitampering check  
21 described in this subsection includes visual antitampering  
22 inspection of the catalytic converter, gas cap, PCV valve, air  
23 pump, and fuel inlet restrictor on light duty gas vehicles and  
24 light duty gas trucks with a gross vehicle weight rating of  
25 10,000 pounds or less.

1 (2) The decentralized test and repair program described in  
2 subsection (1) shall only be implemented under 1 of the following  
3 conditions:

4 (a) As a contingency measure included in the maintenance  
5 plan approved by the UNITED STATES environmental protection  
6 agency as part of the redesignation as an ozone attainment area.  
7 The contingency measure shall include authority to expand the  
8 program to Washtenaw county in addition to the counties described  
9 in subsection (1) if other measures are not sufficient to meet  
10 the maintenance plan. The department may only implement the con-  
11 tingency measure if there is observation of an actual violation  
12 of the ozone national ambient air quality standard under 40  
13 C.F.R. 50.9 during the maintenance period.

14 (b) An application for redesignation as an ozone attainment  
15 area is approved by the UNITED STATES environmental protection  
16 agency but a condition of that approval requires implementing the  
17 motor vehicle emissions testing program described in subsection  
18 (1) in order to comply with section 107(d)(3)(E) and section  
19 182(b)(4) of the clean air act, 42 U.S.C. 7407 AND 7511a.

20 (c) An application for redesignation as an ozone attainment  
21 area is not approved by the UNITED STATES environmental protec-  
22 tion agency and the program described in subsection (1) is  
23 required to meet the requirements of section 182(b) of the clean  
24 air act, 42 U.S.C. 7511a. The program described in subsection  
25 (1) may be expanded to include Washtenaw county, and, if neces-  
26 sary to meet the basic emissions inspection and maintenance  
27 program requirements of the clean air act, the department may

1 expand the program to include St. Clair, Livingston, and Monroe  
2 counties in addition to the counties described in subsection (1)  
3 if other measures are not sufficient to meet the requirements of  
4 section 182(b) of the clean air act.

5 (d) The department may only exercise the contingency set  
6 forth in subdivision (c) if:

7 (i) The department notifies the legislature that the event  
8 set forth in subdivision (c) has occurred and that the contin-  
9 gency will be implemented after a period of 45 days.

10 (ii) The legislature fails to adopt any amendments to this  
11 ~~act which would~~ PART THAT alter the requirements of this sec-  
12 tion within the 45-day period.

13 (3) The cut points set forth in test procedures, quality  
14 control requirements, and equipment specifications issued by the  
15 United States environmental protection agency are hereby adopted  
16 for the emissions testing program authorized in this section.

17 (4) Equipment and test procedures for the program described  
18 in subsection (1) shall meet the requirements of appendices A  
19 through D to subpart S of 40 C.F.R. 51 and the test procedures,  
20 quality control requirements, and equipment specifications issued  
21 by the United States environmental protection agency.

22 (5) The department, in consultation with the department of  
23 state and the department of natural resources, may promulgate  
24 rules for the administration of the inspection and maintenance  
25 program under this section or section ~~7~~ 6506, including, but  
26 not limited to:



1 (a) Standards for testing station equipment, including  
2 emission testing equipment.

3 (b) Emission test cut points and other emission control  
4 requirements based on the clean air act and the state implementa-  
5 tion plan.

6 (c) Exemptions from inspections as authorized under this  
7 ~~act~~ PART.

8 (d) Standards and procedures for the issuance of certifi-  
9 cates of compliance and certificates of waiver from inspection  
10 and maintenance program requirements.

11 (e) Rules to ensure that owners of motor vehicles registered  
12 in this state who temporarily reside out of state are not unduly  
13 inconvenienced by the requirements of this ~~act~~ PART. The rules  
14 may include ANY OF THE FOLLOWING:

15 (i) Reciprocal agreements with other states that require  
16 motor vehicle inspections that are at least as stringent as those  
17 required under this ~~act~~ PART and rules promulgated under this  
18 ~~act~~ PART.

19 (ii) Provision for time extensions of not more than 2 years  
20 for persons temporarily residing in a state, the District of  
21 Columbia, or a territory of the United States with which  
22 ~~Michigan~~ THIS STATE has not entered into a reciprocal agreement  
23 for vehicle emissions inspection and maintenance. ~~(iii)~~  
24 Additional time extensions shall be granted to persons temporar-  
25 ily residing out of state because of military service.

26 (6) Upon receipt of documentation from the department, the  
27 department of state may suspend the registration of any vehicle

1 that is not in compliance with this section or section ~~7~~ 6506  
2 and the rules promulgated under this section or section ~~7~~ 6506  
3 and for which the required certificate of compliance has not been  
4 obtained.

5       Sec. ~~9~~ 6508. (1) There is established a motor vehicle  
6 emissions testing program fund to be maintained as a separate  
7 fund in the state treasury and to be administered by the  
8 department. Money received and collected for motor vehicle emis-  
9 sions inspections and for delinquency charges under this ~~act~~  
10 PART and from any other source shall be deposited in the state  
11 treasury to the credit of the motor vehicle emissions testing  
12 program fund.

13       (2) The motor vehicle emissions inspection account is cre-  
14 ated in the motor vehicle emissions testing program fund. Money  
15 in this account shall be appropriated by the legislature for the  
16 purposes of a public education program to be conducted by the  
17 department, start-up costs required to implement requirements of  
18 the motor vehicle emissions testing program under this ~~act~~  
19 PART, administration and oversight by the department and the  
20 independent third-party organization, enforcement of the motor  
21 vehicle emissions testing program through the vehicle registra-  
22 tion process by the department of state, gasoline inspection and  
23 testing, and other activities related to the motor vehicle emis-  
24 sions testing program.

25       (3) Funds remaining in the motor vehicle emissions testing  
26 program fund at the end of a fiscal year shall not lapse TO THE

1 GENERAL FUND but shall remain in the motor vehicle emissions  
2 testing program fund for appropriation in the following year.

3 (4) If any of the funds collected from the fee in section  
4 ~~+2(+)~~ 6511(1) for administration and oversight including reim-  
5 bursement of independent third-party organizations are appropri-  
6 ated or expended for any purposes other than those specifically  
7 listed in subsection (2), section ~~-23(2)~~ 6520(2), and section  
8 ~~-35-~~ 6532, the authority to collect fees granted under section  
9 ~~+2(+)~~ 6511(1) shall be suspended until the funds appropriated  
10 or expended for purposes other than those specifically listed in  
11 subsection (2), section ~~-23(2)~~ 6520(2), and section ~~-35-~~ 6532  
12 are returned to the fund established in subsection (1).

13 Sec. ~~+0-~~ 6509. (1) The department of state shall not renew  
14 the registration of a motor vehicle subject to this ~~-act-~~ PART  
15 unless the vehicle has been inspected as provided in this ~~-act-~~  
16 PART and a certificate of compliance or a certificate of waiver  
17 has been issued.

18 (2) Certificates of compliance and certificates of waiver  
19 issued under this ~~-act-~~ PART are valid for 1 test cycle.

20 (3) If not exempted by this ~~-act-~~ PART or rules promulgated  
21 under this ~~-act-~~ PART, a person shall not drive a motor vehicle  
22 registered in an area required to have a vehicle emission and  
23 maintenance program without a valid certificate of compliance or  
24 certificate of waiver.

25 Sec. ~~+1-~~ 6510. (1) A testing station shall not falsely  
26 represent that the motor vehicle has passed or failed an  
27 inspection or reinspection.

1 (2) A testing station shall not falsely represent repairs or  
2 falsely estimate the price for repairs that are necessary to  
3 allow a person to obtain a certificate of compliance or a certifi-  
4 cate of waiver.

5 Sec. ~~+2-~~ 6511. (1) A testing station may charge a person a  
6 fee ~~—~~ OF not ~~to exceed~~ MORE THAN \$13.00. ~~Nothing in this~~  
7 ~~act~~ THIS PART or the rules ~~shall be construed as prohibiting~~  
8 PROMULGATED UNDER THIS PART DO NOT PROHIBIT a testing station  
9 from providing inspections for a fee of less than \$13.00.  
10 However, the fee charged shall not be less than \$3.00. Three  
11 dollars from the fee charged under this subsection shall be  
12 remitted by the testing station to the department of treasury as  
13 provided in subsection (7) and shall be used by the department  
14 for administration and oversight. One dollar from the \$3.00  
15 shall be used by the department to reimburse the independent  
16 third-party organization pursuant to section ~~-23-~~ 6520. A test-  
17 ing station shall not make a separate charge for issuing a cer-  
18 tificate of compliance, notice of failure, or certificate of  
19 waiver.

20 (2) A testing station shall provide 1 free reinspection of a  
21 motor vehicle if the motor vehicle failed a previous inspection  
22 performed by the testing station and if the motor vehicle is  
23 presented for reinspection within 90 days of the previous inspec-  
24 tion, except that a testing station is not obligated to perform a  
25 free reinspection if the person presenting the motor vehicle for  
26 reinspection does not present the notice of failure previously  
27 issued by the testing station.

1 (3) A testing station that has performed repairs to bring  
2 into compliance a motor vehicle that has failed an inspection at  
3 another testing station within the previous 90 days, as evidenced  
4 by the notice of failure, shall provide to the person presenting  
5 the motor vehicle a free reinspection and shall provide a certifi-  
6 cate of compliance for the motor vehicle if it passes the  
7 reinspection.

8 (4) A testing station shall not charge a fee to issue a cer-  
9 tificate of compliance for a motor vehicle that has qualified for  
10 and received a low emission tune-up if the testing station per-  
11 formed the low emission tune-up on the motor vehicle.

12 (5) A testing station shall provide 1 free reinspection of a  
13 motor vehicle if a fee was charged by the testing station for an  
14 initial inspection of the motor vehicle that was not completed  
15 under any condition described in the rules.

16 (6) Initial inspections must take place within 6 months  
17 before the expiration of the registration for the vehicle or the  
18 expiration of the certificate of compliance, time extension, or  
19 certificate of waiver issued under this ~~act~~ PART. Vehicles  
20 subject to this ~~act~~ PART that are not required to be registered  
21 in ~~Michigan~~ THIS STATE shall be presented for inspection during  
22 each annual inspection test cycle at a time set by the  
23 department.

24 (7) By the fifteenth day of each month, each testing station  
25 shall remit the amount of the fee required for administration and  
26 oversight under subsection (1) to the department of treasury for  
27 deposit in the motor vehicle emissions testing program fund.

1       Sec. ~~+4-~~ 6512. The following vehicles are exempt from the  
2 inspection requirements of this ~~act~~ PART:

3       (a) Motor vehicles that are exempted by rules promulgated by  
4 the department because of prohibitive inspection problems or  
5 inappropriateness for inspection.

6       (b) A motor vehicle manufactured before the 1975 model  
7 year.

8       (c) A motor vehicle that has as its only fuel source com-  
9 pressed natural gas, diesel fuel, propane, electric power, or any  
10 other source as defined by rule promulgated by the department.

11       (d) A vehicle that is licensed as a historic vehicle under  
12 section 803a of the Michigan vehicle code, Act No. 300 of the  
13 Public Acts of 1949, being section 257.803a of the Michigan  
14 Compiled Laws.

15       (e) A motorcycle.

16       (f) A motor vehicle used for covert monitoring of inspection  
17 facilities.

18       (g) A new motor vehicle, immediately after issuance of the  
19 vehicle's first title ~~—~~ until the next annual inspection for  
20 the vehicle model year.

21       Sec. ~~+5-~~ 6513. (1) The motor vehicles subject to this  
22 ~~act~~ PART and the rules PROMULGATED UNDER THIS PART include the  
23 following:

24       (a) Each registered motor vehicle for the model years 1975  
25 and later that is owned by a person whose permanent place of res-  
26 idence is in a county subject to this ~~act~~ PART.

1 (b) All motor vehicles for the model years 1975 and later  
2 that belong to a fleet and that are predominately garaged,  
3 operated, or maintained in a county subject to this ~~act~~ PART.

4 (2) A motor vehicle that is otherwise subject to this ~~act~~  
5 PART and the rules PROMULGATED UNDER THIS PART under subsection  
6 (1) ~~shall~~ IS not ~~be~~ subject to this ~~act~~ PART and the rules  
7 PROMULGATED UNDER THIS PART if its registration is being renewed  
8 and it will not be subject to this ~~act~~ PART and the rules  
9 PROMULGATED UNDER THIS PART because of its model year when its  
10 currently valid registration expires.

11 (3) A vehicle identified on a certificate of title issued by  
12 the department of state as an assembled vehicle is not subject to  
13 this ~~act~~ PART and the rules PROMULGATED UNDER THIS PART.

14 (4) A motor vehicle ~~shall~~ IS not ~~be~~ subject to this  
15 ~~act~~ PART and the rules PROMULGATED UNDER THIS PART if its  
16 application for registration renewal is accompanied by both a  
17 memorandum of federal clean air act exemption issued pursuant to  
18 federal regulation and a certification by the applicant identify-  
19 ing the vehicle, and if the application for registration is filed  
20 with the department.

21 Sec. ~~16~~ 6514. Any 1 of the following shall be accepted by  
22 the department of state as evidence that a motor vehicle was pur-  
23 chased as a new motor vehicle within the previous 12 months:

24 (a) A registration or certificate of title indicating the  
25 motor vehicle is of a model year which has been offered for sale  
26 in this state for not more than 12 months.

1 (b) A record of the department of state indicating that the  
2 motor vehicle was purchased as new within the previous 12  
3 months.

4 (c) A seller's statement to the buyer ~~which~~ THAT indicates  
5 that the motor vehicle being sold is a new motor vehicle and  
6 ~~which~~ THAT is dated within the previous 12 months.

7 (d) A manufacturer's statement of origin showing the first  
8 retail sale as being within the previous 12 months.

9 (e) A bill of sale from a manufacturer or a dealer fran-  
10 chised to sell new motor vehicles of that particular make ~~which~~  
11 THAT indicates that the motor vehicle being sold is new and  
12 ~~which~~ THAT is dated within the previous 12 months.

13 Sec. ~~+7-~~ 6515. An application for a motor vehicle regis-  
14 tration shall be accepted by the department of state as evidence  
15 of a motor vehicle owner's permanent place of residence.

16 Sec. ~~+9-~~ 6516. (1) A person shall not engage in the busi-  
17 ness of inspecting motor vehicles under this ~~act~~ PART unless  
18 the person is a motor vehicle repair facility registered pursuant  
19 to section 14 of the motor vehicle service and repair act, Act  
20 No. 300 of the Public Acts of 1974, being section 257.1314 of the  
21 Michigan Compiled Laws, and has received a license to operate a  
22 testing station from the department.

23 (2) A person shall not be licensed to operate a testing sta-  
24 tion unless the person has an established place of business where  
25 inspections are to be performed during regular business hours,  
26 where records required by this ~~act~~ PART and the rules  
27 promulgated ~~pursuant to~~ UNDER this ~~act~~ PART are to be



1 maintained, and ~~which~~ THAT is equipped with an instrument or  
2 instruments of a type ~~which complies~~ THAT COMPLY with and ~~is~~  
3 ARE capable of performing inspections of motor vehicles under  
4 this ~~act~~ PART.

5 (3) A person licensed as a testing station shall perform  
6 inspections under this ~~act~~ PART at the established place of  
7 business for which the person is licensed. A person shall inform  
8 the department immediately of a change in the address of an  
9 established place of business at which the person is licensed as  
10 a testing station.

11 (4) A person shall obtain a separate license and pay a sepa-  
12 rate fee for each established place of business at which a test-  
13 ing station is to be operated.

14 (5) A testing station may establish and operate mobile or  
15 temporary testing station locations if they meet all of the fol-  
16 lowing conditions:

17 (a) The instrument used at the mobile or temporary location  
18 is capable of meeting the performance specifications for instru-  
19 ments set forth in rules promulgated ~~pursuant to~~ UNDER this  
20 ~~act~~ PART while operating in the mobile or temporary station  
21 environment.

22 (b) The owner of a motor vehicle inspected at the mobile or  
23 temporary location shall be provided with a free reinspection of  
24 the motor vehicle, at the established place of business of the  
25 testing station or at any mobile or temporary testing station  
26 location operated by the testing station.

1 (c) Personnel at the licensed established place of business  
2 location shall, at all times, know the location and hours of  
3 operation of the mobile or temporary testing station or  
4 stations.

5 (d) The records required by this ~~act~~ PART and the rules  
6 promulgated ~~pursuant to~~ UNDER this ~~act~~ PART relating to  
7 inspections performed and the instrument or instruments used at a  
8 mobile or temporary testing station shall be maintained at a  
9 single established place of business ~~which~~ THAT is licensed as  
10 a testing station.

11 (e) The documents printed as required by the rules by an  
12 instrument used at a mobile or temporary testing station location  
13 shall contain the testing station number and the name, address,  
14 and telephone number of the testing station's established place  
15 of business.

16 (6) A testing station may use remote sensing devices as a  
17 complement to testing otherwise required by this ~~act~~ PART.

18 (7) A testing station shall not cause or permit an inspec-  
19 tion of a motor vehicle to be performed by a person other than an  
20 emission inspector using an instrument of a type ~~which~~ THAT  
21 complies with the rules promulgated ~~pursuant to~~ UNDER this  
22 ~~act~~ PART.

23 (8) A testing station shall display a valid testing station  
24 license issued by the department in a place and manner conspicu-  
25 ous to its customers.

1       Sec. ~~20~~ 6517. (1) Application for original and  
2 replacement testing station licenses shall be submitted on forms  
3 provided by the department.

4       (2) An applicant for a testing station license shall submit  
5 to the department a description of the business to be licensed,  
6 which shall include, in addition to other information required by  
7 this ~~act~~ PART and the rules PROMULGATED UNDER THIS PART, all of  
8 the following:

9       (a) The repair facility registration number issued to the  
10 applicant pursuant to the motor vehicle service and repair act,  
11 Act No. 300 of the Public Acts of 1974, being sections 257.1301  
12 to 257.1340 of the Michigan Compiled Laws.

13       (b) The name of the business and the address of the business  
14 location for which a testing station license is being sought.

15       (c) The name and address of each owner of the business in  
16 the case of a sole proprietorship or a partnership and, in the  
17 case of a corporation, the name and address of each officer and  
18 director and of each owner of 25% or more of the corporation.

19       (d) The name and identification number issued by the depart-  
20 ment of each emission inspector employed by the applicant.

21       (e) A description, including the model and serial number, of  
22 each instrument to be used by the applicant to perform inspec-  
23 tions or reinspections under this ~~act~~ PART and the rules  
24 promulgated ~~pursuant to~~ UNDER this ~~act~~ PART and the date the  
25 instrument was purchased by the applicant.

26       (f) The estimated capacity of the applicant to perform  
27 inspections.

1 (3) The fee for a testing station license ~~shall be~~ IS  
2 \$50.00 and shall accompany the application for a license submit-  
3 ted to the department.

4 (4) A testing station license shall take effect on the date  
5 it is approved by the department and shall remain in effect until  
6 ~~the act~~ THIS PART expires, the license is surrendered by the  
7 station, revoked or suspended by the department, or until the  
8 motor vehicle repair facility registration of the business has  
9 been revoked or suspended by the department of state, surrendered  
10 by the facility, or has expired without timely renewal.

11 (5) ~~When~~ IF a testing station license has expired by  
12 reason of surrender, revocation, or expiration of repair facility  
13 registration, the business shall not resume operation as a test-  
14 ing station until the repair facility registration has been rein-  
15 stated and a new, original application for a testing station  
16 license has been received and approved by the department and a  
17 new license fee paid.

18 (6) When the repair facility registration has been sus-  
19 pended, the testing station may resume operation without a new  
20 application when the repair facility registration suspension has  
21 ended.

22 Sec. ~~2+~~ 6518. (1) If the ownership of a testing station  
23 changes, a new original license and payment of a new license fee  
24 ~~shall be~~ IS required, and the station shall not operate until  
25 its application is approved by the department. For the purposes  
26 of this section, "change of ownership" means a change in the  
27 ownership of a station which is either a sole proprietorship or a

1 partnership; the replacement of a sole proprietorship with a  
2 partnership, a corporation, or another sole proprietorship; the  
3 replacement of a partnership with a sole proprietorship, a corpo-  
4 ration, or another partnership; or the replacement of a corpora-  
5 tion with a sole proprietorship, a partnership, or another  
6 corporation.

7 (2) A corporation shall notify the department within 30 days  
8 of ~~any~~ A change in ownership ~~which~~ THAT involves the accumu-  
9 lation of 25% or more of the ownership by a person who did not  
10 previously own 25% or more of the corporation.

11 Sec. ~~22~~ 6519. (1) A testing station shall display at the  
12 established place of business an information sign ~~which shall~~  
13 ~~bear~~ THAT BEARS an identifying symbol developed by the depart-  
14 ment and ~~be~~ IS worded as follows: "OFFICIAL EMISSION TESTING  
15 STATION".

16 (2) The sign shall be displayed on the outside premises of  
17 the testing station so that it is clearly and readily visible and  
18 readable to persons in motor vehicles as they enter the testing  
19 station property.

20 (3) A testing station shall also conspicuously display the  
21 price charged by the station for an inspection preceded by a  
22 dollar sign and printed in Arabic numerals.

23 (4) A testing station shall maintain posted business hours  
24 during which time representatives of the independent third party  
25 required to make certifications of the equipment used by the  
26 testing station and the emission inspectors used by the testing  
27 station may conduct inspections of the station, instruments and

1 records required by this ~~act~~ PART and the rules promulgated  
2 ~~pursuant to~~ UNDER this ~~act~~ PART, and the motor vehicle emis-  
3 sion inspection procedures employed by the testing station.

4 (5) A testing station shall not hinder, obstruct, or other-  
5 wise prevent an inspection required by this ~~act~~ PART.

6 Sec. ~~23~~ 6520. (1) A testing station shall submit annually  
7 to the department evidence of certification of its testing equip-  
8 ment and emission inspectors by an independent third-party  
9 organization. The certification shall provide that the testing  
10 equipment and emission inspectors meet the requirements of this  
11 ~~act~~ PART and the rules promulgated under this ~~act~~ PART and  
12 the requirements of the clean air act. If deficiencies ~~were~~  
13 ARE noted by the third-party certifying organization, the testing  
14 station shall submit a written explanation of corrective action  
15 accepted by the third-party organization with the certification.

16 (2) The department shall contract with the third-party  
17 organization to establish a random inspection system for testing  
18 stations. Funds from the fee imposed pursuant to section ~~12~~  
19 6511 shall be used for this purpose.

20 Sec. ~~24~~ 6521. (1) A fleet owner or lessee shall not per-  
21 form inspections under this ~~act~~ PART or the rules PROMULGATED  
22 UNDER THIS PART unless the fleet owner or lessee has received  
23 from the department a permit to operate a fleet testing station.

24 (2) A person shall not receive a permit to operate a fleet  
25 testing station unless the person has an established location  
26 where inspections are to be performed, where records required by  
27 this ~~act~~ PART and the rules PROMULGATED UNDER THIS PART are to

1 be maintained, that is equipped with an instrument or instruments  
2 of a type that comply with this ~~act~~ PART or the rules  
3 PROMULGATED UNDER THIS PART, and that is capable of performing  
4 inspections of motor vehicles under this ~~act~~ PART and the rules  
5 promulgated ~~pursuant to~~ UNDER this ~~act~~ PART.

6 (3) A person with a permit to operate a fleet testing sta-  
7 tion shall perform inspections under this ~~act~~ PART and the  
8 rules PROMULGATED UNDER THIS PART only at the established loca-  
9 tion for which the person has the permit. A person shall inform  
10 the department immediately of a change in the address of the  
11 established location for which the person has a permit to operate  
12 a fleet testing station.

13 (4) A fleet testing station shall not cause or permit an  
14 inspection of a motor vehicle to be performed by a person other  
15 than an emission inspector using an instrument of a type that  
16 complies with the rules PROMULGATED UNDER THIS PART.

17 (5) Applications for original and replacement fleet testing  
18 station permits shall be submitted on forms provided by the  
19 department.

20 (6) An applicant for a fleet testing station shall submit to  
21 the department a description of the operation to be licensed,  
22 which shall include, in addition to other information required by  
23 this ~~act~~ PART and the rules PROMULGATED UNDER THIS PART, all of  
24 the following:

25 (a) The name of the business and the address of the location  
26 for which a fleet testing station permit is being sought.

1 (b) The name and address of each owner of the business in  
2 the case of a sole proprietorship or a partnership and, in the  
3 case of a corporation, the name and address of each officer and  
4 director and of each owner of 25% or more of the corporation.

5 (c) The name and identification number issued by the depart-  
6 ment of each emission inspector employed by the applicant.

7 (d) A description, including the model and serial number of  
8 each instrument to be used by the applicant to perform inspec-  
9 tions or reinspections under this ~~act~~ PART and the rules  
10 PROMULGATED UNDER THIS PART, and the date the equipment was pur-  
11 chased by the applicant.

12 (e) A description of the fleet to be inspected, including  
13 the number and types of motor vehicles.

14 (f) A statement signed by the applicant certifying that the  
15 applicant maintains and repairs, on a regular basis, the fleet  
16 vehicles owned by the applicant.

17 (7) A fleet testing station permit shall take effect on the  
18 date it is approved by the department and shall expire 1 year  
19 from that date. A fleet testing station permit shall be renewed  
20 automatically, unless the fleet testing station informs the  
21 department not to renew it or unless the department has revoked  
22 the permit.

23 (8) A person shall obtain a separate permit for each loca-  
24 tion at which fleet inspections are performed.

25 (9) By the fifteenth day of each month, each fleet testing  
26 station shall remit \$1.00 for each vehicle inspected during the



1 preceding month to the department of treasury for deposit in the  
2 motor vehicle emissions testing program fund.

3       Sec. ~~-25-~~ 6522. (1) If the ownership of a fleet testing  
4 station changes, a new permit is required, and the fleet testing  
5 station shall not operate until its application for a new permit  
6 is approved by the department. For purposes of this section,  
7 "change of ownership" means a change in the ownership of a sta-  
8 tion that is a sole proprietorship or a partnership; the replace-  
9 ment of a sole proprietorship with a partnership, a corporation,  
10 or another sole proprietorship; the replacement of a partnership  
11 with a sole proprietorship, a corporation, or another partner-  
12 ship; or the replacement of a corporation with a sole proprietor-  
13 ship, a partnership, or another corporation.

14       (2) A corporation shall notify the department within 30 days  
15 of any change in ownership ~~which~~ THAT involves the accumulation  
16 of 25% or more of the ownership by a person who did not previ-  
17 ously own 25% or more of the corporation.

18       Sec. ~~-26-~~ 6523. A fleet testing station shall perform  
19 inspections under this ~~act~~ PART and the rules PROMULGATED UNDER  
20 THIS PART only upon its own fleet motor vehicles, unless sepa-  
21 rately licensed as a testing station.

22       Sec. ~~-27-~~ 6524. (1) A fleet testing station, its records,  
23 equipment required by this ~~act~~ PART and the rules PROMULGATED  
24 UNDER THIS PART, and the motor vehicle emission inspection proce-  
25 dures employed by the fleet testing station shall be open to  
26 inspection by an independent third party as otherwise required by  
27 this ~~act~~ PART.

1 (2) A fleet testing station shall not hinder, obstruct, or  
2 otherwise prevent an inspection required by this ~~act~~ PART.

3 Sec. ~~28~~ 6525. A fleet testing station shall not falsely  
4 represent that a motor vehicle has passed or failed an inspection  
5 or reinspection.

6 Sec. ~~29~~ 6526. A fleet testing station shall issue a cer-  
7 tificate of compliance for a vehicle that has passed an inspec-  
8 tion or reinspection or received a low emission tune-up.

9 Sec. ~~30~~ 6527. (1) A person shall not be required to make  
10 an appointment for a vehicle inspection.

11 (2) A testing station shall inspect and reinspect motor  
12 vehicles in accordance with this ~~act~~ PART and the rules promul-  
13 gated under this ~~act~~ PART by the department. The station shall  
14 issue a certificate of compliance for a motor vehicle that has  
15 been inspected and determined to comply with the standards and  
16 criteria of the department pursuant to the rules promulgated  
17 under this ~~act~~ PART. If a certificate of compliance is not  
18 issued, the inspection station shall provide a written inspection  
19 report describing the reason for rejection.

20 Sec. ~~31~~ 6528. (1) A certificate of waiver shall be issued  
21 for a motor vehicle that fails an initial inspection and a subse-  
22 quent reinspection if the actual cost of maintenance already per-  
23 formed AND designed to bring the vehicle into compliance with  
24 clean air standards in accordance with the inspection report is  
25 at least \$200.00, adjusted in January of each year by the  
26 increase or decrease in the Detroit consumer price index and  
27 rounded off to the nearest whole dollar.

1 (2) The costs covered by vehicle warranty and the costs  
2 necessary to repair or replace any emission control equipment  
3 that has been removed, dismantled, tampered with, misfueled, or  
4 otherwise rendered inoperative shall not be considered in deter-  
5 mining eligibility for a certificate of waiver pursuant to  
6 subsection (1).

7 (3) Except for the program described in section ~~7~~ 6506,  
8 issuance of a certificate of waiver shall be conditioned upon  
9 meeting the criteria established by regulations promulgated by  
10 the United States environmental protection agency in 40  
11 C.F.R. 51.360.

12 (4) A temporary certificate of waiver, valid for not more  
13 than 14 days, may be issued to the owner of a motor vehicle by  
14 the secretary of state to allow time for necessary maintenance  
15 and reinspection. The secretary of state may charge the fee per-  
16 mitted for a temporary registration under section 802(5) of the  
17 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,  
18 being section 257.802 of the Michigan Compiled Laws.

19 Sec. ~~32~~ 6529. (1) A person shall not perform inspections  
20 under this ~~act~~ PART or the rules PROMULGATED UNDER THIS PART  
21 unless the person ~~has received~~ RECEIVES approval from the  
22 department as an emission inspector.

23 (2) Before a person ~~shall be~~ IS approved as an emission  
24 inspector, the person shall have passed an examination approved  
25 by the department ~~which~~ THAT is designed to test the person's  
26 competency to perform inspections.

1 (3) A person who ~~has failed~~ FAILS an examination to obtain  
2 approval as an emission inspector may retake the examination when  
3 it is next offered.

4 (4) A person's approval by the department as an emission  
5 inspector shall take effect on the date it is issued by the  
6 department and shall expire upon surrender by the person or upon  
7 revocation by the department.

8 (5) The department, after notice and opportunity for a hear-  
9 ing, may deny, suspend, or revoke a person's approval as an emis-  
10 sion inspector if the department finds that an applicant or an  
11 emission inspector ~~has done~~ DOES any of the following:

12 (a) ~~Committed~~ COMMITS fraud, misrepresentation, trickery,  
13 or deceit in connection with the inspection or repair of a motor  
14 vehicle under this ~~act~~ PART or a rule promulgated under this  
15 ~~act~~ PART.

16 (b) ~~Violated~~ VIOLATES this ~~act~~ PART or a rule promul-  
17 gated under this ~~act~~ PART.

18 (c) Improperly ~~performed~~ PERFORMS an instrument mainte-  
19 nance, recordkeeping, or inspection procedure required by the  
20 rules PROMULGATED UNDER THIS PART.

21 (d) Incompetently ~~performed~~ PERFORMS an inspection.

22 (e) ~~Been~~ IS denied certification by the independent third  
23 party responsible for certifications under this ~~act~~ PART.

24 (6) Instead of proceeding under subsection (5), or as a  
25 means of settling a matter pursuant under subsection (5), the  
26 department may do any of the following:

1 (a) Enter into an assurance of discontinuance with an  
2 applicant or an emission inspector.

3 (b) Enter into a probation agreement with an applicant or an  
4 emission inspector.

5 (c) Enter into a suspension, revocation, or denial agreement  
6 with an applicant or an emission inspector.

7 (d) Require an applicant or an emission inspector to take  
8 training or an examination, or both.

9 Sec. ~~33~~ 6530. Unless the person is licensed as a fleet  
10 testing station, a person who owns a motor vehicle required to be  
11 inspected under this ~~act~~ PART and the rules PROMULGATED UNDER  
12 THIS PART shall have the motor vehicle inspected and shall obtain  
13 a certificate of compliance or a waiver only at a testing station  
14 licensed under this ~~act~~ PART and the rules PROMULGATED UNDER  
15 THIS PART.

16 Sec. ~~34~~ 6531. The department may issue a certificate of  
17 compliance for a motor vehicle when the department makes a deter-  
18 mination that the motor vehicle complies with the requirements of  
19 this ~~act~~ PART and the rules PROMULGATED UNDER THIS PART. The  
20 department shall establish a system for selecting which motor  
21 vehicles qualify for the department's determination as to  
22 compliance.

23 Sec. ~~35~~ 6532. (1) The department shall institute proce-  
24 dures and mechanisms to protect the public from fraud and abuse  
25 by inspectors, mechanics, and others involved in the inspection  
26 and maintenance program. ~~This~~ THESE PROCEDURES AND MECHANISMS  
27 shall include a challenge mechanism by which a vehicle owner can

1 contest the results of an inspection. It shall include  
2 mechanisms for protecting whistleblowers and following up on com-  
3 plaints by the public or others involved in the process. It  
4 shall include a program to assist owners in obtaining warranty  
5 covered repairs for eligible vehicles that fail a test.

6 (2) The department shall provide quality assurance for the  
7 inspection and maintenance program established under this ~~act~~  
8 PART through certification of competency by a third party to  
9 ensure proper and accurate emission inspection results. The  
10 third party ~~shall~~ each year SHALL certify the testing equipment  
11 and the emission inspectors employed by a testing station.

12 (3) The department shall compile data and undertake studies  
13 necessary to evaluate the cost, effectiveness, and benefits of  
14 the motor vehicle inspection program. The department shall com-  
15 pile data on failure rate, compliance rate, the number of certifi-  
16 cates issued, and other similar matters in accordance with 40  
17 C.F.R. 51.365 and 51.366. The department shall make an annual  
18 report on the operation of the motor vehicle inspection program  
19 to the standing committees of the legislature that primarily  
20 address issues pertaining to public health or protection of the  
21 environment by January 1, 1995, and each year thereafter.

22 Sec. ~~36~~ 6533. A testing station or a fleet testing sta-  
23 tion shall not issue a certificate of compliance for a motor  
24 vehicle that has not been inspected and has not met or exceeded  
25 emission cut points established by the department in accordance  
26 with this ~~act~~ PART and the rules promulgated under this ~~act~~  
27 PART.

1       Sec. ~~37~~ 6534. (1) An employee, owner, or operator of a  
2 public inspection station shall not furnish information, except  
3 information provided by the state or otherwise required by this  
4 ~~act~~ PART, about the name or other description of a repair  
5 facility or other place where maintenance may be obtained.

6       (2) Each testing station shall furnish the following infor-  
7 mation upon failure of the vehicle to pass inspection:

8       (a) A written inspection report listing each reason that the  
9 vehicle failed the emissions inspection.

10       (b) A notice ~~which~~ THAT states the following:

11       "A vehicle's failure to pass the emissions inspection may be  
12 related to a malfunction covered under warranty."

13       (3) Certificates of waiver shall be available at each public  
14 inspection station pursuant to section ~~31~~ 6528.

15       Sec. ~~38~~ 6535. A person shall not tamper with a motor  
16 vehicle that has been certified to comply with this ~~act~~ PART  
17 and the rules promulgated under this ~~act~~ PART so that the motor  
18 vehicle is no longer in compliance. For purposes of this ~~act~~  
19 PART, tampering does not include the alteration of a motor vehi-  
20 cle by employees of the department for purposes of monitoring and  
21 enforcement of this ~~act~~ PART.

22       Sec. ~~39~~ 6536. A person shall not provide false informa-  
23 tion to a public inspection station or the department about esti-  
24 mated or actual repair costs or repairs needed to bring a motor  
25 vehicle into compliance. A person shall not claim an amount  
26 spent for repair if the repairs were not made or the amount not  
27 spent.

1       Sec. ~~40~~ 6537. (1) A person who violates section ~~36~~ 6533  
2 or forges, counterfeits, or alters an inspection certificate or  
3 who knowingly possesses an unauthorized inspection certificate,  
4 is guilty of a misdemeanor, punishable by imprisonment for ~~a~~  
5 ~~term~~ not ~~to exceed~~ MORE THAN 1 year or by a fine OF not ~~to~~  
6 ~~exceed~~ MORE THAN \$1,000.00. Each violation constitutes a sepa-  
7 rate offense.

8       (2) Except as otherwise provided in subsection (1), a person  
9 who violates section ~~37~~ 6534, ~~38~~ 6535, or ~~39~~ 6536 is guilty  
10 of a misdemeanor.

11       (3) A person who drives a motor vehicle in violation of this  
12 ~~act~~ PART or rules promulgated under this ~~act~~ PART is subject  
13 to a civil fine of not more than \$500.00. Each violation consti-  
14 tutes a separate offense.

15       Sec. ~~40a~~ 6538. Funds remaining in the vehicle emissions  
16 inspection and maintenance fund created by former Act No. 83 of  
17 the Public Acts of 1980 shall be transferred on January 1, 1996  
18 to the motor vehicle emissions testing program fund created in  
19 this ~~act~~ PART. These funds shall be available for appropria-  
20 tion to the department for start-up costs to implement the motor  
21 vehicle emissions testing program in this ~~act~~ PART, to conduct  
22 a public information program to educate the general public about  
23 requirements of this ~~act~~ PART, and for other activities related  
24 to the motor vehicle emissions testing program.

25       Sec. ~~41~~ 6539. Act No. 83 of the Public Acts of 1980,  
26 being sections 257.1051 to 257.1076 of the Michigan Compiled  
27 Laws, is repealed January 1, 1996.



1 ~~Sec. 42. This act shall not take effect unless House Bill~~  
 2 ~~No. 4165 of the 87th Legislature is enacted into law.~~

3 ~~PART 67 MOTOR FUELS QUALITY~~

4 ~~PART 85 FERTILIZERS~~

5 PART 85 FERTILIZERS

6 ~~Sec. 1. This act shall be known and may be cited as the~~  
 7 ~~"fertilizer act of 1975".~~

8 Sec. ~~2~~ 8501. As used in this ~~act~~ PART:

9 (a) "Aquifer" means a geologic formation, group of forma-  
 10 tions, or part of a formation capable of yielding a significant  
 11 amount of groundwater to wells or springs.

12 (b) "Aquifer sensitivity" means a hydrogeologic function  
 13 representing the inherent abilities of materials surrounding the  
 14 aquifer to attenuate the movement of nitrogen fertilizers into  
 15 that aquifer.

16 (c) "Aquifer sensitivity region" means an area in which  
 17 aquifer sensitivity estimations are sufficiently uniform to war-  
 18 rant their classification as a unit.

19 (d) "Brand or product name" means a term, design, or trade-  
 20 mark used in connection with 1 or more grades of fertilizer.

21 (e) "Bulk fertilizer" means fertilizer distributed in a non-  
 22 packaged form.

23 (f) "Custom mixed fertilizer" means a mixed fertilizer for-  
 24 mulated according to individual specifications furnished by the  
 25 consumer before mixing.

26 (g) "Department" means the department of agriculture.

1 (h) "Distribute" means to import, consign, sell, barter,  
2 offer for sale, solicit orders for sale, or otherwise supply  
3 fertilizer for sale or use in this state.

4 (i) "Fertilizer" means a substance containing 1 or more rec-  
5 ognized plant nutrients, which substance is used for its plant  
6 nutrient content and which is designed for use, or claimed to  
7 have value, in promoting plant growth. Fertilizer does not  
8 include unmanipulated animal and vegetable manures, marl, lime,  
9 limestone, wood ashes, and other materials exempted by rules  
10 promulgated under this ~~act~~ PART.

11 (j) "Fertilizer material" means any substance containing any  
12 recognized plant nutrient, which is used as a fertilizer or for  
13 compounding mixed fertilizers.

14 (k) "Grade" means the percentage guarantee of total nitro-  
15 gen, available phosphorus, or available phosphoric acid,  $P_2O_5$ ,  
16 and soluble potassium, or soluble potash,  $K_2O$ , of a fertilizer  
17 and shall be stated in the same order as listed in this  
18 subdivision. Indication of grade does not apply to peat or peat  
19 moss ~~or~~ or soil conditioners.

20 (l) "Groundwater" means underground water within the zone of  
21 saturation.

22 (m) "Groundwater stewardship practices" means any of a set  
23 of voluntary practices adopted by the commission of agriculture  
24 pursuant to ~~the groundwater and freshwater protection act, Act~~  
25 ~~No. 247 of the Public Acts of 1993, being sections 286.851 to~~  
26 ~~286.868 of the Michigan Compiled Laws~~ PART 87, designed to  
27 protect groundwater from contamination by fertilizers.

1 (n) "Guaranteed analysis" means the minimum percentage of  
2 each plant nutrient guaranteed or claimed to be present.

3 (o) "Label" means any written, printed, or graphic matter on  
4 or attached to packaged fertilizer or ~~which is~~ used to identify  
5 fertilizer distributed in bulk or held in bulk storage.

6 (p) "Labeling" means all labels and other written, printed,  
7 or graphic matter upon or accompanying fertilizer at any time,  
8 and includes advertising or sales literature.

9 (q) "Manufacture" means to process, granulate, compound,  
10 produce, mix, blend, or alter the composition of fertilizer or  
11 fertilizer materials.

12 (r) "Maximum contaminant level" means that term as it is  
13 defined in title XIV of the public health service act, chapter  
14 373, 88 Stat. 1660, and the regulations promulgated under that  
15 act.

16 (s) "Mixed fertilizer" means a fertilizer containing any  
17 combination or mixture of fertilizer materials designed for use  
18 or claimed to have value in promoting plant growth, including  
19 mixtures of fertilizer and pesticide.

20 (t) "Nitrogen fertilizer" means a fertilizer that contains  
21 nitrogen as a component.

22 (u) "Official sample" means a sample of fertilizer taken by  
23 a representative of the department of agriculture in accordance  
24 with acceptable methods.

25 (v) "Package" or "packaged" means any type of product regu-  
26 lated by this ~~act~~ PART that is distributed in individual

1 containers with ~~the~~ A capacity not exceeding 55 gallons for  
2 liquids and not exceeding 200 pounds for solids.

3 (w) "Percent" and "percentage" ~~means~~ MEAN the percentage  
4 by weight.

5 ~~(x) "Person" means an individual, partnership, association,  
6 firm, corporation, or any other legal entity.~~

7 ~~(y) "Rule" means a rule promulgated pursuant to the adminis-  
8 trative procedures act of 1969, Act No. 306 of the Public Acts of  
9 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
10 Laws.~~

11 (X) ~~(z)~~ "Soil conditioner" means a substance ~~which~~ THAT  
12 is used or intended for use solely for the improvement of the  
13 physical nature of soil and for which no claims are made for  
14 plant nutrients content. Soil conditioner does not include guar-  
15 anteed plant nutrients, hormones, bacterial inoculants, and prod-  
16 ucts used in directly influencing or controlling plant growth.

17 (Y) ~~(aa)~~ "Specialty fertilizer" means any fertilizer dis-  
18 tributed primarily for nonfarm use, such as use in connection  
19 with home, gardens, lawns, shrubbery, flowers, golf courses,  
20 parks, and cemeteries, and may include fertilizers used for  
21 research or experimental purposes.

22 (Z) ~~(bb)~~ "Ton" means a net ton of 2,000 pounds  
23 avoirdupois.

24 (AA) ~~(cc)~~ "Use" means the loading, mixing, applying, stor-  
25 ing, transporting, or disposing of a fertilizer.

26 Sec. ~~3~~ 8502. (1) A packaged fertilizer ~~, including~~  
27 ~~packaged custom mixed fertilizer and soil conditioner,~~

1 distributed in this state, INCLUDING PACKAGED CUSTOM MIXED  
2 FERTILIZER AND SOIL CONDITIONER, shall have placed on or affixed  
3 to the package or container ~~—~~ a label setting forth in clearly  
4 legible and conspicuous form ALL OF THE FOLLOWING:

5 (a) The net weight of the contents of the package, except  
6 that peat or peat moss shall be designated by volume.

7 (b) Brand or product name.

8 (c) Name and address of the licensed manufacturer or  
9 distributor.

10 (d) Grade. THIS SUBDIVISION DOES NOT APPLY TO PEAT OR PEAT  
11 MOSS OR MATERIAL SOLD AS A SOIL CONDITIONER.

12 (e) Guaranteed analysis. THIS SUBDIVISION DOES NOT APPLY TO  
13 PEAT OR PEAT MOSS OR MATERIAL SOLD AS A SOIL CONDITIONER.

14 ~~Subdivisions (d) and (e) shall not apply to peat or peat~~  
15 ~~moss or material sold as a soil conditioner.~~

16 (2) A fertilizer distributed in this state in bulk shall be  
17 accompanied by a written or printed invoice or statement to be  
18 furnished to the purchaser at THE time of delivery containing in  
19 clearly legible and conspicuous form ALL OF the following  
20 information:

21 (a) Name and address of the licensed manufacturer or  
22 distributor.

23 (b) Name and address of purchaser.

24 (c) Date of sale.

25 (d) Brand or product name.

26 (e) Grade.

1 (f) Guaranteed analysis.

2 (g) Net weight.

3 (3) Fertilizer in bulk storage shall be identified with a  
4 label attached to the storage bin or container giving the name  
5 and address of the licensed manufacturer or distributor and the  
6 name and grade of the product.

7 Sec. ~~4~~ 8503. (1) The guaranteed analysis for the primary  
8 nutrients of nitrogen, available phosphoric acid,  $P_2O_5$ , and solu-  
9 ble potash,  $K_2O$ , shall be expressed as whole numbers on the label  
10 in the following order and form:

11 Total nitrogen, N. \_\_\_\_\_ %

12 Available phosphoric acid,  $P_2O_5$ . \_\_\_\_\_ %

13 Soluble potash,  $K_2O$ . \_\_\_\_\_ %

14 (2) A mixed fertilizer may not be sold if the sum of the  
15 guarantees for the nitrogen, available phosphoric acid, and solu-  
16 ble potash totals less than 20%, except specialty fertilizers  
17 permitted to be sold by product registration issued by the  
18 department.

19 (3) If elemental guarantees are required by ~~administrative~~  
20 ~~rule~~ RULES, as authorized by section ~~15~~ 8516, the guaranteed  
21 analysis shall be expressed in terms of percentage of available  
22 phosphorus, P, and soluble potassium, K.

23 (4) Additional plant nutrients, other than nitrogen,  
24 phosphorus, and potassium, claimed to be present in any form or  
25 manner shall be guaranteed on the elemental basis, at levels not  
26 less than those established by ~~administrative rule~~ RULES. The  
27 materials shall be approved by the director of ~~agriculture~~ THE

1 DEPARTMENT, by and with the advice of the director of the  
2 Michigan agricultural experiment station.

3 Sec. ~~5~~ 8504. (1) A person shall not manufacture or dis-  
4 tribute fertilizer in this state, except specialty fertilizer and  
5 soil conditioners, until the appropriate groundwater protection  
6 fee provided in section ~~15 of the groundwater and freshwater~~  
7 ~~protection act, Act No. 247 of the Public Acts of 1993, being~~  
8 ~~section 286.865 of the Michigan Compiled Laws,~~ 8715 has been  
9 submitted, and a license to manufacture or distribute has been  
10 obtained by the manufacturer or distributor from the department  
11 upon payment of a fee of \$100.00:

12 (a) For each fixed location at which fertilizer is manufac-  
13 tured in this state.

14 (b) For each mobile unit used to manufacture fertilizer in  
15 this state.

16 (c) For each location out of the state that applies labeling  
17 showing out-of-state origin of fertilizer distributed in this  
18 state to nonlicensees.

19 ~~All licenses expire on December 31 of each year.~~

20 (2) An application for a license to manufacture or distrib-  
21 ute fertilizer shall include:

22 (a) The name and address of the applicant.

23 (b) The name and address of each bulk distribution point in  
24 the state not licensed for fertilizer manufacture or  
25 distribution. The name and address shown on the license shall be  
26 shown on all labels, ~~and~~ pertinent invoices, and bulk storage  
27 for fertilizers distributed by the licensee in this state.

1 (3) The licensee shall inform the director in writing of  
2 additional distribution points established during the period of  
3 the license.

4 (4) A distributor shall not be required to obtain a license  
5 if the distributor is selling fertilizer of a distributor or a  
6 manufacturer licensed under this ~~act~~ PART.

7 (5) ALL LICENSES TO MANUFACTURE OR DISTRIBUTE FERTILIZER  
8 EXPIRE ON DECEMBER 31 OF EACH YEAR.

9 Sec. ~~6~~ 8505. A person shall not distribute a specialty  
10 fertilizer or soil conditioner until it is registered by the man-  
11 ufacturer or distributor with the department ~~and~~ and the appro-  
12 priate groundwater protection fees provided for in section ~~15 of~~  
13 ~~the groundwater and freshwater protection act, Act No. 247 of the~~  
14 ~~Public Acts of 1993, being section 286.865 of the Michigan~~  
15 ~~Compiled Laws,~~ 8715 have been submitted. An application in  
16 duplicate listing each brand and product name of each grade of  
17 specialty fertilizer or soil conditioner shall be made on a form  
18 furnished by the director ~~and~~ and shall be accompanied with a fee  
19 of \$25.00 for each brand and product name of each grade. Labels  
20 for each brand and product name of each grade shall accompany the  
21 application. Upon approval of an application by the director, a  
22 copy of the registration shall be furnished to the applicant.  
23 All registrations expire on December 31 of each year.

24 Sec. ~~7~~ 8506. (1) An inspection fee of 10 cents per ton  
25 shall be paid to the department for all fertilizers or soil con-  
26 ditioners sold or distributed in this state. For peat or peat  
27 moss, the inspection fee shall be 2 cents per cubic yard. This



1 fee shall not apply to registered specialty fertilizers or soil  
2 conditioners sold or distributed only in packages of 10 pounds or  
3 less.

4 (2) Payment of the inspection fee shall be made on the basis  
5 of tonnage reports setting forth the number of tons of each grade  
6 of fertilizer and soil conditioner and the number of cubic yards  
7 of peat or peat moss sold or distributed in this state. The  
8 reports shall cover the periods of the year and be made in a  
9 manner SPECIFIED BY the director ~~shall specify by rule~~ OF THE  
10 DEPARTMENT IN RULES, and shall be filed with the department not  
11 later than 30 days after the close of each period. The time may  
12 be extended for cause for an additional 15 days ~~—~~ only on writ-  
13 ten request to, and approval by, the department. Remittance to  
14 cover the inspection fee shall accompany each tonnage report.  
15 Payments due of less than \$1.00, or refunds resulting from over-  
16 payment ~~—~~ of less than \$1.00, are waived. A penalty of 10% of  
17 the amount due, with a minimum of \$10.00, shall be assessed  
18 against the licensee for all amounts not paid when due. Unpaid  
19 fees and penalties ~~shall~~ constitute a debt and become the basis  
20 of a judgment against the licensee. Records upon which the  
21 statement of tonnage is based ~~shall be~~ ARE subject to depart-  
22 ment audit.

23 (3) When more than 1 person is involved in the distribution  
24 of fertilizer or soil conditioners, the last person who is  
25 licensed or has the fertilizer or soil conditioner registered and  
26 who distributes to a nonlicensee is responsible for reporting the  
27 tonnage and paying the inspection fee.

1           Sec. ~~8~~ 8507. (1) Each licensee shall maintain for a  
2 period of 3 years a record of quantities and grades of fertilizer  
3 and soil conditioner sold or distributed by ~~him~~ THE LICENSEE  
4 and shall make the records available for inspection and audit on  
5 request of the department. Each vendor of fertilizer and soil  
6 conditioner shall maintain for a period of 3 years shipping data  
7 such as invoices and freight bills pertaining to fertilizer and  
8 soil conditioner that ~~would~~ establish date and origin of the  
9 shipment, and shall make the records available for inspection and  
10 audit on request of the department.

11           (2) Tonnage payments, tonnage reports, or other information  
12 furnished or obtained under this ~~act~~ PART shall not be dis-  
13 closed in a way that will divulge the business operations of any  
14 one person.

15           Sec. ~~9~~ 8508. (1) This ~~act shall not be construed as~~  
16 ~~requiring~~ PART DOES NOT REQUIRE the payment of inspection fees  
17 for sales or exchanges of fertilizers or soil conditioners  
18 between manufacturers who mix fertilizer or soil conditioner  
19 materials for sale, or ~~as preventing~~ PREVENT the free and unre-  
20 stricted shipment of fertilizers or soil conditioners for further  
21 processing to manufacturers licensed under this ~~act~~ PART.

22           (2) This ~~act~~ PART does not apply to a carrier in respect  
23 to a fertilizer or soil conditioner delivered or consigned to it  
24 by others for transportation in the ordinary course of its busi-  
25 ness as a carrier.

26           Sec. ~~10~~ 8509. A person shall not DO ANY OF THE  
27 FOLLOWING:

1 (a) Sell or distribute fertilizer or soil conditioner in  
2 violation of the requirements of this ~~act~~ PART or the rules  
3 promulgated ~~hereunder~~ UNDER THIS PART.

4 (b) Make a guarantee, claim, or representation in connection  
5 with the sale of fertilizer or soil conditioner, or in their  
6 labeling, which is false, deceptive, or misleading.

7 (c) Manufacture or distribute a fertilizer or soil condi-  
8 tioner without a license as required by this ~~act~~ PART or dis-  
9 tribute a specialty fertilizer or soil conditioner unless regis-  
10 tered as required by this ~~act~~ PART.

11 (d) Make a false or misleading statement in an application  
12 for a license or in an inspection fee or statistical report ~~—~~  
13 or in any other statement or report filed with the department  
14 pursuant to this ~~act~~ PART.

15 (e) Attach or cause to be attached ~~—~~ an analysis stating  
16 that a fertilizer contains a higher percentage of a plant nutri-  
17 ent than it in fact contains.

18 Sec. ~~++~~ 8510. (1) The department shall inspect, sample,  
19 and analyze fertilizers and soil conditioners distributed within  
20 this state at a time and place ~~—~~ and to the extent necessary to  
21 determine compliance with this ~~act~~ PART.

22 (2) Department representatives and inspectors shall have  
23 free access during regular business hours to all premises where  
24 fertilizers or soil conditioners are manufactured, sold, or  
25 stored, and to all trucks or other vehicles and vessels used in  
26 the transportation of a fertilizer or soil conditioner in this  
27 state, to determine compliance with this ~~act~~ PART. Department

1 representatives and inspectors may stop any conveyance  
2 transporting fertilizer or soil conditioner for the purpose of  
3 inspecting and sampling the products and examining their  
4 labeling.

5 (3) A manufacturer or distributor of fertilizer or soil con-  
6 ditioner shall submit to the department, upon request, product  
7 samples, copies of labeling, or any other data or information  
8 that the department may request concerning composition and claims  
9 and representations made for fertilizers and soil conditioners  
10 manufactured or distributed by ~~them~~ THE MANUFACTURER OR  
11 DISTRIBUTOR within this state.

12 (4) The director may, upon reasonable notice, require a  
13 person to furnish any information relating to the identification,  
14 nature, and quantity of fertilizers that are or have been used on  
15 a particular site and TO current or past practices that may have  
16 affected groundwater quality. Information required under this  
17 subsection is confidential business information and is not  
18 subject to the freedom of information act, Act No. 442 of the  
19 Public Acts of 1976, being sections 15.231 to 15.246 of the  
20 Michigan Compiled Laws.

21 Sec. ~~+2~~ 8511. The director ~~of agriculture~~ OF THE  
22 DEPARTMENT, by a duly authorized agent, may select from any pack-  
23 age or bulk lot of commercial fertilizer or soil conditioner  
24 exposed for sale in this state ~~—~~ a sample to be used for the  
25 purposes of an official analysis for comparison with the label  
26 affixed to the package or bulk lot on sale. The director OF THE  
27 DEPARTMENT, his OR HER deputy, or an authorized agent of the

1 director OF THE DEPARTMENT, may at any time seize ~~—~~ or stop the  
2 sale of a fertilizer or soil conditioner that is misbranded,  
3 fails to meet a guarantee, is being manufactured or distributed  
4 by an unlicensed person, or otherwise fails to comply with this  
5 ~~act~~- PART.

6 Sec. ~~12a~~ 8512. (1) Upon confirming the presence of  
7 nitrate in groundwater in concentration exceeding 50% of the max-  
8 imum contaminant level for nitrates in 20% of drinking water  
9 wells associated with an aquifer sensitivity region or fertilizer  
10 use activity, the director OF THE DEPARTMENT shall provide educa-  
11 tional materials to fertilizer users within that region and may  
12 do 1 or more of the following:

13 (a) Establish a regional stewardship team to assist in the  
14 coordination of local activities designed to prevent further con-  
15 tamination of groundwater and to identify all probable sources of  
16 nitrate.

17 (b) Conduct further monitoring to determine the concentra-  
18 tion and spatial distribution of nitrates in the aquifer.

19 (c) Perform an evaluation of activities in the monitoring  
20 region to determine the sources of nitrate that may have contrib-  
21 uted to the contamination.

22 (d) Implement a stewardship program in the aquifer sensitiv-  
23 ity region pursuant to ~~the groundwater and freshwater protection~~  
24 ~~act, Act No. 247 of the Public Acts of 1993, being sections~~  
25 ~~286.851 to 286.868 of the Michigan Compiled Laws~~ PART 87.

26 (e) Assist the regional stewardship team in designing a  
27 regional plan to prevent further contamination of groundwater by

1 fertilizer use activities, which PLAN must include an assessment  
2 of all probable sources of nitrates.

3 (f) Establish a program that provides incentives for users  
4 to increase nitrogen use efficiency.

5 (2) Upon approval of a regional plan by the director OF THE  
6 DEPARTMENT, the regional stewardship team is eligible to receive  
7 grants from the freshwater protection fund ~~as~~ established by  
8 ~~Act No. 247 of the Public Acts of 1993 for implementation of the~~  
9 ~~plan~~ PART 87.

10 (3) The director OF THE DEPARTMENT may, upon written  
11 request, authorize persons to land-apply materials containing  
12 fertilizers at agronomic rates. This authorization shall pre-  
13 scribe appropriate operational control activities to protect the  
14 application location and shall identify both the location of  
15 remediation and the location or locations where such a land  
16 application will take place.

17 Sec. ~~+2b~~ 8513. The department ~~shall have the authority~~  
18 ~~to~~ MAY promulgate rules regarding the bulk storage of  
19 fertilizers.

20 Sec. ~~+3~~ 8514. A person who violates this ~~act~~ PART is  
21 guilty of a misdemeanor. A person who violates this ~~act shall~~  
22 ~~be~~ PART IS liable for all damages sustained by a purchaser of a  
23 product sold in violation of this ~~act~~ PART. In an enforcement  
24 action, a court, in addition to other penalties provided by law,  
25 may order restitution to a party injured by the purchase of a  
26 product sold in violation of this ~~act~~ PART.

1       Sec. ~~14~~ 8515. The director OF THE DEPARTMENT may revoke  
 2 the license of a manufacturer or distributor ~~or~~ or the  
 3 registration of a fertilizer product or soil conditioner, or may  
 4 refuse to license a manufacturer or distributor or to register a  
 5 fertilizer product or soil conditioner, upon satisfactory evi-  
 6 dence that the licensee has engaged in fraudulent or deceptive  
 7 practices ~~or~~ or has evaded or ~~has~~ attempted to evade this  
 8 ~~act~~ PART or the rules promulgated ~~hereunder~~ UNDER THIS PART.  
 9 A license or registration shall not be revoked or refused until  
 10 the licensee or applicant has been given the opportunity by the  
 11 director ~~or~~ OF THE DEPARTMENT to appear for a hearing.

12       Sec. ~~15~~ 8516. The director of ~~agriculture~~ THE  
 13 DEPARTMENT shall enforce this ~~act~~ PART and may promulgate  
 14 rules. ~~pursuant to Act No. 306 of the Public Acts of 1969, as~~  
 15 ~~amended, being sections 24.201 to 24.315 of the Michigan Compiled~~  
 16 ~~Laws.~~

17       ~~Sec. 16. Act No. 26 of the Public Acts of 1885, being~~  
 18 ~~sections 286.31 to 286.39 of the Compiled Laws of 1970, is~~  
 19 ~~repealed.~~

20       ~~Sec. 17. This act shall take effect January 1, 1976.~~

21       ~~PART 91 SOIL EROSION AND SEDIMENTATION CONTROL~~

22       PART 91 SOIL EROSION AND SEDIMENTATION CONTROL

23       ~~Sec. 1. This act shall be known and may be cited as the~~  
 24 ~~"soil erosion and sedimentation control act of 1972".~~

25       Sec. ~~2~~ 9101. (1) "Agricultural practices" means all land  
 26 farming operations except the plowing or tilling of land for the  
 27 purpose of crop production or the harvesting of crops.

1 (2) "Authorized public agency" means a state, local, or  
2 county agency designated pursuant to section ~~++~~ 9110 to enforce  
3 soil erosion and sedimentation control requirements with regard  
4 to land uses undertaken by it.

5 ~~(3) "Commission" means the water resources commission of~~  
6 ~~the department of natural resources.~~

7 (3) ~~(4)~~ "County agency" means an officer, board, commis-  
8 sion, department, or other entity of county government.

9 (4) ~~(5)~~ "County enforcing agency" means an agency desig-  
10 nated by a county board of commissioners pursuant to section ~~6~~  
11 9105.

12 ~~(6) "Department" means the state department of~~  
13 ~~agriculture.~~

14 (5) ~~(7)~~ "Earth change" means a ~~man made~~ HUMAN-MADE  
15 change in the natural cover or topography of land, including cut  
16 and fill activities, which may result in or contribute to soil  
17 erosion or sedimentation of the waters of the state. Earth  
18 change ~~in this section shall not apply to~~ DOES NOT INCLUDE the  
19 practice of plowing and tilling soil for the purpose of crop  
20 production.

21 (6) ~~(8)~~ "Land use" means a use of land ~~which~~ THAT may  
22 result in an earth change, including but not limited to subdivi-  
23 sion, residential, commercial, industrial, recreational or other  
24 development, private and public highway, road and street con-  
25 struction, and drainage construction.

26 (7) ~~(9)~~ "Local agency" means a county, city, village, or  
27 charter township.



1       (8) ~~(+0)~~ "Local enforcing agency" means an agency  
2 designated by a city, village, or charter township in accordance  
3 with section ~~7~~ 9106.

4       ~~(+1) "Person" means an individual, sole proprietorship,  
5 partnership, corporation, association, city, village, township,  
6 county, this state, an instrumentality or agency of this state,  
7 or any other legal entity.~~

8       (9) ~~(+2)~~ "Public agency" means a general law township, a  
9 school board, or any other local or regional public body, author-  
10 ity, board, or commission ~~which~~ THAT is not a state, local, or  
11 county agency.

12       (10) ~~(+3)~~ "Rules" means the rules promulgated pursuant to  
13 section ~~5~~ 9104.

14       Sec. ~~3~~ 9102. (1) "Sediment" means solid particulate  
15 matter, mineral or organic, that has been deposited in water, is  
16 in suspension in water, is being transported, or has been removed  
17 from its site of origin by the processes of soil erosion.

18       (2) "Soil conservation district" means a soil conservation  
19 district authorized by section ~~5 of Act No. 297 of the Public~~  
20 ~~Acts of 1937, as amended, being section 282.5 of the Compiled~~  
21 ~~Laws of 1948~~ 9305.

22       (3) "Soil erosion" means the wearing away of land by the  
23 action of wind, water, gravity, or a combination ~~thereof~~ OF  
24 WIND, WATER, OR GRAVITY.

25       (4) "State agency" means a principal state department.

26       Sec. ~~4~~ 9103. (1) The department OF AGRICULTURE, with the  
27 assistance of the soil conservation districts and in consultation

1 with appropriate state and local agencies, shall prepare and  
 2 submit to the ~~commission~~ DEPARTMENT for the ~~commission's~~  
 3 DEPARTMENT'S approval a unified statewide soil erosion and sedi-  
 4 mentation control program. The program shall identify land uses  
 5 which may be governed by this ~~act~~ PART and shall include recom-  
 6 mendations, guidelines, and specifications for the control of  
 7 soil erosion for the identified land uses to prevent sedimenta-  
 8 tion of the waters of this state. The program shall also set  
 9 forth the means by which agricultural practices shall be in com-  
 10 pliance with the guidelines and specifications as set forth  
 11 ~~therein~~ IN THIS PART. ~~Rules for the implementation of agri-~~  
 12 ~~cultural practices shall not take effect until January 1, 1979.~~

13 (2) The ~~commission~~ DEPARTMENT shall make available to the  
 14 department OF AGRICULTURE:

15 (a) Information on the effects of sediments on water quality  
 16 and the damages of water resources that may be attributed  
 17 ~~thereto~~ TO THOSE EFFECTS.

18 (b) The location of those waters of this state ~~which~~ THAT  
 19 are degraded or have potential for being degraded by  
 20 sedimentation.

21 (c) Water quality standards ~~which~~ THAT shall be included  
 22 in the program to protect the designated uses of the waters of  
 23 this state.

24 Sec. ~~5~~ 9104. ~~(1) By October 1, 1973, the commission~~ THE  
 25 DEPARTMENT, with the assistance of the department OF AGRICULTURE,  
 26 shall ~~prepare~~ PROMULGATE rules for a unified soil erosion and  
 27 sedimentation control program, including provisions for the

1 review and approval of site plans, land use plans, or permits  
2 relating to erosion control and sedimentation control. The  
3 ~~commission~~ DEPARTMENT shall notify and make copies of ~~the~~  
4 proposed rules available to state, local, county, and public  
5 agencies affected by this ~~act~~ PART for review and comment  
6 before promulgation.

7 ~~(2) The commission shall promulgate the rules in accordance~~  
8 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~  
9 ~~amended, being sections 24.201 to 24.315 of the Compiled Laws of~~  
10 ~~1948. The rules take effect on July 1, 1974.~~

11 Sec. ~~6~~ 9105. (1) A county is responsible for the adminis-  
12 tration and enforcement of the rules throughout the county except  
13 within a city, village, or charter township that has in effect an  
14 ordinance conforming to ~~the provisions of~~ this section and  
15 except with regard to land uses of authorized public agencies  
16 approved by the ~~commission~~ DEPARTMENT pursuant to section ~~11~~  
17 9110.

18 (2) The county board of commissioners, by resolution, shall  
19 designate a county agency, or a soil conservation district upon  
20 the concurrence of the soil conservation district, as the county  
21 enforcing agency responsible for administration and enforcement  
22 in the name of the county. The resolution may set forth a sched-  
23 ule of fees for inspections, plan reviews, and permits and may  
24 set forth other matters relating to the administration and  
25 enforcement of this ~~act~~ PART and the rules. A copy of the res-  
26 olution and all subsequent amendments to the resolution shall be  
27 forwarded to the ~~commission~~ DEPARTMENT.

1 (3) Two or more counties may provide for joint enforcement  
2 and administration by entering into an interlocal agreement pur-  
3 suant to the urban cooperation act of 1967, Act No. 7 of the  
4 Public Acts of the Extra Session of 1967, being sections 124.501  
5 to 124.512 of the Michigan Compiled Laws.

6 Sec. ~~7~~ 9106. (1) A city, village, or charter township by  
7 ordinance may provide for soil erosion and sedimentation control  
8 on public and private land uses within its boundaries except that  
9 a charter township ordinance shall not be applicable within a  
10 village that has in effect an ordinance providing soil erosion  
11 and sedimentation control. An ordinance may be more restrictive  
12 THAN, but may not make lawful that which is unlawful under, this  
13 ~~act~~ PART and the rules. The ordinance may adopt all or part of  
14 the rules by reference, shall designate a local enforcing agency  
15 responsible for administration and enforcement of the ordinance,  
16 and may set forth such other matters as the legislative body  
17 ~~deems~~ CONSIDERS necessary or desirable. The ordinance shall be  
18 applicable and shall be enforced with regard to all private and  
19 public land uses within the city, village, or charter township  
20 except land uses of an authorized public agency designated pursu-  
21 ant to section ~~++~~ 9110. The city, village, or charter township  
22 may consult with a soil conservation district for assistance or  
23 advice in the preparation of the ordinance.

24 (2) On July 1, 1975, an ordinance ~~which~~ THAT is not  
25 approved by the ~~commission~~ DEPARTMENT as conforming to the min-  
26 imum requirements of this ~~act~~ PART and the rules ~~shall have~~  
27 HAS no force or effect. With regard to a city, village, or

1 charter township ordinance in effect prior to July 1, 1974, a  
2 copy of the ordinance shall be submitted to the ~~commission~~  
3 DEPARTMENT before September 1, 1974. With regard to an ordinance  
4 or an amendment proposed to be adopted on or after July 1, 1974,  
5 a copy of the proposed ordinance or proposed amendment shall be  
6 submitted to the ~~commission~~ DEPARTMENT for approval before  
7 adoption. The ~~commission~~ DEPARTMENT shall forward a copy to  
8 the appropriate soil conservation district for review and  
9 comment. Within 90 days after it receives an existing ordinance,  
10 proposed ordinance, or amendment, the ~~commission~~ DEPARTMENT  
11 shall notify the clerk of the city, village, or charter township  
12 of its approval or disapproval along with recommendations for  
13 revision to the extent that the ordinance, proposed ordinance, or  
14 amendment does not conform to the minimum requirements of this  
15 ~~act~~ PART or the rules. If the ~~commission~~ DEPARTMENT does not  
16 ~~so~~ notify the clerk of the local unit within the 90-day period,  
17 the ordinance, proposed ordinance, or amendment shall be ~~deemed~~  
18 CONSIDERED to have been approved by the ~~commission~~ DEPARTMENT.

19       Sec. ~~8~~ 9107. A county or local enforcing agency shall  
20 notify the ~~commission~~ DEPARTMENT of all violations of this  
21 ~~act~~ PART or the rules or violations of the ordinance, including  
22 violations attributable to a land use by an authorized public  
23 agency.

24       Sec. ~~9~~ 9108. As a condition for the issuance of a permit,  
25 the county or local enforcing agency may require the applicant to  
26 deposit with the clerk of the local agency in the form of cash, a  
27 certified check, or an irrevocable bank letter of credit,

1 whichever the applicant selects, or a surety bond acceptable to  
 2 the legislative body of the local agency, in an amount sufficient  
 3 to assure the installation and completion of such protective or  
 4 corrective measures as may be required by the county or local  
 5 enforcing agency.

6       Sec. ~~10~~ 9109. (1) An authorized public agency or a county  
 7 or local enforcing agency may enter into an agreement with a soil  
 8 conservation district for assistance and advice in overseeing and  
 9 reviewing compliance with adequate soil erosion and sedimentation  
 10 control procedures and in reviewing existing or proposed land  
 11 uses, land use plans, or site plans with regard to technical mat-  
 12 ters pertaining to soil erosion and sedimentation control. In  
 13 addition to ~~or~~ or in the absence of such agreements, soil con-  
 14 servation districts may perform periodic reviews and evaluations  
 15 of the agency's operation procedures pursuant to standards and  
 16 specifications developed in cooperation with the respective dis-  
 17 tricts ~~and~~ and as approved by the department. ~~of natural~~  
 18 ~~resources.~~ Such reviews and evaluations ~~to~~ SHALL be submitted  
 19 to the administering agency of the department ~~of natural~~  
 20 ~~resources~~ for appropriate action.

21       (2) A person engaged in agricultural practices may enter  
 22 into agreement with the appropriate soil conservation district to  
 23 pursue ~~such~~ agricultural practices in accordance with and  
 24 subject to the rules promulgated by the ~~commission~~ DEPARTMENT  
 25 pursuant to section ~~5~~ 9104. ~~where~~ IF a person enters into an  
 26 agreement with a soil conservation district, the district shall  
 27 notify the county or local enforcement agency or the ~~commission~~

1 DEPARTMENT of the agreement. Upon formal agreement and in  
2 compliance with ~~the provisions of~~ this ~~act~~ PART as provided  
3 in this subsection, a person ~~shall~~ IS not ~~be~~ subject to any  
4 site plans, land use plans, or permits required pursuant to this  
5 ~~act~~ PART, but ~~shall be~~ IS subject to enforcement as provided  
6 by sections ~~+3-~~ 9112 and ~~+4-~~ 9113 after January 1, 1979.

7 Sec. ~~++~~ 9110. (1) A state, local, or county agency may  
8 apply to the ~~commission~~ DEPARTMENT for designation as an autho-  
9 rized public agency by submitting to the ~~commission~~ DEPARTMENT  
10 the soil erosion and sedimentation control procedures governing  
11 all land uses normally undertaken by the agency. If the appli-  
12 cant is a local or county agency, the ~~commission~~ DEPARTMENT  
13 shall submit the procedures to the appropriate soil conservation  
14 district for review, ~~which~~ AND THE SOIL CONSERVATION DISTRICT  
15 shall submit its comments ~~thereon~~ ON THE PROCEDURES to the  
16 ~~commission~~ DEPARTMENT within 60 days. If the applicant is a  
17 state agency, the ~~commission~~ DEPARTMENT shall submit the proce-  
18 dures to the department OF AGRICULTURE for review, ~~which~~ AND  
19 THE DEPARTMENT OF AGRICULTURE shall submit its comments ~~thereon~~  
20 ON THE PROCEDURES to the ~~commission~~ DEPARTMENT within 60 days.

21 (2) If the ~~commission~~ DEPARTMENT finds that a local  
22 agency's soil erosion and sedimentation control procedures are  
23 adequate, the ~~commission~~ DEPARTMENT may delegate to that local  
24 agency authority to approve local or county agency soil erosion  
25 and sedimentation control procedures and designate the local or  
26 county agency as an authorized public agency.

1 (3) After approval of the procedures and designation as an  
2 authorized public agency pursuant to subsection (1) or (2), all  
3 affected land uses maintained or undertaken by the authorized  
4 public agency shall be undertaken pursuant to the approved  
5 procedures. If determined necessary by the ~~commission~~  
6 DEPARTMENT and upon request of an authorized agency, the  
7 ~~commission~~ DEPARTMENT may grant a variance from the provisions  
8 of this subsection.

9 Sec. ~~+2~~ 9111. (1) After June 30, 1974, a person who makes  
10 and submits a preliminary plat pursuant to sections 111 to 118 of  
11 THE SUBDIVISION CONTROL ACT OF 1967, Act No. 288 of the Public  
12 Acts of 1967, ~~as amended~~, being sections 560.111 to 560.118 of  
13 the MICHIGAN Compiled Laws, ~~of 1948~~, shall attach a statement  
14 that he OR SHE will comply with this ~~act~~ PART and the rules or  
15 an applicable local ordinance.

16 (2) After June 30, 1974, in addition to the statements in  
17 the proprietor's certificate on a final plat as required by sec-  
18 tion 144 of THE SUBDIVISION CONTROL ACT OF 1967, Act No. 288 of  
19 the Public Acts of 1967, ~~as amended~~, being section 560.144 of  
20 the MICHIGAN Compiled Laws, ~~of 1948~~, the proprietor's certifi-  
21 cate shall include a certificate that he OR SHE has obtained a  
22 permit from the appropriate county or local enforcing agency and  
23 will conform to the requirements of this ~~act~~ PART and the rules  
24 or an applicable local ordinance.

25 Sec. ~~+3~~ 9112. (1) A person shall not maintain or under-  
26 take a land use or earth change governed by this ~~act~~ PART or  
27 the rules ~~or~~ or governed by an applicable local ordinance,



1 except in accordance with this ~~act~~ PART and the rules or with  
2 the applicable local ordinance and pursuant to a permit approved  
3 by the appropriate county or local enforcing agency. A person  
4 who violates this subsection is guilty of a misdemeanor.

5 (2) ~~When~~ IF in the opinion of the ~~commission~~ DEPARTMENT  
6 a person or a state, local, county, or public agency violates  
7 this ~~act~~ PART, the rules, or an applicable local ordinance, or  
8 an appropriate local agency fails to enforce this ~~act~~ PART, the  
9 rules, or an applicable local ordinance, the ~~commission~~  
10 DEPARTMENT may notify the alleged offender of its determination.  
11 The notice shall contain, in addition to a statement of the spe-  
12 cific violation ~~which~~ THAT the ~~commission~~ DEPARTMENT believes  
13 to exist, a proposed form of order, stipulation for agreement, or  
14 other action ~~which~~ THAT the ~~commission deems~~ DEPARTMENT  
15 CONSIDERS appropriate to assure timely correction of the  
16 violation, and THE NOTICE shall set a date for a hearing not less  
17 than 4 nor more than 8 weeks from the date of the notice of  
18 determination. Extensions of the date of the hearing may be  
19 granted by the ~~commission~~ DEPARTMENT or on request. At the  
20 hearing, any interested party may appear, present witnesses, and  
21 submit evidence. A person ~~who~~ OR A state, local, county, or  
22 public agency ~~who~~ THAT has been served with a notice of deter-  
23 mination may file a written answer ~~thereto~~ TO THE NOTICE OF  
24 DETERMINATION before the date set for hearing or at the hearing  
25 may appear and present oral or written testimony and evidence on  
26 the charges and proposed requirements of the ~~commission~~  
27 DEPARTMENT to assure correction of the violation. ~~contained~~

1 ~~therein.~~ If a person ~~—~~ OR A state, local, county, or public  
2 agency served with the notice of determination agrees with the  
3 proposed requirements of the ~~commission~~ DEPARTMENT and notifies  
4 the ~~commission~~ DEPARTMENT ~~thereof~~ OF THAT AGREEMENT before  
5 the date set for the hearing, disposition of the case may be made  
6 with the approval of the ~~commission~~ DEPARTMENT by stipulation  
7 or consent order without further hearing. The final order of  
8 determination following the hearing, or the stipulation or con-  
9 sent order as authorized by this section and approved by the  
10 ~~commission~~ DEPARTMENT, is conclusive unless reviewed in accord-  
11 ance with THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306  
12 of the Public Acts of 1969, ~~as amended~~ BEING SECTIONS 24.201 TO  
13 24.328 OF THE MICHIGAN COMPILED LAWS, in the circuit court of  
14 ~~the county of~~ Ingham COUNTY, or of the county in which the vio-  
15 lation occurred, upon petition ~~therefor~~ filed within 15 days  
16 after the service upon the person ~~—~~ OR THE state, local,  
17 county, or public agency of the final order of determination.

18 Sec. ~~14~~ 9113. (1) Notwithstanding the existence or pur-  
19 suit of any other remedy, except as provided in section ~~10~~  
20 9109, the ~~commission,~~ DEPARTMENT or any local or county enforc-  
21 ing agency may maintain an action in its own name in a court of  
22 competent jurisdiction for an injunction or other process against  
23 any person to restrain or prevent violations of this ~~act~~ PART,  
24 the rules, or an applicable local ordinance.

25 (2) The ~~commission~~ DEPARTMENT or any agent duly appointed  
26 by it or any county or local enforcement agency may enter at all  
27 reasonable times in or upon any private or public property for

1 the purpose of inspecting and investigating conditions or  
2 practices ~~which~~ THAT may be in violation of this ~~act~~ PART,  
3 the rules, or an applicable local ordinance.

4 Sec. ~~+5-~~ 9114. In order to carry out their functions under  
5 this ~~act~~ PART, the ~~commission~~ DEPARTMENT and the department  
6 OF AGRICULTURE may promulgate ~~additional~~ rules in ~~accordance~~  
7 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~  
8 ~~amended~~ ADDITION TO THOSE OTHERWISE AUTHORIZED IN THIS PART.

9 Sec. ~~+6-~~ 9115. This ~~act~~ PART does not apply to land on  
10 which a person ~~, partnership or corporation~~ is engaged in the  
11 industry generally referred to as logging, ~~or is engaged in~~ the  
12 industry generally referred to as mining, or the plowing or till-  
13 ing of land for the purpose of crop production or the harvesting  
14 of crops.

15 ~~Sec. 17. This act shall take effect January 1, 1973.~~

16 Sec. ~~+8-~~ 9116. A person who owns land on which an earth  
17 change has been made that may result in or contribute to soil  
18 erosion or sedimentation of the waters of the state shall imple-  
19 ment and maintain soil erosion and sedimentation control measures  
20 that will effectively reduce soil erosion or sedimentation from  
21 the land on which the earth change has been made.

22 Sec. ~~+9-~~ 9117. If the county or local enforcing agency  
23 ~~which~~ THAT is responsible for enforcing this ~~act~~ PART deter-  
24 mines that soil erosion and sedimentation of the waters of this  
25 state has or will reasonably occur from a parcel of land in vio-  
26 lation of this ~~act~~ PART, it may seek to enforce this ~~act~~ PART  
27 by notifying the person who owns the land, by mail, with return

1 receipt requested, of its determination. The notice shall  
2 contain a description of specific soil and sedimentation control  
3 measures ~~which~~ THAT, if implemented by the landowner, would  
4 bring the landowner into compliance with this ~~act,~~ PART and  
5 would prevent soil erosion and sedimentation of the waters of  
6 this state.

7       Sec. ~~20~~ 9118. A person who owns land subject to this  
8 ~~act~~ PART shall implement and maintain soil erosion and sedimen-  
9 tation control measures in conformance with this ~~act~~ PART  
10 within 10 days after the notice of violation of this ~~act~~ PART  
11 is given under section ~~19~~ 9117.

12       Sec. ~~21~~ 9119. Except as otherwise provided in this sec-  
13 tion, no sooner than 10 days after notice of violation of this  
14 ~~act~~ PART has been mailed under section ~~19~~ 9117, if the condi-  
15 tion of the land, in the opinion of the county or local enforcing  
16 agency, may result in or contribute to soil erosion and sedimen-  
17 tation of the waters of this state, and if soil erosion and sedi-  
18 mentation control measures in conformance with this ~~act~~ PART  
19 are not in place, the county or local enforcing agency, or a des-  
20 ignee of either of these agencies, may enter upon the land and  
21 construct, implement, and maintain soil erosion and sedimentation  
22 control measures in conformance with this ~~act~~ PART. However,  
23 the enforcing agency shall not expend more than \$500.00 for the  
24 cost of the work, materials, or labor without prior written  
25 notice in the notice provided in section ~~19~~ 9117 for the person  
26 who owns the land that the expenditure of more than \$500.00 may  
27 be made. If more than \$500.00 is to be expended under this

1 section, then the work shall not begin until at least 20 days  
2 after the notice of violation has been mailed.

3       Sec. ~~22~~ 9120. (1) All expenses incurred by the county or  
4 local enforcing agency under section ~~21~~ 9119 to construct,  
5 implement, and maintain soil erosion and sedimentation control  
6 measures to bring the land in conformance with this ~~act~~ PART  
7 shall be reimbursed to the county or local enforcing agency by  
8 the person who owns the land.

9       (2) The county or local enforcing agency shall have a lien  
10 for the expenses incurred under section ~~21~~ 9119 of bringing the  
11 land into conformance with this ~~act~~ PART. However, with  
12 respect to ~~single~~ SINGLE-FAMILY or multi-family residential  
13 property, the lien for such expenses shall have priority over all  
14 liens and encumbrances filed or recorded after the date of such  
15 expenditure. With respect to all other property, the lien for  
16 such expenses shall be collected and treated in the same manner  
17 as provided for property tax liens under the general property tax  
18 act, Act No. 206 of the Public Acts of 1893, being sections 211.1  
19 to 211.157 of the Michigan Compiled Laws.

20       Sec. ~~23~~ 9121. (1) A person who owns land that is not in  
21 compliance with this ~~act~~ PART and who, after notice, refuses to  
22 implement and maintain soil erosion and sedimentation control  
23 measures in conformance with this ~~act shall be~~ PART IS subject  
24 to a civil fine of not more than \$500.00. A fine collected under  
25 this section shall be paid to the enforcing agency responsible  
26 for the enforcement of this ~~act~~ PART in the city, township, or  
27 village where the land is located.

1 (2) A default in the payment of a civil fine, ~~or~~ costs  
2 ordered under this ~~act~~ PART, or an installment of the fine or  
3 costs may be remedied by any means authorized under the revised  
4 judicature act of 1961, Act No. 236 of the Public Acts of 1961,  
5 being sections 600.101 to 600.9947 of the Michigan Compiled  
6 Laws.

7 Sec. ~~24~~ 9122. If any ~~part~~ PROVISION of this ~~act~~ PART  
8 is declared by a court to be invalid, the invalid ~~part~~  
9 PROVISION shall not affect the remaining ~~parts~~ PROVISIONS of  
10 the ~~act which~~ PART THAT can be given effect without the invalid  
11 ~~part~~ PROVISION. The validity of the ~~act~~ PART as a whole ~~✓~~  
12 or in part ~~✓~~ shall not be affected, other than the ~~part~~  
13 PROVISION invalidated.

14 Sec. ~~25~~ 9123. Each individual who is responsible for  
15 administering ~~this act~~ FORMER ACT NO. 347 OF THE PUBLIC ACTS OF  
16 1972 on ~~the effective date of this section~~ JUNE 15, 1988 shall  
17 complete the soil erosion and sedimentation control training pro-  
18 gram sponsored by the department ~~of natural resources~~ within 2  
19 years, unless the individual has completed the training program  
20 prior to ~~the effective date of this section~~ JUNE 15, 1988.  
21 Individuals who undertake responsibilities for administering this  
22 ~~act~~ PART OR FORMER ACT NO. 347 OF THE PUBLIC ACTS OF 1972 after  
23 ~~the effective date of this section~~ JUNE 15, 1988 shall complete  
24 this training program within 2 years after the date on which they  
25 begin administering this ~~act~~ PART OR FORMER ACT NO. 347 OF THE  
26 PUBLIC ACTS OF 1972.

~~PART 93 SOIL CONSERVATION DISTRICTS~~

## PART 93 SOIL CONSERVATION DISTRICTS

~~Sec. 1. Short title. This act may be known and cited as the soil conservation districts law.~~

Sec. ~~3~~ 9301. As used in this ~~act~~ PART:

(A) ~~(h)~~ "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(B) ~~(d)~~ "Committee" or "state soil conservation committee" means the advisory body created within the department of agriculture in section ~~4~~ 9304.

(C) ~~(a)~~ "Department" means the department of agriculture.

(D) ~~(e)~~ "Director" means 1 of the members of the governing body of a district, elected or appointed in accordance with this ~~act~~ PART.

(E) ~~(b)~~ "District" or "soil conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with this ~~act~~ PART, for the purposes, with the powers, and subject to the restrictions set forth in this ~~act~~ PART.

(F) ~~(f)~~ "Due notice" means notice published at least twice, with an interval of at least 7 days between the 2 publication dates, in a newspaper or other publication of general circulation within the appropriate area ~~—~~ or, if no publication of general circulation is available, ~~by posting~~ NOTICE POSTED at a reasonable number of conspicuous places within the appropriate area, such posting to include, ~~where~~ IF possible, posting at

1 public places where it may be customary to post notices  
2 concerning county or municipal affairs generally. At any hearing  
3 held pursuant to the notice, at the time and place designated in  
4 the notice, adjournment may be made from time to time without the  
5 necessity of renewing the notice for ~~such~~ THE adjourned dates.

6 (G) ~~(j)~~ "Government" or "governmental" includes the gov-  
7 ernment of this state, the government of the United States, and  
8 any subdivision, agency, or instrumentality, corporate or other-  
9 wise, of either of them.

10 (H) ~~(k)~~ "Land occupier" or "occupier of land" includes any  
11 person ~~of legal age, firm, or corporation~~ who ~~shall hold~~  
12 HOLDS title to, or ~~shall be~~ IS in possession of, any land 3  
13 acres or more in extent lying within a district organized under  
14 this ~~act~~ PART OR FORMER ACT NO. 297 OF THE PUBLIC ACTS OF 1937,  
15 whether as owner, lessee, renter, tenant, or otherwise. AN INDI-  
16 VIDUAL SHALL BE OF LEGAL AGE TO QUALIFY AS AN OCCUPIER OF LAND.

17 (I) ~~(m)~~ ~~"Land owner"~~ "LANDOWNER" includes any person ~~7~~  
18 ~~firm, or corporation~~ who ~~shall hold~~ HOLDS title to or has con-  
19 tracted to purchase any land lying within a district organized  
20 under this ~~act~~ PART OR FORMER ACT NO. 297 OF THE PUBLIC ACTS OF  
21 1937.

22 (J) ~~(f)~~ "Nominating petition" means a petition filed under  
23 section ~~6~~ 9306 to nominate candidates for the office of direc-  
24 tor of a soil conservation district.

25 (K) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, OR  
26 CORPORATION.



1 (L) ~~(e)~~ "Petition" means a petition filed under section  
2 ~~5(1)~~ 9305(1) for the creation of a district.

3 (M) ~~(g)~~ "State" means this state.

4 (N) ~~(i)~~ "United States" or "agencies of the United States"  
5 includes the United States of America, the soil conservation  
6 service of the United States department of agriculture, and any  
7 other agency or instrumentality, corporate or otherwise, of the  
8 United States of America.

9 Sec. ~~2~~ 9302. It is ~~hereby declared to be~~ the policy of  
10 the legislature to provide for the conservation of the soil and  
11 water resources of this state ~~—~~ and for the control and preven-  
12 tion of soil erosion, and thereby to conserve the natural  
13 resources of this state, control floods, prevent impairment of  
14 dams and reservoirs, assist in maintaining the navigability of  
15 rivers and harbors, preserve wildlife, protect the tax base, pro-  
16 tect public lands, and protect and promote the health, safety,  
17 and general welfare of the people of this state.

18 Sec. ~~3a~~ 9303. (1) The business ~~which~~ THAT the soil con-  
19 servation committee or the board of directors of a soil conserva-  
20 tion district or consolidated district may perform shall be con-  
21 ducted at a public meeting of the committee or board held in com-  
22 pliance with THE OPEN MEETINGS ACT, Act No. 267 of the Public  
23 Acts of 1976, being sections 15.261 to 15.275 of the Michigan  
24 Compiled Laws. Public notice of the time, date, and place of the  
25 meeting shall be given in the manner required by Act No. 267 of  
26 the Public Acts of 1976, in addition to any other notice  
27 prescribed in this ~~act~~ PART.

1 (2) A writing prepared, owned, used, in the possession of,  
2 or retained by the soil conservation committee or the board of  
3 directors of a soil conservation district or consolidated dis-  
4 trict in the performance of an official function shall be made  
5 available to the public in compliance with THE FREEDOM OF INFOR-  
6 MATION ACT, Act No. 442 of the Public Acts of 1976, being sec-  
7 tions 15.231 to 15.246 of the Michigan Compiled Laws.

8 Sec. ~~4~~ 9304. (1) There is ~~hereby~~ established, to serve  
9 as an advisory body and to perform the functions conferred upon  
10 it by the director of the department of agriculture, the state  
11 soil conservation committee. The committee shall consist of 7  
12 members. The following shall serve as members of the committee:  
13 the dean of agriculture and natural resources of Michigan state  
14 university; the director of the department of agriculture; the  
15 director of the department of natural resources; and 4 practical  
16 farmers, who shall be appointed by the governor from among the  
17 directors of the several districts, for terms of 4 years, to  
18 begin July 1 of the odd year. The department may invite the  
19 United States secretary of agriculture to appoint 1 person to  
20 serve with the other members as a member of the committee. The  
21 department shall keep a record of the committee's official  
22 actions, shall adopt a seal, which seal shall be judicially  
23 noticed, and may perform acts, hold public hearings, and promul-  
24 gate rules as may be necessary for the execution of its functions  
25 under this ~~act~~ PART.

26 (2) The department may employ an administrative officer,  
27 ~~and~~ technical experts, and other agents and employees,

1 permanent and temporary, as it may require, and shall determine  
 2 their qualifications and duties. The department may call upon  
 3 the attorney general of the state for ~~such~~ legal services as it  
 4 may require. The committee shall be supplied with necessary sup-  
 5 plies and equipment. Upon request of the department ~~—~~ for the  
 6 purpose of carrying out any of its functions, the supervising  
 7 officer of any state agency ~~—~~ or of any state institution of  
 8 learning shall, ~~insofar as may be~~ TO THE EXTENT possible under  
 9 available appropriations ~~—~~ and having due regard to the needs  
 10 of the agency OR INSTITUTION OF LEARNING to which the request is  
 11 directed, assign or detail to the department members of the staff  
 12 or personnel of the agency or institution of learning ~~—~~ and  
 13 make such special reports, surveys, or studies as the committee  
 14 may request.

15 (3) The committee shall designate its chairperson annually.  
 16 The 4 farmer members shall hold office for 4 years or until a  
 17 successor is appointed and qualified. The nonfarmer members  
 18 shall hold office ~~so~~ AS long as they ~~shall~~ retain the office  
 19 by virtue of which they ~~shall be serving~~ SERVE on the  
 20 committee. A majority of the committee ~~shall constitute~~  
 21 CONSTITUTES a quorum, and the concurrence of a majority in any  
 22 matter within their duties ~~shall be~~ IS required for its  
 23 determination. The farmer members of the committee shall receive  
 24 compensation for their services when attending committee meetings  
 25 and ~~shall be~~ ARE entitled to expenses, including traveling  
 26 expenses, necessarily incurred in the discharge of their duties  
 27 on the committee. The nonfarmer members shall not receive

1 compensation for their services on the committee. The department  
2 shall provide for the keeping of a full and accurate record of  
3 all proceedings of the committee and of all resolutions and rec-  
4 ommendations issued or adopted by the committee. The department  
5 shall provide for an annual audit of the accounts of receipts and  
6 disbursements of the committee.

7 (4) In addition to the duties and powers ~~hereinafter~~ con-  
8 ferred upon the department UNDER THIS PART, ~~it shall have~~ THE  
9 DEPARTMENT HAS the following duties and powers:

10 (a) To offer such assistance as may be appropriate to the  
11 directors of soil conservation districts, organized as provided  
12 in this ~~act~~ PART, in ~~the carrying out of~~ IMPLEMENTING any of  
13 their powers and programs.

14 (b) To keep the directors of each of the districts organized  
15 under this ~~act~~ PART informed of the activities and experience  
16 of all other districts organized under this ~~act~~ PART, and to  
17 facilitate an interchange of advice and experience between ~~such~~  
18 THE districts and cooperation between them.

19 (c) To approve and coordinate the programs of all soil con-  
20 servation districts organized under this ~~act~~ PART.

21 (d) To secure the cooperation and assistance of the United  
22 States and any of its agencies, and the state and any of its  
23 agencies, in the work of the districts, and to formulate policies  
24 and procedures ~~—~~ as the department considers necessary for the  
25 extension of aid in any form from federal or state agencies to  
26 the districts.

1 (e) To disseminate information throughout the state  
2 concerning the activities and programs of the soil conservation  
3 districts organized under this ~~act~~ PART, and to encourage the  
4 formation of districts in areas where their organization is  
5 desirable.

6 (5) Members of the committee shall not accept any position  
7 created by the committee for which a salary is paid or engage in  
8 any business that is promoted by the committee as part of or  
9 ~~which~~ THAT contributes to the soil conservation program.

10 Sec. ~~5~~ 9305. (1) Any 25 occupiers of land lying within  
11 the limits of the territory proposed to be organized into a dis-  
12 trict may file a petition with the department asking that a soil  
13 conservation district be organized to function in the territory  
14 described in the petition. The petition shall set forth:

15 (a) The proposed name of the district.

16 (b) That there is need, in the interest of the public  
17 health, safety, and welfare, for a soil conservation district to  
18 function in the territory described in the petition.

19 (c) A description of the territory proposed to be organized  
20 as a district. ~~, which~~ THE description ~~shall~~ IS not ~~be~~  
21 required to be given by metes and bounds or by legal subdivi-  
22 sions, but ~~shall be~~ IS sufficient if generally accurate.

23 (d) A request that the department define the boundaries for  
24 the district; that a referendum be held within the territory so  
25 defined on the question of the creation of a soil conservation  
26 district in the territory; and that the department determine that  
27 a district be created. ~~Where~~ IF more than 1 petition is filed

1 covering parts of the same territory, the department may  
2 consolidate all or any of the petitions.

3 (2) Within 30 days after a petition has been filed with the  
4 department, the department shall give notice of a proposed hear-  
5 ing upon the question of the desirability and necessity, in the  
6 interest of the public health, safety, and welfare, of the cre-  
7 ation of the district; upon the question of the appropriate  
8 boundaries to be assigned to the district; upon the propriety of  
9 the petition and other proceedings taken under this ~~act~~ PART;  
10 and upon all questions relevant to those issues. All occupiers  
11 of land within the limits of the territory described in the peti-  
12 tion, and of land within a territory considered for addition to  
13 the described territory, and all other interested parties,  
14 ~~shall~~ have the right to attend the hearings and to be heard.  
15 If it appears at the hearing that it may be desirable to include  
16 within the proposed district territory outside of the area within  
17 which notice of the hearing has been given, the hearing shall be  
18 adjourned, ~~and~~ notice of further hearing shall be given  
19 throughout the entire area considered for inclusion in the dis-  
20 trict, and a further hearing SHALL BE held. After the hearing,  
21 if the department determines, upon the facts presented at the  
22 hearing and upon other relevant facts and information as may be  
23 available, that there is need, in the interest of the public  
24 health, safety, and welfare, for a soil conservation district to  
25 function in the territory considered at the hearing, it shall  
26 make and record its determination ~~—~~ and shall define, by metes  
27 and bounds or by legal subdivisions, the boundaries of the

1 district. In making the determination and in defining the  
2 boundaries, the department shall give due weight and considera-  
3 tion to the topography of the area considered, the composition of  
4 soils, the distribution of erosion, the prevailing land-use prac-  
5 tices, the desirability and necessity of including within the  
6 boundaries the particular lands under consideration ~~—~~ and the  
7 benefits the lands may receive from being included within the  
8 boundaries, the relation of the proposed area to existing water-  
9 sheds and agricultural regions and to other soil conservation  
10 districts already organized or proposed for organization under  
11 this ~~act~~ PART, and other RELEVANT physical, geographical, and  
12 economic factors. ~~as are relevant.~~ The territory to be included  
13 within the boundaries need not be contiguous. If the department  
14 determines after the hearing ~~—~~ AND after due consideration of  
15 the relevant facts ~~—~~ that there is no need for a soil conserva-  
16 tion district to function in the territory considered at the  
17 hearing, it shall make and record its determination and deny the  
18 petition. After 6 months have expired from the date of the  
19 denial of any petition, subsequent petitions covering the same or  
20 substantially the same territory may be filed and new hearings  
21 held and determinations made based on those hearings.

22 (3) After the department has made and recorded a determina-  
23 tion that there is need, in the interest of the public health,  
24 safety, and welfare, for the organization of a district in a par-  
25 ticular territory and has defined the boundaries of the district,  
26 it shall consider ~~the question~~ whether the operation of a  
27 district within those boundaries with the powers conferred upon

1 soil conservation districts in this ~~act~~ PART is  
2 administratively practicable and feasible. To assist the depart-  
3 ment in the determination of administrative practicability and  
4 feasibility, the department, within a reasonable time after entry  
5 of the finding that there is need for the organization of the  
6 proposed district and the determination of the boundaries of the  
7 district, shall hold a referendum within the proposed district  
8 upon the proposition of the creation of the district and shall  
9 give notice of the referendum. The question shall be submitted  
10 by ballots upon which the words "For creation of a soil conserva-  
11 tion district of the lands below described and lying in the  
12 county of ..... and ....." and "Against creation of a  
13 soil conservation district of the lands below described and lying  
14 in the county of ..... and ....." shall be printed or  
15 mimeographed with a square before each proposition and a direc-  
16 tion to insert an X mark in the square before 1 or the other of  
17 the propositions as the voter may favor or oppose creation of the  
18 district. The ballot shall set forth the boundaries of the pro-  
19 posed district as determined by the department. All occupiers of  
20 lands lying within the boundaries of the territory, as determined  
21 by the department, shall be eligible to vote in the referendum.

22 (4) The department shall pay all expenses for the issuance  
23 of the notices and the conduct of the hearings and referenda and  
24 shall supervise the conduct of the hearings and referenda. The  
25 department shall issue appropriate rules governing the conduct of  
26 the hearings and referenda and providing for the registration of  
27 all eligible voters or prescribing some other appropriate



1 procedure for the determination of those eligible as voters in  
2 the referendum. Informalities in the conduct of the referendum  
3 or in any matters relating to the referendum shall not invalidate  
4 the referendum or the result of the referendum if notice has been  
5 given substantially as provided in this section and the referen-  
6 dum was fairly conducted.

7 (5) The department shall publish the result of the referen-  
8 dum and thereafter consider and determine whether the operation  
9 of the district within the defined boundaries is administratively  
10 practicable and feasible. If the department determines that the  
11 operation of the district is not administratively practicable and  
12 feasible, it shall record its determination and deny the  
13 petition. If the department determines that the operation of the  
14 district is administratively practicable and feasible, it shall  
15 record its determination and proceed with the organization of the  
16 district. In making its determination, the department shall give  
17 due regard and weight to the attitudes of the occupiers of lands  
18 lying within the defined boundaries, the number of land occupiers  
19 eligible to vote in the referendum who have voted, the proportion  
20 of the votes cast in the referendum in favor of the creation of  
21 the district to the total number of votes cast, the probable  
22 expense of ~~carrying on~~ CONDUCTING erosion-control operations  
23 within the district, and other economic and social factors ~~as~~  
24 ~~may be~~ THAT ARE relevant to the determination. The department  
25 shall not determine that the operation of the proposed district  
26 within the defined boundaries is administratively practicable and  
27 feasible unless at least a majority of the votes cast in the

1 referendum upon the proposition of creation of the district ~~have~~  
2 ~~been~~ WERE cast in favor of the creation of the district.

3 (6) If the department determines that the operation of the  
4 proposed district within the defined boundaries is administra-  
5 tively practicable and feasible, it shall appoint 2 directors to  
6 act, with the 3 directors elected as provided in section ~~6-~~  
7 9306, as the governing body of the district. The district shall  
8 be a governmental subdivision of this state and a public body  
9 corporate and politic, after the following requirements have been  
10 ~~complied with~~ MET:

11 (a) The directors shall present to the secretary of state an  
12 application signed by them ~~, which shall set~~ THAT SETS forth  
13 the following:

14 (i) That a petition for the creation of the district was  
15 filed with the department pursuant to this ~~act~~ PART, and that  
16 the proceedings specified in this ~~act~~ PART were taken pursuant  
17 to the petition; that the application is being filed in order to  
18 complete the organization of the district as a governmental sub-  
19 division and a public body, corporate and politic; and that they  
20 are the directors.

21 (ii) The name and official residence of each of the direc-  
22 tors, together with a certification evidencing their right to  
23 office.

24 (iii) The term of office of each of the directors.

25 (iv) The name ~~which~~ THAT is proposed for the district.

26 (v) The location of the principal office of the directors of  
27 the district.

1 (b) The application described in subdivision (a) shall be  
2 subscribed and sworn to by each of the directors before an offi-  
3 cer authorized by the laws of this state to take and certify  
4 oaths, who shall certify upon the application that he or she per-  
5 sonally knows the directors and knows them to be the officers as  
6 affirmed in the application, and that each has subscribed to the  
7 application in the officer's presence. The application shall be  
8 accompanied by a statement by the department ~~which shall~~  
9 ~~certify~~ THAT CERTIFIES all of the following:

10 (i) That a petition was filed, notice issued, and hearing  
11 held.

12 (ii) That the department did determine that there is need,  
13 in the interest of the public health, safety, and welfare, for a  
14 soil conservation district to function in the proposed territory  
15 and did define the boundaries of the district.

16 (iii) That notice was given and a referendum held on the  
17 question of the creation of the district.

18 (iv) That the result of the referendum showed a majority of  
19 the votes cast to be in favor of the creation of the district.

20 (v) That the department did determine that the operation of  
21 the proposed district is administratively practicable and  
22 feasible.

23 (vi) The boundaries of the district as they have been  
24 defined by the department.

25 (c) The secretary of state shall examine the application and  
26 statement and, if the secretary of state finds that the name  
27 proposed for the district is not identical with that of any other

1 soil conservation district or so nearly similar as to lead to  
2 confusion or uncertainty, he or she shall receive and file ~~them~~  
3 THE APPLICATION AND STATEMENT and ~~shall~~ record them in an  
4 appropriate book of record in his or her office. If the secre-  
5 tary of state finds that the name proposed for the district is  
6 identical with that of any other soil conservation district ~~—~~  
7 or so nearly similar as to lead to confusion ~~and~~ OR uncertain-  
8 ty, that fact shall be certified to the department, which shall  
9 submit to the secretary of state a new name for the district ~~—~~  
10 ~~which shall not be~~ THAT IS NOT subject to those defects. Upon  
11 receipt of the new name, free of defects, the secretary of state  
12 shall record the application and statement, with the MODIFIED  
13 name, ~~so modified,~~ in an appropriate book of record in his or  
14 her office. When the application and statement have been made,  
15 filed, and recorded, the district ~~shall constitute~~ CONSTITUTES  
16 a governmental subdivision of this state and a public body corpo-  
17 rate and politic. The secretary of state shall issue to the  
18 directors a certificate, under the seal of the state, of the due  
19 organization of the district, and shall record the certificate  
20 with the application and statement. The boundaries of the dis-  
21 trict shall include the territory as determined by the department  
22 but shall not include any area included within the boundaries of  
23 another soil conservation district organized under this ~~act~~  
24 PART OR FORMER ACT NO. 297 OF THE PUBLIC ACTS OF 1937.

25 (7) After 6 months have expired from the date of entry of a  
26 determination by the department that operation of a proposed  
27 district is not administratively practicable and feasible and

1 denial of a petition pursuant to ~~its~~ THAT determination,  
2 subsequent petitions may be filed and action taken in accordance  
3 with this ~~act~~ PART.

4 (8) Petitions for including additional territory within an  
5 existing district may be filed with the department, and the pro-  
6 ceedings provided for in the case of petitions to organize a dis-  
7 trict shall be observed in the case of petitions for inclusion.  
8 The department shall prescribe the form for the petitions, which  
9 shall be as nearly as possible in the form prescribed for peti-  
10 tions to organize a district. If the total number of land occu-  
11 piers in the area proposed for inclusion is less than 25, the  
12 petition may be filed when signed by a majority of the LAND occu-  
13 piers of the area, in which case a referendum need not be held.  
14 In ~~referenda~~ A REFERENDUM upon ~~petitions~~ A PETITION for  
15 inclusion, all occupiers of land lying within the proposed addi-  
16 tional area ~~shall be~~ ARE eligible to vote.

17 (9) In any suit, action, or proceeding involving the valid-  
18 ity or enforcement of, or relating to, any contract, proceeding,  
19 or action of the district, the district shall be ~~deemed~~  
20 CONSIDERED to have been established in accordance with this ~~act~~  
21 PART upon proof of the issuance of the certificate by the secre-  
22 tary of state. A copy of the certificate certified by the secre-  
23 tary of state ~~shall be~~ IS admissible in evidence in any action  
24 or proceeding ~~,~~ and ~~shall be~~ IS proof of the filing and con-  
25 tents of the certificate.

26 (10) Petitions signed by a majority of the members of each  
27 of the governing bodies of adjoining soil conservation districts

1 may be filed with the department asking that the boundary line  
2 between the districts be changed. The department shall prescribe  
3 the form of the petitions, which shall set out the existing  
4 boundary line between the districts and the proposed new  
5 boundary. Within 30 days after a petition has been filed with  
6 the department, it shall give notice of a public hearing upon the  
7 question of the proposed change of boundary. All occupiers of  
8 land lying within the districts and all other interested persons  
9 may attend the hearings and be heard. After the hearing, the  
10 department shall determine, upon the facts presented at the hear-  
11 ing and upon other available facts and information, whether the  
12 operation of the districts within the proposed new boundaries  
13 would be administratively practicable and feasible. In making  
14 its determination, the department shall give consideration to the  
15 declaration of policy and to the standards provided in this sec-  
16 tion, relative to the organization of districts. If after the  
17 hearing the department determines that the operation of the dis-  
18 tricts within the proposed new boundaries will be administra-  
19 tively practicable and feasible, it shall record its determina-  
20 tion and notify the chairpersons of the governing bodies of the  
21 districts of its determination. The chairpersons shall present  
22 to the secretary of state an application, signed by them, for a  
23 certificate evidencing the change of boundary. The application  
24 shall be accompanied by a statement by the department certifying  
25 that the boundary between the districts has been changed in  
26 accordance with the procedures prescribed in this subsection —  
27 and setting forth the new boundary line. When the application

1 and statement have been filed with the secretary of state, the  
2 change of boundary shall be effective, and the secretary of state  
3 shall issue to the directors of each of the districts a certifi-  
4 cate evidencing the change of boundary.

5 (11) Boundaries of soil conservation districts ~~which~~ THAT  
6 exclude cities and incorporated villages are extended to include  
7 these municipalities. ~~Land owners~~ LANDOWNERS and land occupi-  
8 ers of cities and incorporated villages have the same rights and  
9 privileges as accorded other ~~land owners~~ LANDOWNERS and land  
10 occupiers under this ~~act~~ PART.

11 (12) The board of directors of a soil conservation district  
12 may petition the department to change the district's name. The  
13 petition form shall be provided by the department. The depart-  
14 ment shall give due consideration to the petition ~~and~~ and, if the  
15 request is determined to be needed and practical, shall approve  
16 the change in name and request the secretary of state to enter  
17 the new name in the secretary of state's official records of the  
18 district.

19 Sec. ~~6~~ 9306. Nominating petitions shall be filed with the  
20 department to nominate candidates for directors of a district at  
21 the time of the hearing. The department may extend the time  
22 within which nominating petitions may be filed. A nominating  
23 petition shall not be accepted by the department unless it is  
24 signed by 25 or more occupiers of land lying within the bounda-  
25 ries of the district. Land occupiers may sign more than 1 nomi-  
26 nating petition to nominate more than 1 candidate for director.  
27 The department shall give due notice of an election to be held,

1 at the time of the referendum, of 3 directors for the district.  
2 The names of all nominees on WHOSE behalf ~~of whom~~ nominating  
3 petitions have been filed within the time designated in this sec-  
4 tion shall be printed and arranged UPON BALLOTS in the alphabet-  
5 ical order of the NOMINEES' surnames, ~~upon ballots,~~ with a  
6 square before each name and a direction to insert an X mark in  
7 the square before any 3 names to indicate the voter's  
8 preference. All occupiers of land lying within the district  
9 shall be eligible to vote in the election. The 3 candidates who  
10 ~~shall~~ receive the largest number, respectively, of the votes  
11 cast in the election shall be the elected directors for the  
12 district. Directors shall only assume office if there is a  
13 favorable vote for the creation of the district and IF the dis-  
14 trict is determined to be practicable and feasible by the  
15 department. The department shall pay all the expenses of the  
16 election, shall supervise the conduct of the election, shall pre-  
17 scribe regulations governing the conduct of the election and the  
18 determination of the eligibility of voters in the election, and  
19 shall publish the results of the election.

20 Sec. ~~7~~ 9307. (1) The first governing body of the district  
21 shall consist of 5 directors, elected or appointed as provided in  
22 this ~~act~~ PART. The 2 directors appointed by the department  
23 shall be persons who are by training and experience qualified to  
24 perform the specialized skilled services ~~which~~ THAT will be  
25 required of them in the performance of their duties under this  
26 ~~act~~ PART. The directors shall designate a chairperson  
27 annually.



1 (2) The term of office of each director shall be 3 years,  
2 except that the director first appointed shall serve for 2 years,  
3 the second director appointed shall serve for 1 year, and the  
4 directors first elected at the time of the referendum shall serve  
5 as follows: the director receiving the highest number of votes  
6 shall serve for 3 years, the director receiving the ~~next~~ SECOND  
7 highest number of votes shall serve for 2 years, and the director  
8 receiving the ~~next~~ THIRD highest number of votes shall serve  
9 for 1 year. Thereafter, all directors shall be elected at an  
10 annual meeting of the land occupiers of the district. The annual  
11 meeting shall be held within 30 days following the close of the  
12 fiscal year of the district. The fiscal year of the district  
13 shall be determined by the board of directors of the district. A  
14 director shall hold office until a successor has been elected and  
15 qualified. Vacancies shall be filled by appointment by the board  
16 of directors until the next annual meeting, at which time a  
17 director shall be elected to fill the unexpired or full term.  
18 The department shall promulgate rules ~~pursuant to the adminis-~~  
19 ~~trative procedures act of 1969, Act No. 306 of the Public Acts of~~  
20 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
21 ~~Laws,~~ governing the conduct of elections at annual meetings.

22 (3) A majority of the directors ~~shall constitute~~  
23 CONSTITUTES a quorum, and the concurrence of a majority in any  
24 matter within their duties ~~shall be~~ IS required for its  
25 determination. A director ~~shall be~~ IS entitled to expenses,  
26 including traveling expenses, necessarily incurred in the  
27 discharge of his or her duties.

1 (4) The directors may employ a secretary, technical experts,  
2 and such other officers, agents, and employees, permanent and  
3 temporary, as they may require, and shall determine their quali-  
4 fications, duties, and compensation. The directors may call upon  
5 the attorney general of the state for ~~such~~ legal services as  
6 they may require. The directors may delegate to their chair-  
7 person, to 1 or more directors, or to 1 or more agents or employ-  
8 ees ~~, such power~~ ANY POWERS and duties ~~as~~ THAT they ~~may~~  
9 ~~deem~~ CONSIDER proper. The directors shall furnish to the  
10 department, upon request, copies of ordinances, rules, regula-  
11 tions, orders, contracts, forms, and other documents ~~as~~ THAT  
12 they ~~shall~~ adopt or employ, and ~~such~~ ANY other information  
13 concerning their activities ~~, as~~ THAT the department may  
14 require in the performance of its duties under this ~~act~~ PART.

15 (5) The directors shall provide for the execution of surety  
16 bonds for all employees and officers who ~~shall be~~ ARE entrusted  
17 with funds or property; shall provide for the keeping of a full  
18 and accurate record of all proceedings and of all resolutions,  
19 regulations, and orders issued or adopted; shall provide for an  
20 annual audit of the accounts of receipts and disbursements; and  
21 shall maintain accurate financial records of receipts and dis-  
22 bursements of state funds, ~~that~~ WHICH RECORDS shall be made  
23 available to the department. Any director may be removed by the  
24 department upon notice and hearing for neglect of duty or malfea-  
25 sance in office, but for no other reason.

26 (6) The directors may invite the legislative body of any  
27 municipality or county located near the territory comprised

1 within the district to designate a representative to advise and  
2 consult with the directors of the district on all questions of  
3 program and policy ~~which~~ THAT may affect the property, water  
4 supply, or other interests of the municipality or county.

5       Sec. ~~8~~ 9308. (1) A soil conservation district organized  
6 under ~~the provisions of~~ this ~~act shall constitute~~ PART  
7 CONSTITUTES a governmental subdivision of this state ~~—~~ and a  
8 public body corporate and politic, exercising public powers, and  
9 a soil conservation district ~~—~~ and the directors of a district  
10 ~~, shall~~ have all of the following powers, in addition to powers  
11 OTHERWISE granted in ~~other sections of~~ this ~~act~~ PART:

12       (a) To conduct surveys, investigations, and research relat-  
13 ing to the character of soil erosion and the preventive and con-  
14 trol measures needed, to publish the results of the surveys,  
15 investigations, or research, and to disseminate information con-  
16 cerning these preventive and control measures. In order to avoid  
17 duplication of research activities, a district shall not initiate  
18 any research program except in cooperation with the government of  
19 this state or any of its agencies or with the United States or  
20 any of its agencies.

21       (b) To conduct demonstrational projects within the district  
22 on lands owned or controlled by this state or any of its agen-  
23 cies, with the cooperation of the agency administering and having  
24 jurisdiction of the lands, and on any other lands within the dis-  
25 trict upon obtaining the consent of the owner of the lands or the  
26 necessary rights or interest in the lands, in order to  
27 demonstrate by example the means, methods, and measures by which

1 soil and soil resources may be conserved and soil erosion in the  
2 form of soil blowing and soil washing may be prevented and  
3 controlled.

4 (c) To carry out preventive and control measures within the  
5 district including, but not limited to, engineering operations,  
6 methods of cultivation, the growing of vegetation, changes in use  
7 of land, and other measures to achieve purposes listed in decla-  
8 ration of policy, on lands owned or controlled by this state or  
9 any of its agencies, with the cooperation of the agency adminis-  
10 tering and having jurisdiction of the lands, and on any other  
11 lands within the district upon obtaining the consent of the owner  
12 of the lands or the necessary rights or interests in the lands.

13 (d) To cooperate ~~—~~ or enter into agreements with ~~—~~ and,  
14 within the limits of appropriations made available to it by law,  
15 to furnish financial or other aid to any agency, governmental or  
16 otherwise, or any landowner ~~—, or his or her designated~~  
17 ~~representative,~~ of ~~lands~~ LAND within the district OR HIS OR  
18 HER DESIGNATED REPRESENTATIVE, in the ~~carrying on~~ CONDUCTING of  
19 erosion-control and prevention operations within the district,  
20 subject to conditions as the directors ~~may~~ consider necessary  
21 to advance the purposes of this ~~act~~ PART.

22 (e) To obtain options upon and to acquire, by purchase,  
23 exchange, lease, gift, grant, bequest, devise, or otherwise, any  
24 property, real or personal, or rights or interests in that prop-  
25 erty; to maintain, administer, and improve any properties  
26 acquired, to receive income from the properties, and to expend  
27 income in carrying out the purposes and provisions of this ~~act~~

1 PART; and to sell, lease, or otherwise dispose of any of its  
2 property or interests in property in furtherance of the purposes  
3 and ~~the~~ provisions of this ~~act~~ PART.

4 (f) To make available, on the terms it prescribes, to land-  
5 owners or their designated representatives within the district,  
6 agricultural and engineering machinery and equipment, fertilizer,  
7 seeds, and seedlings, and other material or equipment ~~—~~ as will  
8 assist the landowners or their designated representatives to  
9 carry on operations upon their lands for the conservation of soil  
10 resources and for the prevention and control of soil erosion.

11 (g) To construct, improve, and maintain structures as may be  
12 necessary or convenient for the performance of any of the opera-  
13 tions authorized in this ~~act~~ PART.

14 (h) To develop comprehensive plans for the conservation of  
15 soil resources and for the control and prevention of soil erosion  
16 within the district. The plans shall specify, in such detail as  
17 ~~may be~~ IS possible, the acts, procedures, performances, and  
18 avoidances ~~which~~ THAT are necessary or desirable for the effec-  
19 tuation of the plans, including the specification of engineering  
20 operations, methods of cultivation, the growing of vegetation,  
21 cropping programs, tillage practices, and changes in use of land;  
22 and to publish the plans and information DESCRIBED IN THIS  
23 SUBDIVISION and bring them to the attention of occupiers of lands  
24 within the district.

25 (i) To take over, by purchase, lease, or otherwise, and to  
26 administer any soil-conservation, erosion-control, or  
27 erosion-prevention project located within its boundaries

1 undertaken by the United States or any of its agencies or by this  
2 state or any of its agencies; to manage, as agent of the United  
3 States or any of its agencies or of this state or any of its  
4 agencies, any soil-conservation, erosion-control, or  
5 erosion-prevention project within its boundaries; to act as agent  
6 for the United States or any of its agencies or for this state or  
7 any of its agencies in connection with the acquisition, construc-  
8 tion, operation, or administration of any soil-conservation,  
9 erosion-control, or erosion-prevention project within its bounda-  
10 ries; to accept donations, gifts, and contributions in money,  
11 services, materials, or otherwise, from the United States or any  
12 of its agencies or from this state or any of its agencies, and to  
13 use or expend the money, services, materials, or other contribu-  
14 tions in carrying on its operations subject to the policies and  
15 procedures adopted by the state SOIL CONSERVATION committee; ~~T~~  
16 and to accept money, gifts, and donations from any other source  
17 not specified in this subdivision.

18 (j) To sue and be sued in the name of the district; to have  
19 a seal that is judicially noticed; to have perpetual succession  
20 unless terminated as provided in this ~~act~~ PART; to make and  
21 execute contracts and other instruments necessary or convenient  
22 to the exercise of its powers; AND to make, and from time to time  
23 amend and repeal, rules and regulations in a manner that is not  
24 inconsistent with this ~~act~~ PART to carry into effect its pur-  
25 poses and powers.

26 (k) As a condition to the ~~extending~~ EXTENSION of any  
27 benefit under this ~~act~~ PART to, or the performance of work

1 upon, any lands not owned or controlled by this state or any of  
2 its agencies, the directors may require contributions in money,  
3 services, materials, or otherwise to any operation conferring the  
4 benefits, and may require land occupiers to enter into and per-  
5 form agreements or covenants as to the permanent use of the lands  
6 that will tend to prevent or control erosion on those lands.

7 (1) To act as the enforcing agency for a county if desig-  
8 nated ~~pursuant to~~ UNDER section ~~6 of the soil erosion and sed-~~  
9 ~~imentation control act of 1972, Act No. 347 of the Public Acts of~~  
10 ~~1972, being section 282.106 of the Michigan Compiled Laws~~ 9105.

11 (2) Unless the legislature specifically states otherwise,  
12 provisions with respect to the acquisition, operation, or dispo-  
13 sition of property by other public bodies ~~shall~~ ARE not ~~be~~  
14 applicable to a district organized under this ~~act~~ PART.

15 Sec. ~~+3-~~ 9309. ~~Cooperation between districts.~~ The direc-  
16 tors of any 2 or more districts organized under ~~the provisions~~  
17 ~~of~~ this ~~act~~ PART may cooperate with one another in the exer-  
18 cise of any or all powers conferred in this ~~act~~ PART.

19 Sec. ~~+4-~~ 9310. (1) ~~(a)~~ Agencies of this state ~~which~~  
20 THAT have jurisdiction over, or are charged with the administra-  
21 tion of, any state owned lands, and AGENCIES of any county or  
22 other governmental subdivision of the state ~~which~~ THAT have  
23 jurisdiction over, or are charged with the administration of, any  
24 county owned or other publicly owned lands, lying within the  
25 boundaries of any district, shall cooperate to the fullest extent  
26 with the directors of the districts in the effectuation of  
27 programs and operations undertaken by the directors under ~~the~~

1 ~~provisions of this act~~ PART. The directors of the districts  
2 shall be given free access to enter and perform work upon such  
3 publicly owned lands.

4 (2) ~~(b)~~ The board of directors of a soil conservation dis-  
5 trict may cooperate with and enter into agreement with a county,  
6 township, municipality, or other subdivision of state government  
7 in ~~carrying out~~ IMPLEMENTING soil, water, and related land-use  
8 projects. A county, township, municipality, or other subdivision  
9 of state government through its governing body may cooperate with  
10 and enter into agreement with soil conservation districts in car-  
11 rying out ~~the provisions of this act~~ PART and may assist dis-  
12 tricts by providing them with such materials, equipment, ~~moneys~~  
13 MONEY, personnel, and other services as the governmental unit  
14 ~~may deem~~ CONSIDERS advisable.

15 Sec. ~~45~~ 9311. (1) At any time after 5 years after the  
16 organization of a district under this ~~act~~ PART, any 25 occupi-  
17 ers of land lying within the boundaries of the district may file  
18 a petition with the department requesting that the operations of  
19 the district be terminated and THAT the existence of the district  
20 BE discontinued. The department may conduct such public meetings  
21 and public hearings upon the petition as may be necessary to  
22 assist it in the consideration of the petition. Within 60 days  
23 after a petition has been received by the department, the depart-  
24 ment shall give notice of the holding of a referendum, shall  
25 supervise the referendum, and shall promulgate appropriate rules  
26 governing the conduct of the referendum, the question to be  
27 submitted by ballots upon which the words "For terminating the



1 existence of the ..... (name of the soil  
 2 conservation district to be here inserted)" and "Against termi-  
 3 nating the existence of the ..... (name of the  
 4 soil conservation district to be here inserted)" shall be  
 5 printed, with a square before each proposition and a direction to  
 6 insert an X mark in the square before 1 or the other of the  
 7 propositions. All occupiers of lands lying within the boundaries  
 8 of the district shall be eligible to vote in the referendum.  
 9 Informalities in the conduct of the referendum or in any matters  
 10 relating to the referendum shall not invalidate the referendum or  
 11 the result of the referendum if notice of the referendum was  
 12 given substantially as provided in this ~~act~~ PART and if the  
 13 referendum was fairly conducted.

14 (2) The department shall publish the result of the referen-  
 15 dum and shall thereafter consider and determine whether the con-  
 16 tinued operation of the district within the defined boundaries is  
 17 administratively practicable and feasible. If the department  
 18 determines that the continued operation of a district is adminis-  
 19 tratively practicable and feasible, it shall record that determi-  
 20 nation and deny the petition. If the department determines that  
 21 the continued operation of a district is not administratively  
 22 practicable and feasible, it shall record that determination and  
 23 shall certify the determination to the directors of the  
 24 district. In making the determination, the department shall give  
 25 due regard and weight to the attitudes of the occupiers of lands  
 26 lying within the district, ~~—~~ the number of land occupiers  
 27 eligible to vote in the referendum who have voted, ~~—~~ the

1 proportion of the votes cast in the referendum in favor of the  
2 discontinuance of the district to the total number of votes cast,  
3 ~~the~~ probable expense of ~~carrying on~~ CONDUCTING  
4 erosion-control operations within the district, ~~and~~ and ~~such~~  
5 other economic and social factors ~~as may be~~ THAT ARE relevant  
6 to the determination. However, the department shall not deter-  
7 mine that the continued operation of the district is administra-  
8 tively practicable and feasible unless at least a majority of the  
9 votes cast in the referendum were cast in favor of the continu-  
10 ance of the district.

11 (3) Upon receipt from the department of a certification that  
12 the department has determined that the continued operation of the  
13 district is not administratively practicable and feasible pursu-  
14 ant to this section, the directors shall immediately proceed to  
15 terminate the affairs of the district. The directors shall dis-  
16 pose of all property belonging to the district at public auction  
17 and shall pay over the proceeds of the sale into the state trea-  
18 sury unless the discontinuance is for the purpose of combining  
19 with another district, in which case the assets shall be turned  
20 over to the district with which it is to be combined. The direc-  
21 tors shall thereupon file an application, duly verified, with the  
22 secretary of state for the discontinuance of the district, and  
23 shall transmit with the application the certificate of the  
24 department setting forth the determination of the department that  
25 the continued operation of the district is not administratively  
26 practicable and feasible. The application shall recite that the  
27 property of the district has been disposed of and the proceeds

1 paid over as provided in this section and ~~shall~~ ALSO set forth  
2 a full accounting of the properties and proceeds of the sale.  
3 The secretary of state shall issue to the directors a certificate  
4 of dissolution and ~~shall~~ record the certificate in an appropri-  
5 ate book of record in the office of the secretary of state.

6 (4) All contracts previously entered into, to which the dis-  
7 trict or directors are parties, shall remain in force and effect  
8 for the period provided in the contracts. The department shall  
9 be substituted for the district or directors as party to the  
10 contracts. The department shall be entitled to all benefits and  
11 subject to all liabilities under the contracts and shall have the  
12 same right and liability to perform, to require performance, to  
13 sue and be sued on the contracts, and to modify or terminate the  
14 contracts by mutual consent or otherwise, as the directors of the  
15 district would have had.

16 (5) The department shall not entertain petitions for the  
17 discontinuance of any district, ~~or~~ conduct referenda upon  
18 ~~such~~ THE petitions, or make determinations pursuant to the  
19 petitions in accordance with this ~~act,~~ PART more often than  
20 once in 2 years.

21 Sec. ~~+5a-~~ 9312. (1) Two or more soil conservation dis-  
22 tricts organized pursuant to this ~~act~~ PART may petition the  
23 department for consolidation of the districts into a single  
24 district. The department shall not take action on the petition  
25 unless it is signed by a majority of the directors of each of the  
26 districts involved. Within 30 days after receipt of a proper  
27 petition, the department shall cause notice of hearing to be

1 given to the occupiers of land in the area proposed to be  
2 included in the consolidated district.

3 (2) The department shall determine if consolidation as peti-  
4 tioned for is desirable. If it finds in the affirmative, the  
5 department shall issue an order ~~which shall state~~ THAT STATES  
6 that the districts are to be consolidated at a date specified in  
7 the order ~~—~~ and INCLUDES the name and the boundaries of the  
8 consolidated district.

9 (3) Upon transmission of the order to the secretary of  
10 state, a certificate of due organization under seal of the state  
11 shall issue to the directors of the district as provided in this  
12 ~~act~~ PART. The consolidated district shall have the same  
13 powers, duties, and functions as other districts organized under  
14 this ~~act~~ PART.

15 (4) The department shall appoint the first board of direc-  
16 tors of the consolidated district, 1 of whom shall be appointed  
17 for a term of 1 year, 2 for a term of 2 years, and 2 for a term  
18 of 3 years. Thereafter, directors shall be elected as provided  
19 in section ~~7~~ 9307.

20 (5) All assets, liabilities, records, documents, writings,  
21 or other property of whatever kind of the districts of which the  
22 consolidated district is composed shall become the property of  
23 the consolidated district, and all agreements made by, and obli-  
24 gations of, the former districts shall be binding upon and  
25 enforceable by the consolidated district. At the date specified  
26 in the department's order, the districts of which the  
27 consolidated district is composed shall cease to exist, and their

1 powers and duties shall cease after that date. The consolidated  
2 district shall be governed by this ~~act~~ PART.

3       Sec. ~~16~~ 9313. ~~Appropriations.~~ The necessary expenses of  
4 the state soil conservation committee and any soil conservation  
5 districts shall be made from appropriations ~~hereafter~~ made for  
6 ~~such~~ THOSE purposes.

7 ~~PART 119 WASTE MANAGEMENT AND RESOURCE RECOVERY FINANCE~~

8       PART 119 WASTE MANAGEMENT AND RESOURCE RECOVERY FINANCE

9       ~~Sec. 1. This act shall be known and may be cited as the~~  
10 ~~"waste management and resource recovery finance act of 1978".~~

11       Sec. ~~2~~ 11901. As used in this ~~act~~ PART:

12       (a) "Costs" means 1 or more of the following costs ~~which~~  
13 THAT may be chargeable to the waste management project as a capi-  
14 tal cost under generally acceptable accounting principles:

15       (i) The cost or fair market value of the acquisition or con-  
16 struction of lands, property rights, utility extensions, disposal  
17 facilities, buildings, structures, fixtures, machinery, equip-  
18 ment, access roads, easements, and franchises.

19       (ii) Engineering, architectural, accounting, legal, organi-  
20 zational, marketing, financial, and other services.

21       (iii) Permits and licenses.

22       (iv) Interest on the financing of the waste management  
23 project during acquisition and construction and before the date  
24 of commencement of commercial operation of the waste management  
25 project, but for not more than 1 year after that date.

1 (v) Operating expenses of the waste management project  
2 before full earnings are achieved, but for not more than 1 year  
3 after that date.

4 (vi) A reasonable reserve for payment of principal and  
5 interest on an indebtedness to finance the cost of a waste man-  
6 agement project.

7 (b) "Local authority" means an authority created under Act  
8 No. 179 of the Public Acts of 1947, ~~as amended,~~ being sections  
9 123.301 to 123.310 of the Michigan Compiled Laws.

10 (c) "Municipality" means a county, city, township, village,  
11 or local authority, or a combination thereof.

12 (d) "Note" means a note issued by a municipality pursuant to  
13 this ~~act~~ PART.

14 (e) "Person" means an individual, firm, partnership, associ-  
15 ation, corporation, unincorporated joint venture, or trust, orga-  
16 nized, permitted, or existing under the laws of this state or any  
17 other state, including a federal corporation, or a combination  
18 thereof, but excluding a municipality, special district having  
19 taxing powers, or other political subdivision of this state.

20 (f) "Revenue" means money or income received by a municipal-  
21 ity as a result of activities authorized by this ~~act~~ PART,  
22 including loan repayments and interest on loan repayments; pro-  
23 ceeds from the sale of real or personal property; interest pay-  
24 ments on investments; rentals and other payments due and owing on  
25 account of an instrument, lease, contract, or agreement to which  
26 the municipality is a party; and gifts, grants, bestowals, or

1 other moneys or payments to which a municipality is entitled  
2 under this ~~act~~ PART or other law.

3 (g) "Waste" means a discarded solid or semisolid material,  
4 including garbage, refuse, rubbish, ashes, liquid material, and  
5 other discarded materials generated by residential, commercial,  
6 agricultural, municipal, or industrial activities, including  
7 waste from sewage collected and treated in a municipal sewage  
8 system.

9 (h) "Waste management project" means 1 or more parts of a  
10 waste collection, transportation, disposal, or resource recovery  
11 system, including plants, works, systems, facility or transfer  
12 stations planned, designed, or financed under this ~~act~~ PART.  
13 Waste management project includes the extension or provision of  
14 utilities, steam generating and conveyance facilities, appurte-  
15 nant machinery, equipment, and other capital facilities, other  
16 than off-site mobile vehicular equipment, if necessary for the  
17 operation of a project or portion of a project. ~~It~~ WASTE MAN-  
18 AGEMENT PROJECT also includes necessary property rights, ease-  
19 ments, interests, permits, and licenses.

20 Sec. ~~3~~ 11902. A municipality may DO ANY OF THE  
21 FOLLOWING:

22 (a) Acquire by gift, purchase, or lease, construct, improve,  
23 remodel, repair, maintain, and operate, individually or jointly  
24 with a municipality or person, a waste management project;  
25 acquire private or public property by purchase, lease, gift, or  
26 exchange; and acquire private property when necessary by  
27 condemnation for public purposes pursuant to Act No. 149 of the

1 Public Acts of 1911, ~~as amended,~~ being sections 213.21 to  
2 ~~213.41~~ 213.25 of the Michigan Compiled Laws, or other applica-  
3 ble law or charter.

4 (b) Impose rates, charges, and fees, and enter into con-  
5 tracts relative to the rates, charges, and fees with persons  
6 using a waste management project; and assign, convey, encumber,  
7 mortgage, pledge, or grant a security interest in the rates,  
8 charges, and fees or the right to impose rates, charges, and fees  
9 to a person or municipality for the purpose of securing a con-  
10 tract with a person or municipality ~~—~~ or for the purpose of  
11 providing security or a source of payment for an indebtedness of  
12 a person or municipality, including bonds or notes, issued pursu-  
13 ant to the following acts, to finance the cost of a waste manage-  
14 ment project or in anticipation of revenues from a waste manage-  
15 ment project:

16 (i) THE INDUSTRIAL DEVELOPMENT REVENUE BOND ACT OF 1963, Act  
17 No. 62 of the Public Acts of 1963, ~~as amended,~~ being sections  
18 125.1251 to 125.1267 of the Michigan Compiled Laws.

19 (ii) THE ECONOMIC DEVELOPMENT CORPORATION ACT, Act No. 338  
20 of the Public Acts of 1974, ~~as amended,~~ being sections 125.1601  
21 to 125.1636 of the Michigan Compiled Laws.

22 (iii) THE DEREZINSKI-GEERLINGS JOB DEVELOPMENT AUTHORITY  
23 ACT, Act No. 301 of the Public Acts of 1975, ~~as amended,~~ being  
24 sections 125.1701 to 125.1770 of the Michigan Compiled Laws.

25 Sec. ~~4~~ 11903. (1) A municipality may enter into a con-  
26 tract with a person or municipality, providing for the  
27 acquisition, construction, financing, and operation of a waste



1 management project or for the use of the services of a project.  
2 Notwithstanding the requirements of its municipal charter or  
3 ordinances, the municipality, following the receipt from persons  
4 of bids or proposals for a contract referred to in this section,  
5 may negotiate with 1 or more persons who have submitted the bids  
6 or proposals, permit those persons to modify their bids or pro-  
7 posals, and enter into a contract with 1 or more of those persons  
8 on the basis of a bid or proposal as modified. A contract exe-  
9 cuted pursuant to this section, regardless of whether the bidding  
10 on the contract occurred before ~~the effective date of this act~~  
11 JULY 12, 1978, shall be valid and binding on the parties. The  
12 municipality is authorized, but is not required, to pledge its  
13 full faith and credit for the payment of the obligation in the  
14 manner and times specified in the contract.

15 (2) To pay its pledged share of the costs of a waste manage-  
16 ment project ~~or~~ or to secure its contract for the use of project  
17 services, a contracting municipality may use or pledge 1 or more,  
18 or a combination, of the following methods of raising necessary  
19 funds:

20 (a) If the full faith and credit of the municipality is  
21 pledged, the levy of a tax on taxable property by a municipality  
22 having the power to tax, which tax may be imposed without limita-  
23 tion as to rate or amount and may be imposed in addition to other  
24 taxes that the municipality ~~may be~~ IS authorized to levy, but  
25 for not more than a rate or amount ~~which~~ THAT is sufficient to  
26 pay its share or secure its contract.

1 (b) The levy and collection of rates or charges to users and  
2 beneficiaries of the service furnished by the waste management  
3 project.

4 (c) From ~~moneys~~ MONEY received or to be received from the  
5 imposition of taxes by the state and returned to the municipali-  
6 ty, unless the use of the money for that purpose is expressly  
7 prohibited by the state constitution of 1963.

8 (d) From any other funds which may be validly used for that  
9 purpose.

10 Sec. ~~5~~ 11904. A municipality may DO ANY OF THE  
11 FOLLOWING:

12 (a) Include in a contract with a municipality ~~or~~ or person  
13 provisions to the effect that the municipality will require all  
14 residential waste subject to its jurisdiction and police power  
15 under applicable law or charter and collected within its limits,  
16 whether by a municipality or person operating under contract with  
17 the municipality, to be disposed of at the waste management  
18 project. If so included, the municipality shall enact legisla-  
19 tion with appropriate penalties to make the requirement  
20 effective. However, a township, by resolution, may disapprove  
21 the collection of waste within the township boundaries by a  
22 county.

23 (b) Provide by contract with a municipality ~~or~~ or person  
24 for the ownership of a waste management project after all indebt-  
25 edness with respect to the project has been retired.

26 (c) Provide that rates or charges to users and beneficiaries  
27 of the service furnished by the waste management project shall be

1 a lien on the premises for which the services have been provided,  
2 and that amounts delinquent for 3 months or more may be certified  
3 annually to the proper tax assessing officer or agency of the  
4 municipality, to be entered upon the next tax roll against the  
5 premises to which the services have been rendered. The charges  
6 shall be collected and the lien enforced in the same manner as  
7 provided for the collection of taxes assessed upon the tax roll  
8 and the enforcement of a lien for unpaid taxes. The time and  
9 manner of certification and other details in respect to the col-  
10 lection of the rates and charges and the enforcement of the lien  
11 shall be prescribed by the governing body of the municipality.  
12 The municipality may authorize a person or municipality to  
13 impose, levy, and collect rates or charges against users and ben-  
14 eficiaries of the service furnished by the waste management  
15 project. The municipality may agree with a municipality or  
16 person that the rates and charges shall be a lien on the premises  
17 serviced, and may further agree that the collection of the rates  
18 and charges imposed may be collected and the lien enforced in the  
19 same manner as provided in this subsection for the collection of  
20 rates and charges and the enforcement of a lien by the  
21 municipality.

22       Sec. ~~6~~ 11905. A contract by a municipality with a person  
23 or municipality may provide for any and all matters relating to  
24 the acquisition, construction, financing, and operation of the  
25 waste management project as are considered necessary. The con-  
26 tract may provide for appropriate remedies in case of default,  
27 including the right of the contracting municipality to authorize

1 the state treasurer or other official charged with the  
2 disbursement of unrestricted state funds returnable to the munic-  
3 ipality ~~pursuant to~~ UNDER the state constitution of 1963 or  
4 OTHER laws ~~—~~ OF THIS STATE to withhold and apply sufficient  
5 funds from those disbursements to make up a default or  
6 deficiency.

7       Sec. ~~7~~ 11906. (1) A municipality desiring to enter into a  
8 contract under section ~~3~~ 11902 or ~~4~~ 11903 shall authorize, by  
9 resolution of its governing body, the execution of the contract.  
10 After the adoption of the resolution, if the full faith and  
11 credit of the municipality is pledged, a notice of the adoption  
12 of the resolution shall be published in a newspaper of general  
13 circulation in the municipality. The notice shall state ALL OF  
14 THE FOLLOWING:

15       (a) That the governing body has adopted a resolution autho-  
16 rizing execution of the contract.

17       (b) The purpose and the expected cost of the contract to the  
18 municipality.

19       (c) The source of payment for the municipality's contractual  
20 obligation.

21       (d) The right of referendum on the contract.

22       (e) Other information the governing body determines to be  
23 necessary to adequately inform interested electors of the nature  
24 of the obligation.

25       (2) A contract pledging the full faith and credit may be  
26 executed and delivered by the municipality upon approval of its  
27 governing body without a vote of the electors on the contract,

1 but the contract shall not become effective until the expiration  
2 of 45 days after the date of publication of the notice required  
3 by subsection (1). If, within the 45-day period, a petition  
4 REQUESTING A REFERENDUM UPON THE CONTRACT, signed by not less  
5 than 5% or 15,000 ~~—~~ of the registered electors residing within  
6 the limits of the municipality, whichever is ~~the lesser~~ LESS,  
7 is filed with the clerk of the municipality, ~~requesting a refer-~~  
8 ~~endum upon the contract,~~ the contract shall not become effective  
9 until approved by the vote of a majority of the electors of the  
10 municipality qualified to vote and voting at a general or special  
11 election.

12 (3) A special election called for pursuant to subsection (2)  
13 shall not be included in statutory or charter limitation as to  
14 the number of special elections to be called within a specified  
15 period of time. Signatures on the petition shall be verified by  
16 an elector under oath ~~—~~ as the actual signatures of the elec-  
17 tors whose names appear on the petition, and the clerk of the  
18 municipality shall have the same power to reject signatures as  
19 city clerks under section 25 of THE HOME RULE CITY ACT, Act  
20 No. 279 of the Public Acts of 1909, ~~as amended,~~ being section  
21 117.25 of the Michigan Compiled Laws. The number of registered  
22 electors in a municipality shall be determined from the  
23 municipality's registration books.

24 Sec. ~~8~~ 11907. A municipality may exercise the powers con-  
25 ferred by this ~~act~~ PART regardless of the requirements, includ-  
26 ing the competitive bidding requirement, of its municipal  
27 charter.

1       Sec. ~~9~~ 11908. This ~~act~~ PART shall not apply to  
2 municipalities having a population of more than 2,000,000.

3       ~~PART 193 ENVIRONMENTAL PROTECTION BOND AUTHORIZATION~~

4       PART 193 ENVIRONMENTAL PROTECTION BOND AUTHORIZATION

5       ~~Sec. 1. This act shall be known and may be cited as the~~  
6 ~~"environmental protection bond authorization act".~~

7       Sec. ~~2~~ 19301. The state shall borrow a sum not to exceed  
8 \$660,000,000.00 and issue the general obligation bonds of this  
9 state, pledging the full faith and credit of the state for the  
10 payment of principal and interest on the bonds, to finance envi-  
11 ronmental protection programs that would clean up sites of toxic  
12 and other environmental contamination and contribute to a  
13 regional Great Lakes protection fund, address solid waste prob-  
14 lems, treat sewage and other water quality problems, and reuse  
15 industrial sites and preserve open space.

16       Sec. ~~3~~ 19302. Bonds shall be issued in accordance with  
17 conditions, methods, and procedures to be established by law.

18       Sec. ~~4~~ 19303. The proceeds of the sale of the bonds or  
19 any series of the bonds, any premium and accrued interest  
20 received on the delivery of the bonds, and any interest earned on  
21 the proceeds of the bonds shall be deposited in the state trea-  
22 sury and credited to the environmental protection bond fund cre-  
23 ated in ~~the environmental protection bond implementation act~~  
24 PART 195 and shall be disbursed from that fund only for the pur-  
25 poses for which the bonds have been authorized, including the  
26 expense of issuing the bonds. The proceeds of sale of the bonds  
27 or any series of the bonds, any premium and accrued interest

1 received on the delivery of the bonds, and any interest earned on  
 2 the proceeds of the bonds shall be expended for the purposes set  
 3 forth in this ~~act~~ PART in a manner as provided by law.

4       Sec. ~~5~~ 19304. The question of borrowing a sum not to  
 5 exceed \$660,000,000.00 and the issuance of the general obligation  
 6 bonds of the state for the purposes set forth in this ~~act~~ PART  
 7 shall be submitted to a vote of the electors of the state quali-  
 8 fied to vote on the question in accordance with section 15 of  
 9 article IX of the state constitution of 1963, at the ~~next~~ gen-  
 10 eral election FOLLOWING SEPTEMBER 9, 1988, THE EFFECTIVE DATE OF  
 11 FORMER ACT NO. 326 OF THE PUBLIC ACTS OF 1988. The question sub-  
 12 mitted to the electors shall be substantially as follows:

13       "Shall the state of Michigan borrow a sum not to exceed  
 14 \$660,000,000.00 and issue general obligation bonds of the state,  
 15 pledging the full faith and credit of the state for the payment  
 16 of principal and interest on the bonds, to finance environmental  
 17 protection programs that would clean up sites of toxic and other  
 18 environmental contamination and contribute to a regional Great  
 19 Lakes protection fund, address solid waste problems, treat sewage  
 20 and other water quality problems, and reuse industrial sites and  
 21 preserve open space, the method of repayment of the bonds to be  
 22 from the general fund of this state?

23       Yes.....

24       No..... .".

25       Sec. ~~6~~ 19305. The secretary of state shall perform all  
 26 acts necessary to properly submit the question prescribed by  
 27 section ~~5~~ 19304 to the electors of this state qualified to vote

1 on the question at the ~~next~~ general November election FOLLOWING  
2 SEPTEMBER 9, 1988, THE EFFECTIVE DATE OF FORMER ACT NO. 326 OF  
3 THE PUBLIC ACTS OF 1988.

4       Sec. ~~7~~ 19306. (1) After the issuance of the bonds autho-  
5 rized by this ~~act~~ PART OR FORMER ACT NO. 326 OF THE PUBLIC ACTS  
6 OF 1988, there shall be appropriated from the general fund of the  
7 state each fiscal year a sufficient amount to pay promptly, when  
8 due, the principal of and interest on all outstanding bonds  
9 authorized by this ~~act~~ PART OR FORMER ACT NO. 326 OF THE PUBLIC  
10 ACTS OF 1988 and the costs incidental to the payment of the  
11 bonds.

12       (2) The governor shall include the appropriation provided in  
13 subsection (1) in his or her annual executive budget recommenda-  
14 tions to the legislature.

15       ~~Sec. 8. Bonds shall not be issued under this act unless~~  
16 ~~the question set forth in section 5 is approved by a majority~~  
17 ~~vote of the qualified electors voting on the question.~~

18       ~~Sec. 9. This act shall take effect September 9, 1988.~~

19       ~~Sec. 10. This act shall not take effect unless House Bill~~  
20 ~~No. 4995 of the 84th Legislature is enacted into law.~~

21       ~~PART 195 ENVIRONMENTAL PROTECTION BOND IMPLEMENTATION~~

22       PART 195 ENVIRONMENTAL PROTECTION BOND IMPLEMENTATION

23       ~~Sec. 1. This act shall be known and may be cited as the~~  
24 ~~"environmental protection bond implementation act".~~

25       Sec. ~~2~~ 19501. As used in this ~~act~~ PART:



1 (a) "Bonds" means the bonds issued under ~~the environmental~~  
2 ~~protection bond authorization act~~ PART 193 OR FORMER ACT NO. 326  
3 OF THE PUBLIC ACTS OF 1988.

4 ~~(b) "Commission" means the commission of natural~~  
5 ~~resources.~~

6 ~~(c) "Department" means the department of natural resources.~~

7 (B) ~~(d)~~ "Fund" means the environmental protection bond  
8 fund created in section ~~6~~ 19506.

9 (C) ~~(e)~~ "Local unit of government" means a county, city,  
10 village, OR township, or an agency of a county, city, village, or  
11 township; an authority or any other public body created by or  
12 pursuant to state law; or this state or an agency or department  
13 of this state.

14 (D) ~~(f)~~ "Private entity" means an individual, trust, firm,  
15 partnership, corporation, or association, whether profit or non-  
16 profit, that is not a local unit of government.

17 ~~(g) "Rule" means a rule promulgated pursuant to the admin-~~  
18 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~  
19 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
20 ~~Laws.~~

21 Sec. ~~1a~~ 19502. The legislature finds and declares that  
22 the environmental protection programs implemented under FORMER  
23 ACT NO. 328 OF THE PUBLIC ACTS OF 1988 OR this ~~act~~ PART are a  
24 public purpose and of paramount public concern in the interest of  
25 the health, safety, and general welfare of the citizens of this  
26 state.

1       Sec. ~~3~~ 19503. (1) The bonds issued under ~~the~~  
2 ~~environmental protection bond authorization act~~ FORMER ACT  
3 NO. 326 OF THE PUBLIC ACTS OF 1988 OR PART 193 shall be issued in  
4 1 or more series, each series to be in a principal amount, to be  
5 dated, to have the maturities which may be either serial, term,  
6 or term and serial, to bear interest at a rate or rates, to be  
7 subject or not subject to prior redemption, and if subject to  
8 prior redemption with or without call premiums, to be payable at  
9 a place or places, to have or not have provisions for registra-  
10 tion as to principal only or as to both principal and interest,  
11 to be in a form and to be executed in a manner as shall be deter-  
12 mined by resolution to be adopted by the state administrative  
13 board and subject to or granting those covenants, directions,  
14 restrictions, or rights specified by resolution to be adopted by  
15 the state administrative board as necessary to insure the market-  
16 ability, insurability, or tax exempt status. The state adminis-  
17 trative board shall rotate the services of legal counsel when  
18 issuing bonds.

19       (2) The state administrative board by resolution may autho-  
20 rize the state treasurer to provide for the sale of the bonds at  
21 a discount, investment and reinvestment of bond sales proceeds,  
22 other details for the bonds, the costs of issuance, and the  
23 security for the bonds as is necessary and advisable.

24       (3) The bonds shall be approved by the department of trea-  
25 sury before their issuance but shall not otherwise be subject to  
26 the municipal finance act, Act No. 202 of the Public Acts of

1 1943, being sections 131.1 to 139.3 of the Michigan Compiled  
2 Laws.

3 (4) The bonds or any series of the bonds shall be sold at  
4 such price and at a publicly advertised sale or a competitively  
5 negotiated sale as shall be determined by the state administra-  
6 tive board. If bonds are issued at a competitively negotiated  
7 sale, the state administrative board shall use its best efforts  
8 to include firms based in this state in the sale of the bonds.

9 (5) Except as provided in subsection (6), the bonds shall be  
10 sold in accordance with the following schedule, beginning during  
11 the first year after the effective date of ~~this act~~ FORMER ACT  
12 NO. 328 OF THE PUBLIC ACTS OF 1988:

13 (a) Not more than 34% shall be sold during the first year.

14 (b) Not more than 33% shall be sold during the second year.

15 (c) Not more than 33% shall be sold during the third year.

16 (d) After the third year, any remaining bonds may be sold at  
17 the discretion of the state administrative board.

18 (6) The state administrative board may alter the schedule  
19 for issuance of the bonds provided in subsection (5) if either or  
20 both of the following occur:

21 (a) Amendments to the internal revenue code of 1986 would  
22 impair the tax-exempt status of the bonds.

23 (b) The legislature concurs in the declaration of a toxic  
24 substance emergency made by the governor pursuant to law.

25 Sec. ~~4~~ 19504. Bonds issued under ~~the environmental pro-~~  
26 ~~tection bond authorization act~~ FORMER ACT NO. 326 OF THE PUBLIC  
27 ACTS OF 1988 OR PART 193 shall be fully negotiable under the

1 uniform commercial code, Act No. 174 of the Public Acts of 1962,  
2 being sections 440.1101 to 440.11102 of the Michigan Compiled  
3 Laws. The bonds and the interest on the bonds shall be exempt  
4 from all taxation by the state or any political subdivisions of  
5 the state.

6 Sec. ~~5~~ 19505. Bonds issued under ~~the environmental pro-~~  
7 ~~tection bond authorization act~~ FORMER ACT NO. 326 OF THE PUBLIC  
8 ACTS OF 1988 OR PART 193 are ~~hereby~~ made securities in which  
9 banks, savings and loan associations, investment companies,  
10 credit unions, and other persons carrying on a banking business;  
11 all insurance companies, insurance associations, and other per-  
12 sons carrying on an insurance business; and all administrators,  
13 executors, guardians, trustees, and other fiduciaries may prop-  
14 erly and legally invest funds, including capital, belonging to  
15 them or within their control.

16 Sec. ~~6~~ 19506. (1) The environmental protection bond fund  
17 is created in the state treasury.

18 (2) The fund shall consist of all of the following:

19 (a) The proceeds of sales of general obligation bonds issued  
20 pursuant to ~~the environmental protection bond authorization act~~  
21 FORMER ACT NO. 326 OF THE PUBLIC ACTS OF 1988 OR PART 193 and any  
22 premium and accrued interest received on the delivery of the  
23 bonds.

24 (b) Any interest or earnings generated by the proceeds  
25 described in subdivision (a).

26 (c) Any repayment of principal and interest made under a  
27 loan program authorized in this ~~act~~ PART.

1 (d) Any federal funds received.

2 (3) The department of treasury may establish restricted sub-  
3 accounts within the fund as necessary to administer the fund.

4 Sec. ~~7~~ 19507. (1) The total proceeds of all bonds issued  
5 under ~~the environmental protection bond authorization act,~~  
6 FORMER Act No. 326 of the Public Acts of 1988 ~~, being sections~~  
7 ~~299.651 to 299.660 of the Michigan Compiled Laws,~~ OR PART 193  
8 shall be deposited into the fund and allocated as follows:

9 (a) Except as provided in section ~~8(1)(a)(ii)~~  
10 19508(1)(A)(ii), not more than \$425,000,000.00 shall be used to  
11 clean up sites of toxic and other environmental contamination.

12 (b) Not more than \$150,000,000.00 shall be used for solid  
13 waste projects including, but not limited to, reducing, recycl-  
14 ing, and properly disposing of solid waste.

15 (c) Not more than \$60,000,000.00 shall be used to capitalize  
16 the state water pollution control revolving fund established pur-  
17 suant to section 16a of the shared credit rating act, Act No. 227  
18 of the Public Acts of 1985, being section 141.1066a of the  
19 Michigan Compiled Laws.

20 (d) Not more than \$25,000,000.00 shall be used to fund this  
21 state's participation in a regional Great Lakes protection fund.

22 (2) The state treasurer shall direct the investment of the  
23 fund. Except as otherwise may be required by the resolution  
24 authorizing the issuance of the bonds in order to maintain the  
25 exclusion from gross income of the interest paid on the bonds or  
26 to comply with state or federal law, interest and earnings from  
27 investment of the proceeds of any bond issue shall be allocated

1 in the same proportion as earned on the investment of the  
2 proceeds of the bond issue, except for the fiscal years 1992-93  
3 and 1993-94, when any such interest and earnings accrued in  
4 those, or prior fiscal years, shall be deposited in the state  
5 water pollution control revolving fund established pursuant to  
6 section 16a of Act No. 227 of the Public Acts of 1985.

7 (3) Except as otherwise may be required by the resolution  
8 authorizing the issuance of the bonds in order to maintain the  
9 exclusion from gross income of the interest paid on the bonds or  
10 to comply with state or federal law, all repayments of principal  
11 and interest earned under a loan program provided in this ~~act~~  
12 PART shall be credited to the appropriate restricted subaccounts  
13 of the fund and used for the purposes authorized for the use of  
14 bond proceeds deposited in that subaccount or to pay debt service  
15 on any obligation issued which pledges the loan repayments and  
16 the proceeds of which are deposited in that subaccount.

17 (4) The unencumbered balance in the fund at the close of the  
18 fiscal year shall remain in the fund and shall not revert to the  
19 general fund.

20 Sec. ~~8~~ 19508. (1) Except as provided in subsection (3),  
21 money in the fund that is allocated under section ~~7~~ 19507 shall  
22 be used for the following purposes:

23 (a) Money in the fund that is allocated under section  
24 ~~7(1)(a)~~ 19507(1)(A) shall be used for sites identified through  
25 ~~the environmental response act, Act No. 307 of the Public Acts~~  
26 ~~of 1982, being sections 299.601 to 299.618 of the Michigan~~  
27 ~~Compiled Laws~~ PART 201, to be expended and recovered by the

1 state in the same manner as provided in that ~~act~~ PART. Of the  
2 funds allocated under section ~~7(1)(a)~~ 19507(1)(A), the follow-  
3 ing apply:

4 (i) Not more than \$35,000,000.00 shall be used to clean up  
5 sites of environmental contamination that have been identified  
6 under FORMER Act No. 307 of the Public Acts of 1982 OR PART 201;  
7 that will not be funded in the next fiscal year; and THAT have  
8 been approved by the ~~commission~~ DEPARTMENT as having measurable  
9 economic benefit. The ~~commission~~ DEPARTMENT, after consulta-  
10 tion with the department of commerce, shall promulgate rules that  
11 establish the criteria and process by which sites will be  
12 selected and determined to qualify as sites having measurable  
13 economic benefit.

14 (ii) Not more than \$10,000,000.00 may be used to provide  
15 grants to eligible communities to investigate and determine  
16 whether property within an eligible community is a site of envi-  
17 ronmental contamination and, if so, to characterize the nature  
18 and extent of the contamination. A grant shall only be issued  
19 under this subparagraph if all of the following conditions are  
20 met:

21 (A) The characterization of the nature and extent of contam-  
22 ination includes an estimate of response activity costs in rela-  
23 tion to the value of the property in an uncontaminated state and  
24 identifies future potential limitations on the use of the prop-  
25 erty based upon current environmental conditions.

1 (B) The property has demonstrable economic development  
2 potential. This provision does not require a specific  
3 development proposal to be identified.

4 (C) The property is located within an eligible community  
5 that has received less than \$1,000,000.00 in total grants under  
6 this subparagraph. However, a grant that has resulted in measur-  
7 able economic benefits shall not be included in the calculation  
8 of the \$1,000,000.00.

9 (b) Money in the fund that is allocated for solid waste  
10 projects including, but not limited to, reducing, recycling, and  
11 properly disposing of solid waste shall be used to fund state  
12 projects, to provide grants and loans to local units of govern-  
13 ment, and to provide grants and loans to private entities for any  
14 of the programs identified in ~~the clean Michigan fund act, Act~~  
15 ~~No. 249 of the Public Acts of 1986, being sections 299.371 to~~  
16 ~~299.393 of the Michigan Compiled Laws PART 191, in the amounts~~  
17 ~~appropriated pursuant to subsection (5). However, the commis-~~  
18 ~~sion shall not use any of the money in the fund for any of the~~  
19 ~~costs associated with the advisory panel described in section 20~~  
20 ~~of Act No. 249 of the Public Acts of 1986, being section 299.390~~  
21 ~~of the Michigan Compiled Laws.~~ Not less than \$17,500,000.00 of  
22 the money for solid waste projects shall be used to fund the  
23 following:

- 24 (i) To promote and expand markets for recycled materials.  
25 (ii) To assist in the recycling of solid wastes, including,  
26 but not limited to, plastics, metals, tires, wood, and paper.



1 (iii) To promote research on resource recovery.

2 (iv) To study marketing options for products that use  
3 recycled materials.

4 (c) Money in the fund that is allocated to capitalize the  
5 state water pollution control revolving fund created in  
6 section 16a of the shared credit rating act, Act No. 227 of the  
7 Public Acts of 1985, being section 141.1066a of the Michigan  
8 Compiled Laws, shall be used as provided in ~~the state clean~~  
9 ~~water assistance act, Act No. 317 of the Public Acts of 1988,~~  
10 ~~being sections 323.451 to 323.470 of the Michigan Compiled Laws~~  
11 PART 53.

12 (d) Money in the fund that is allocated to fund this state's  
13 participation in a regional Great Lakes protection fund pursuant  
14 to ~~the Great Lakes protection fund authorization act, Act~~  
15 ~~No. 155 of the Public Acts of 1989, being sections 3.671 to 3.677~~  
16 ~~of the Michigan Compiled Laws~~ PART 331.

17 (2) If, ~~within 18 months after the effective date of~~  
18 ~~subsection (8)~~ BY JUNE 28, 1995, the ~~commission~~ DEPARTMENT  
19 determines that money allocated under subsection (1)(a)(ii) is  
20 unlikely to be expended pursuant to that subparagraph,  
21 \$5,000,000.00 of the money allocated pursuant to that subpara-  
22 graph shall be expended pursuant to subsection (1)(a)(i).

23 (3) If money that is expended pursuant to  
24 subsection (1)(a)(ii) is recovered by an eligible community from  
25 a person who may be liable under ~~the environmental response act,~~  
26 ~~Act No. 307 of the Public Acts of 1982, being sections 299.601 to~~  
27 ~~299.618 of the Michigan Compiled Laws~~ PART 201, through proceeds

1 from the sale of the property, or through any other mechanism,  
2 and additional funds for environmental response activities on the  
3 property are not necessary, the eligible community may retain  
4 those funds for expenditure on projects that the department  
5 determines are eligible to receive funding under  
6 subsection (1)(a)(ii). An accounting of ~~such~~ THE recovered  
7 funds must be provided to the department within 30 days of  
8 receipt, and approval and expenditure of ~~such~~ THE recovered  
9 funds shall be in the same manner as funds awarded pursuant to  
10 subsection (1)(a)(ii). If funds are recovered and not spent on  
11 other projects pursuant to this subparagraph within 2 years after  
12 they are recovered by the eligible community, the eligible commu-  
13 nity shall forward the money collected to the state treasurer for  
14 deposit into the fund to be used pursuant to subsection  
15 (1)(a)(ii). When accounting for the use of recovered funds, eli-  
16 gible communities may itemize deductions for site preparation and  
17 other costs directly related to the reuse of a site funded under  
18 this section.

19 (4) Money provided in the fund may be used by the department  
20 of treasury to pay for the cost of issuing bonds under ~~the envi-~~  
21 ~~ronmental protection bond authorization act~~ FORMER ACT NO. 326  
22 OF THE PUBLIC ACTS OF 1988 OR PART 193 and by the department to  
23 pay department costs as provided in this subsection. Not more  
24 than 6% of the total amount specified in section ~~7(1)(a)~~  
25 19507(1)(A), (b), and (d) shall be available for appropriation to  
26 the department to pay department costs directly associated with  
27 the completion of a project described in section ~~7(1)(a)~~

1 19507(1)(A), (b), or (d), for which bonds are issued as provided  
2 under this ~~act~~ PART. Any department costs associated with a  
3 project described in section ~~7(1)(c)~~ 19507(1)(C) for which  
4 bonds are issued under this ~~act~~ PART shall be paid as provided  
5 in the state statute implementing the state water pollution con-  
6 trol revolving fund. Bond proceeds shall not be available to pay  
7 indirect, administrative overhead costs incurred by any organiza-  
8 tional unit of the department not directly responsible for the  
9 completion of a project. It is the intent of the legislature  
10 that general fund appropriations to the department shall not be  
11 reduced as a result of department costs funded pursuant to this  
12 subsection.

13 (5) Except as provided in subsection (3), the ~~commission~~  
14 DEPARTMENT shall annually submit A LIST OF ALL PROJECTS THAT ARE  
15 RECOMMENDED TO BE FUNDED UNDER THIS PART to the governor, the  
16 ~~committee~~ STANDING COMMITTEES of the house of representatives  
17 ~~on conservation and environment, the committee of~~ AND the  
18 senate ~~on~~ THAT PRIMARILY ADDRESS ISSUES PERTAINING TO THE PRO-  
19 TECTION OF natural resources and ~~environmental affairs~~ THE  
20 ENVIRONMENT, and the appropriations committees in the house of  
21 representatives and the senate. ~~a list of all projects that are~~  
22 ~~recommended to be funded under this act. Beginning in fiscal~~  
23 ~~year 1990, this~~ THIS list shall be submitted to the legislature  
24 not later than February 15 of each year. This list shall also be  
25 submitted before any request for supplemental appropriation of  
26 bond funds. The list shall include the name, address, and  
27 telephone number of the eligible recipient or participant; the

1 nature of the eligible project; the county in which the eligible  
2 project is located; an estimate of the total cost of the eligible  
3 project; and other information considered pertinent by the  
4 ~~commission~~ DEPARTMENT.

5 (6) The legislature shall appropriate prospective or actual  
6 bond proceeds for projects proposed to be funded. Appropriations  
7 shall be carried over to succeeding fiscal years until the  
8 project for which the funds are appropriated is completed.  
9 Environmental cleanup projects that are eligible for funding  
10 under subsection (1)(a), but not including subsection (1)(a)(i)  
11 and (ii), shall be prioritized and approved pursuant to the pro-  
12 cedures outlined in ~~Act No. 307 of the Public Acts of 1982~~  
13 PART 201. Projects to which loans are provided from the state  
14 water pollution control revolving fund shall be approved pursuant  
15 to state law implementing that fund. The capitalization of the  
16 regional Great Lakes protection fund shall be a 1-time  
17 appropriation.

18 (7) Not later than December 31 of each year, the  
19 ~~commission~~ DEPARTMENT shall ~~report~~ SUBMIT A LIST OF THE  
20 PROJECTS FINANCED UNDER THIS PART to the governor, the  
21 ~~committee~~ STANDING COMMITTEES of the house of representatives  
22 ~~on conservation and environment, the committee of~~ AND the  
23 senate ~~on~~ THAT PRIMARILY ADDRESS ISSUES PERTAINING TO THE PRO-  
24 TECTION OF natural resources and ~~environmental affairs~~ THE  
25 ENVIRONMENT, and the committees of the house of representatives  
26 and the senate on appropriations for the department. ~~a list of~~  
27 ~~the projects financed under this act.~~ The list shall include the

1 name, address, and telephone number of the recipient or  
2 participant; the nature of the project; the amount of money  
3 received; the county in which the project is located; and other  
4 information considered pertinent by the ~~commission~~ DEPARTMENT.

5 (8) As used in this section, "eligible community" means any  
6 of the following:

7 (a) A city, village, or township, or a county on behalf of a  
8 city, village, or township, that on May 1, 1993 meets the appli-  
9 cable criteria of section 2(d)(i) or (ii) of the neighborhood  
10 enterprise zone act, Act No. 147 of the Public Acts of 1992,  
11 being section 207.772 of the Michigan Compiled Laws.

12 (b) A city that meets any of the following descriptions:

13 (i) Has a population of greater than 10,000 and is located  
14 within a county that has a population density of less than 39  
15 residents per square mile.

16 (ii) Has a population of greater than 2,500 and is located  
17 within a county that has a population density of less than 39  
18 residents per square mile.

19 (iii) Had an average unemployment rate of 11.5% or more  
20 during the most recent calendar year for which data is available  
21 from the Michigan employment security commission and meets the  
22 criteria of section 2(d)(i)(A), (D), and (E) of Act No. 147 of  
23 the Public Acts of 1992.

24 Sec. ~~9~~ 19509. (1) The ~~commission~~ DEPARTMENT shall  
25 promulgate rules necessary to implement grant and loan programs  
26 provided in this ~~act~~ PART.

1           (2) The ~~commission~~ DEPARTMENT shall assure maximum  
2 participation by local units of government and by private  
3 entities by ~~promulgation of~~ PROMULGATING rules that provide for  
4 a grant or loan program, where appropriate. In determining  
5 whether a grant or a loan program is appropriate, the  
6 ~~commission~~ DEPARTMENT shall consider whether the project is  
7 likely to be undertaken without state assistance; the availabil-  
8 ity of state funds from other sources; the degree of private  
9 sector participation in the type of project under consideration;  
10 the extent of the need for the project as a demonstration  
11 project; and such other factors considered important by the  
12 ~~commission~~ DEPARTMENT.

13           (3) Prior to making a grant or loan authorized by this ~~act~~  
14 PART, the ~~commission~~ DEPARTMENT shall consider the extent to  
15 which the making of the grant or loan contributes to the achieve-  
16 ment of a balanced distribution of grants and loans throughout  
17 the state.

18           (4) The ~~commission~~ DEPARTMENT shall provide in rules  
19 promulgated under this ~~act~~ PART that loans, where authorized,  
20 that are issued by the ~~commission~~ DEPARTMENT to private enti-  
21 ties shall include an interest charge of not less than 5% per  
22 year.

23           (5) Neither this section nor section ~~+0~~ 19510 shall apply  
24 to loans from the state water pollution control revolving fund.

25           Sec. ~~+0~~ 19510. An application for a grant or a loan  
26 authorized under this ~~act~~ PART shall be made on a form  
27 prescribed by the ~~commission~~ DEPARTMENT. The ~~commission~~

1 DEPARTMENT may require the applicant to provide any information  
2 reasonably necessary to allow the ~~commission~~ DEPARTMENT to make  
3 a determination required by this ~~act~~ PART.

4 Sec. ~~++~~ 19511. The ~~commission~~ DEPARTMENT shall not make  
5 a grant or a loan under section ~~8(+)(a)~~ 19508(1)(A) or (b)  
6 unless all of the following conditions are met:

7 (a) The applicant demonstrates that the proposed project is  
8 in compliance with all applicable state laws and rules, or the  
9 proposed project will result in compliance with state laws and  
10 rules.

11 (b) The applicant demonstrates to the ~~commission~~  
12 DEPARTMENT the capability to carry out the proposed project.

13 (c) The applicant provides the ~~commission~~ DEPARTMENT with  
14 evidence that a licensed professional engineer has approved the  
15 plans and specifications for the project, if appropriate.

16 (d) The applicant demonstrates to the ~~commission~~  
17 DEPARTMENT that there is an identifiable source of funds for the  
18 future maintenance and operation of the proposed project.

19 Sec. ~~+2~~ 19512. (1) A recipient of a grant or a loan made  
20 under section ~~8(+)(a)~~ 19508(1)(A) or (b) shall be subject to  
21 all of the following:

22 (a) A recipient shall keep an accounting of the money spent  
23 on the project or facility in a generally accepted manner. The  
24 accounting shall be subject to a postaudit.

25 (b) A recipient shall obtain authorization from the  
26 ~~commission~~ DEPARTMENT before implementing a change that  
27 significantly alters the proposed project or facility.

1 (2) The ~~commission~~ DEPARTMENT may revoke a grant or a loan  
 2 made by it under this ~~act~~ PART or withhold payment if the  
 3 recipient fails to comply with the terms and conditions of the  
 4 grant or loan ~~—~~ or with the requirements of this ~~act~~ PART or  
 5 the rules promulgated under this ~~act~~ PART.

6 (3) The ~~commission~~ DEPARTMENT may recover a grant if the  
 7 project for which the grant was made never operates.

8 (4) The ~~commission~~ DEPARTMENT may withhold a grant or a  
 9 loan until the ~~commission~~ DEPARTMENT determines that the recip-  
 10 ient is able to proceed with the proposed project or facility.

11 (5) To assure timely completion of a project, the  
 12 ~~commission~~ DEPARTMENT may withhold 10% of the grant or loan  
 13 amount until the project is complete.

14 Sec. ~~13~~ 19513. The ~~commission~~ DEPARTMENT shall promul-  
 15 gate rules as are necessary or required to implement this ~~act~~  
 16 PART.

17 ~~Sec. 14. This act shall take effect December 1, 1988.~~

18 ~~Sec. 15. This act shall not take effect unless all of the~~  
 19 ~~following bills of the 84th Legislature are enacted into law:~~

20 ~~(a) Senate Bill No. 651.~~

21 ~~(b) Senate Bill No. 867.~~

22 SEC. 90102. THE FOLLOWING ACTS AND PARTS OF ACTS THAT ARE  
 23 CODIFIED IN ARTICLE I, GENERAL PROVISIONS, AND ARTICLE II, POLLU-  
 24 TION CONTROL, ARE REPEALED:

25	<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>MICHIGAN COMPILED LAWS SECTIONS</u>
26	188	1988	299.251 TO 299.257



1	192	1929	300.11 TO 300.18
2	517	1988	3.871 TO 3.880
3	101	1985	318.501 TO 318.516
4	223	1909	211.461 TO 211.462
5	44	1883	211.481 TO 211.483
6	193	1911	322.481 TO 322.485
7	137	1913	211.471 TO 211.473
8	187	1851	322.151 TO 322.157
9	76	1853	322.161 TO 322.162
10	421	1982	322.611 TO 322.617
11	10	1953	322.651
12	86	1989	322.461 TO 322.469
13	197	1980	399.251 TO 399.257
14	314	1968	425.171 TO 425.173
15	116	1917	211.581 TO 211.582
16	91	1925	211.491 TO 211.493
17	298	1993	322.141 TO 322.146
18	66	1869	322.231 TO 322.233
19	310	1994	299.31 TO 299.36
20	143	1959	323.251 TO 323.258
21	222	1966	323.351 TO 323.358
22	76	1968	323.371 TO 323.382
23	250	1965	336.1 TO 336.8
24	159	1973	336.91 TO 336.92
25	234	1993	257.2051 TO 257.2076
26	232	1993	257.2001 TO 257.2042

1	198	1975	286.751 TO 286.767
2	347	1972	282.101 TO 282.125
3	297	1937	282.1 TO 282.16
4	345	1978	123.311 TO 123.319
5	326	1988	299.651 TO 299.660
6	328	1988	299.671 TO 299.685

7 Section 2. This amendatory act shall not take effect unless  
8 all of the following bills of the 88th Legislature are enacted  
9 into law:

10 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4350 (request  
11 no. 02005'95 a).

12 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4348 (request  
13 no. 02006'95).

14 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 4349 (request  
15 no. 02006'95 a).