

speaker and minority leader of the house of representatives of the declaration. The governor may utilize the services, facilities, and resources available under this act under a declared state of disaster or emergency. The exercise of those powers shall be consistent with the provisions of the state constitution of 1963 and the federal constitution and may continue until the heightened state of alert is no longer in effect. The heightened state of alert shall continue until the governor finds that the threat or danger has passed, the heightened state of alert has been dealt with to the extent that the heightened state of alert conditions no longer exist, or until the heightened state of alert has been in effect for 60 days. After 60 days, the governor shall terminate the heightened state of alert, unless a request by the governor for an extension of the heightened state of alert for a specific number of days is approved by resolution of both houses of the legislature.

(2) A person shall not willfully disobey or interfere with the implementation of a rule, order, or directive issued by the governor under this section. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both. Notwithstanding any provision in this section, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

(3) The attorney general or a prosecuting attorney may bring a civil action for damages or equitable relief to enforce the provisions of this act and the orders, rules, or regulations made in conformity with this act.

(4) As used in this section:

(a) “Act of terrorism” and “terrorist” mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) “Terrorist organization” means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

(c) “Vital resource” means a public or private building, facility, property, function, or location, the protection of which is considered necessary to the public health, safety, and welfare and which the governor has designated, in writing, as a vital resource of this state.

### **Repeal of § 30.415.**

Enacting section 1. Section 15 of the emergency management act, 1976 PA 390, MCL 30.415, is repealed.

### **Effective date.**

Enacting section 2. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 133]**

**(HB 5501)**

AN ACT to amend 1967 PA 150, entitled “An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal certain acts and parts of acts,” by amending sections 105, 179, and 310 (MCL 32.505, 32.579, and 32.710), sections 105 and 179 as

amended by 1998 PA 212 and section 310 as amended by 1990 PA 301, and by adding section 372a.

*The People of the State of Michigan enact:*

### **32.505 Definitions.**

Sec. 105. The definitions used in the command, administration, supply, training, discipline, deployment, and employment of the armed forces of the United States, unless clearly inapplicable or contradictory, are adopted with respect to the state military establishment except as otherwise provided in this act. As used in this act:

- (a) "Military" means a reference to all components of the state military establishment.
- (b) "Michigan national guard" means the army national guard and the air national guard.
- (c) "Commander-in-chief" means the governor of this state.

(d) "Active state service", as applied to the national guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this section, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(e) "Special duty" means military service in support of the full-time operation of the state military establishment for a period of not less than 1 day if ordered by competent authority.

(f) "Active service" means service, including active state service and special duty required by law, regulation, or pursuant to order of the governor. Active service includes continuing service of an active member of the national guard and the defense force in fulfilling that active member's commission, appointment, or enlistment.

(g) "Inactive status" means the status of those members of the national guard who are listed on an inactive list authorized by a federal statute or regulation.

(h) "In the service of the United States" and "not in the service of the United States" mean the same as those terms are used and construed under federal laws and regulations.

(i) "Officer" means a commissioned officer and a warrant officer, unless a distinction between commissioned officer and warrant officer is clearly evident.

(j) "Martial law" or "martial rule" means the exercise of partial or complete military control over domestic territory in time of emergency because of public necessity.

(k) "Armory" means a building, facility, or the lots and grounds used by an army, navy, or air unit of the organized militia as a home station.

(l) "Military establishment" means the organized militia of this state, including the employees and equipment assigned or necessary to carry out the provisions of this act.

(m) "Vital resource" means a public or private building, facility, property, or location that the governor considers necessary to protect the public health, safety, and welfare of the citizens of this state.

### **32.579 Command of state military personnel; militia on active service; duties, liabilities, and immunities; defense of civil action or criminal prosecution.**

Sec. 179. (1) No civilian person, except the governor, may command personnel of the state military establishment.

(2) If any portion of the organized militia is called into active service, active state service, or the service of the United States to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, repel invasion, respond to acts or threats of terrorism or safeguard military or other vital resources of this state or of the United States, or to assist in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, a commanding officer shall use his or her own judgment in apprehending or dispersing a sniper, a rioter, a mob, or an unlawful assembly. In situations described in this subsection, the commanding officer may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the commanding officer has reasonable cause to believe the person has committed a felony or a misdemeanor punishable by imprisonment for more than 92 days on that state military base, armory base, air base, or a vital resource of this state or of the United States. In situations described in this subsection, the commanding officer or an individual under his or her command may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the person commits a crime in the presence of the commanding officer or an individual under his or her command on that state military base, armory base, air base, or a vital resource of this state or of the United States. That commanding officer shall determine the amount and kind of force to be used in preserving the peace and carrying out the orders of the governor. Except as provided in subsection (3), that commanding officer's honest and reasonable judgment under the circumstances then existing, in the exercise of his or her duty, is full protection, civilly and criminally, for an act done in the line of duty, and a member of the organized militia in active service, active state service, or the service of the United States is not liable civilly or criminally for an act committed by him or her in the performance of his or her duty.

(3) A member of the organized militia in active service, active state service, or the service of the United States has the immunity of a peace officer in this state if 1 or more of the following apply:

(a) The member is acting in aid of civil authorities and acting in the line of duty.

(b) The member is assisting in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, and acting in the line of duty.

(c) The member has been ordered by the governor to respond to acts or threats of terrorism or to safeguard military or other vital resources of this state or of the United States and is acting in the line of duty.

(4) The attorney general of this state shall defend a civil action or criminal prosecution brought in a state or federal court, against a member of the organized militia or his or her estate, arising from an act or omission alleged to have been committed while in active service, active state service, or the service of the United States.

### **32.710 Adjutant general; powers and duties; location of office; seal; copies of orders, records, and papers as evidence.**

Sec. 310. The adjutant general is the military advisor to the governor and the director of the department of military and veterans affairs. The adjutant general's office is in Lansing. The adjutant general may publish orders and other directives in the name of the governor and this state to implement and administer the duties and responsibilities outlined in this act. The adjutant general's duties include the development and

implementation of plans for the defense of state military personnel, lands, installations, and vital resources; maintenance of the personnel records of all active, inactive, retired, or deceased personnel of the state military establishment; and liaison in the transaction of official business for this state with the United States and with other states and territories, including those duties devolving upon the adjutant general pursuant to the national defense act and other pertinent federal laws and regulations. The adjutant general shall maintain records of claims for state gratuities for military service rendered by citizens of this state and, when authorized by the legislature, shall receive, examine, process, and recommend the payment of gratuities pursuant to law. The adjutant general may use the coat of arms of this state with the words added "State of Michigan, Department of Military and Veterans Affairs" as the seal of office. All copies of orders, records, and papers certified and authenticated under the seal are equivalent in evidence to the originals.

### **32.772a Property used for military purposes.**

Sec. 372a. If the governor declares military property or any part of military property to be a vital resource of the state, the adjutant general may limit access to and from property used for military purposes if necessary for the protection of military personnel, installations, property, or vital resources or if necessary to protect the public health, safety, and welfare of the citizens of this state.

#### **Effective date.**

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

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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### **[No. 134]**

#### **(HB 5506)**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 204a (MCL 750.204a), as amended by 1998 PA 208.

*The People of the State of Michigan enact:*

### **750.204a Device representing or presented as explosive, incendiary device, or bomb; sending or transporting; intent; felony; penalty; jurisdiction.**

Sec. 204a. (1) A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, or annoy any other person, possesses, delivers, sends, transports, or places a device that is constructed to represent an explosive, incendiary device, or bomb, or that is presented as an explosive, incendiary device, or bomb, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$3,000.00, or both.

(2) An offense is committed under this section if the device is delivered or sent from this state or is possessed, transported, received, or placed in this state and may be prosecuted in the jurisdiction from which it was delivered or sent or in which it was possessed, transported, received, or placed.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 135]**

**(HB 5507)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 436 (MCL 750.436), as amended by 1988 PA 87.

*The People of the State of Michigan enact:*

**750.436 Mingling poison or harmful substance with food, drink, nonprescription medicine, or pharmaceutical product, or placing poison or harmful substance in spring, well, reservoir, or public water supply; malicious information; violation; penalties.**

Sec. 436. (1) A person shall not do either of the following:

(a) Willfully mingle a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product, or willfully place a poison or harmful substance in a spring, well, reservoir, or public water supply, knowing or having reason to know that the food, drink, nonprescription medicine, pharmaceutical product, or water may be ingested or used by a person to his or her injury.

(b) Maliciously inform another person that a poison or harmful substance has been or will be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information is false and that it is likely that the information will be disseminated to the public.

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

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both. As used in this subdivision, “serious impairment of a body function” means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

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

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the person has previously been convicted of violating subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(4) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other violation of law arising out of the same transaction as the violation of this section.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 136]**

**(HB 5509)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 411j (MCL 750.411j), as amended by 1997 PA 75.

*The People of the State of Michigan enact:*

**750.411j Definitions.**

Sec. 411j. As used in this section and sections 411k to 411q:

(a) “Controlled substance offense” means a felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(b) “Knowingly”, in the case of a corporation, means with the approval or prior actual knowledge of the board of directors, a majority of the directors, or persons who together hold a majority of the voting ownership interests in the corporation. In determining whether a majority of the directors approved of or had knowledge of the activity, a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity. This subdivision does not limit the liability of any individual officer, employee, director, or stockholder of a corporation.

(c) “Financial transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(d) “Financial institution” means 1 or more of the following, if located in or doing business in this state:

(i) An insured bank, as defined in section 3(h) of the federal deposit insurance act, chapter 967, 64 Stat. 873, 12 U.S.C. 1813(h).

(ii) A commercial bank or trust company.

(iii) A private banker.

(iv) An agency or branch of a foreign bank.

(v) A savings and loan institution.

(vi) A thrift institution.

(vii) A credit union.

(viii) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, chapter 404, 48 Stat. 881.

(ix) A broker or dealer in securities or commodities.

(x) An investment banker or investment company.

(xi) A currency exchange.

(xii) An insurer, redeemer, or cashier of traveler’s checks, checks, or money orders.

(xiii) An operator of a credit card system.

(xiv) An insurance company.

(xv) A dealer in precious metals, stones, or jewels.

(xvi) A pawnbroker.

(xvii) A loan, finance, or mortgage company.

(xviii) A travel agency.

(xix) A licensed sender of money.

(xx) A telegraph company.

(e) “Monetary instrument” means coin or currency of the United States or another country, or group of countries, a traveler’s check, personal check, bank check, money order, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.

(f) “Proceeds of a specified criminal offense” means any monetary instrument or other real, personal, or intangible property obtained through the commission of a specified criminal offense, including any appreciation in the value of the monetary instrument or property.



(g) “Specified criminal offense” means any of the following:

(i) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(ii) A violation of section 11151 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(iii) A controlled substance offense.

(iv) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(v) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(vi) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(vii) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(viii) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(ix) A felony violation of section 72, 73, 74, or 75, concerning arson.

(x) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, or property.

(xi) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(xii) A violation of section 120a, concerning jury tampering.

(xiii) A violation of section 145c, concerning child sexually abusive activity or material.

(xiv) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(xv) A violation of section 159i, concerning racketeering.

(xvi) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(xvii) A felony violation of chapter XXXIII, concerning explosives or bombs.

(xviii) A violation of section 213, concerning extortion.

(xix) A felony violation of section 218, concerning false pretenses.

(xx) A felony violation of chapter XLI, concerning forgery or counterfeiting.

(xxi) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(xxii) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(xxiii) A violation of section 316 or 317 concerning murder.

(xxiv) A violation of section 330, 331, or 332, concerning horse racing.

(xxv) A violation of section 349, 349a, or 350, concerning kidnapping.

(xxvi) A felony violation of chapter LII, concerning larceny.

(xxvii) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(xxviii) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(xxix) A violation of section 529, 530, or 531, concerning robbery.

(xxx) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.



(*xxxi*) A violation of chapter LXXXIII-A, concerning terrorism.

(*xxxii*) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(*xxxiii*) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (*i*) to (*xxxii*).

(h) “Substituted proceeds of a specified criminal offense” means any monetary instrument or other real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds of a specified criminal offense.

### **Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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## **[No. 137]**

### **(SB 946)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 31, 37, and 49 of chapter XVII (MCL 777.31, 777.37, and 777.49), sections 31 and 49 as amended by 2001 PA 136 and section 37 as added by 1998 PA 317, and by adding section 49a.

*The People of the State of Michigan enact:*

CHAPTER XVII

**777.31 Aggravated use of weapon; definitions.**

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon ..... 25 points
- (b) The victim was subjected or exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device..... 20 points
- (c) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon ..... 15 points
- (d) The victim was touched by any other type of weapon..... 10 points
- (e) A weapon was displayed or implied..... 5 points
- (f) No aggravated use of a weapon occurred..... 0 points

(2) All of the following apply to scoring offense variable 1:

- (a) Count each person who was placed in danger of injury or loss of life as a victim.
- (b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
- (c) Score 5 points if an offender used an object to suggest the presence of a weapon.
- (d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.

(e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section:

(a) “Chemical irritant”, “chemical irritant device”, “harmful biological substance”, “harmful biological device”, “harmful chemical substance”, “harmful chemical device”, “harmful radioactive material”, “harmful radioactive device”, and “imitation harmful substance or device” mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) “Incendiary device” includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

**777.37 Aggravated physical abuse; “sadism” defined.**

Sec. 37. (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense ..... 50 points

(b) No victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense ..... 0 points

(2) Count each person who was placed in danger of injury or loss of life as a victim.

(3) As used in this section, “sadism” means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender’s gratification.

### **777.49 Security threat to penal institution or court or interference with administration of justice or emergency services.**

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender by his or her conduct threatened the security of a penal institution or court ..... 25 points

(b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services..... 15 points

(c) The offender otherwise interfered with or attempted to interfere with the administration of justice ..... 10 points

(d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice or the rendering of emergency services by force or threat of force.... 0 points

### **777.49a Terrorism; definitions.**

Sec. 49a. (1) Offense variable 20 is terrorism. Score offense variable 20 by determining which of the following applies and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ..... 100 points

(b) The offender committed an act of terrorism without using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ..... 50 points

(c) The offender supported an act of terrorism, a terrorist, or a terrorist organization..... 25 points

(d) The offender did not commit an act of terrorism or support an act of terrorism, a terrorist, or a terrorist organization ..... 0 points

(2) As used in this section:

(a) “Act of terrorism” and “terrorist” mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) “Harmful biological substance”, “harmful biological device”, “harmful chemical substance”, “harmful chemical device”, “harmful radioactive material”, and “harmful

radioactive device” mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(c) “Incendiary device” includes gasoline or any other flammable substance, a blow-torch, fire bomb, Molotov cocktail, or other similar device.

(d) “Terrorist organization” means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler’s note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 138]**

**(SB 468)**

AN ACT to authorize the department of natural resources to convey certain state owned parcels of property in Genesee county and Kalkaska county; to authorize the state administrative board to convey certain parcels of state owned property in Wayne county; to prescribe conditions for the conveyances; and to provide for disposition of the revenue from the conveyances.

*The People of the State of Michigan enact:*

**Conveyance of property located in Genesee county to Genesee county; consideration; jurisdiction; description; quitclaim deed; approval by attorney general; reservation of mineral rights; adjustments; deposit and credit of revenue.**

Sec. 1. (1) The department of natural resources, on behalf of the state, may convey to Genesee county, for consideration of \$1.00, property under the jurisdiction of the department of natural resources and located in Genesee county, Michigan, and further described as follows:

Parcel A

1.5 acres - and improvements - \$35,000.00 (Optioned at appraisal)

E 15 rods of S 16 rods of W1/2 of SW1/4, Sec. 1, T8N, R7E - Genesee County

Vendor: Douglas Roster, Mt. Morris, Michigan

Option Expires: November 2, 1993

Reservations: Seller reserves occupancy of building and site until June 1, 1994

Appraisal: Land \$8,000.00; Improvements \$27,000.00; Total \$35,000.00

Relocation cost: \$5,550.00

Assessed Value: \$15,400.00

## Parcel B

50.3 acres - \$1,192.84 per acre - \$60,000.00 (Optioned at 3.3 per cent over appraisal)

S1/2 of N1/2 of NE 1/4 except N 142 feet of S 628.45 feet of E 310 feet, also except S 220 feet of E 238 feet, Sec. 1, T8N, R7E - Genesee County

Vendor: William Szikszay, Ortonville, Michigan

Option Expires: November 12, 1993

Reservations: Cropping rights until December 31, 1993

Appraisal: Land \$58,000.00; Improvements \$0; Total \$58,000.00

Assessed Value: \$21,800.00

(2) The conveyance authorized by this section shall provide that the property conveyed shall be used only for public recreation purposes and shall be open to all residents of the state on the same terms, fees, and conditions; and that upon termination of that use or use for any other purpose the property shall revert immediately to the state, with the state assuming no liability for any improvements made by Genesee county.

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall reserve mineral rights to the state.

(4) The description of the parcels in subsection (1) is approximate and for purposes of the conveyance is subject to adjustments as the department of natural resources or the attorney general considers necessary by survey or other legal description.

(5) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

**Conveyance of property located in Wayne county; consideration; jurisdiction; description; manner and conduct of sale; use of broker services; notice; publication requirements; quitclaim deed; appraisal; adjustments; deposit and credit of revenue.**

Sec. 2. (1) The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined pursuant to subsection (6) certain state owned property now under the jurisdiction of the department of management and budget and located in Wayne county, and further described as follows:

Michigan Plaza Building and land:

**PARCEL A:**

All of Lots 108 through 113, inclusive, except the Easterly 12 feet of Lot 113 of West Side Industrial Subdivision No. 2, of part of Private Claims 22, 23, 24, 27, 246, 248, and 727, City of Detroit, Wayne County, Michigan, as recorded in Liber 86 of Plats, Pages 39 and 40, Wayne County Records, said parcel of land being more particularly described as:

BEGINNING at the southwest corner of Porter Street and Sixth Street at the northwest corner of said Easterly 12 feet of Lot 113; thence S30 degrees 00 minutes 47 seconds E 285.50 feet along the southwesterly line of said Easterly 12 feet of Lot 113 and Sixth Street to the northwesterly line of Abbott Street; thence S59 degrees 58 minutes 43 seconds W 309.10 feet along said northwesterly line and southeasterly line of said Lots 108 through 113 to the southwest corner of said Lot 108; thence N30 degrees 00 minutes 47 seconds W 285.50 feet along the southwesterly line of said Lot 108 to the southeasterly line of said Porter Street; thence N59 degrees 58 minutes 43 seconds E 390.10 feet along said southeasterly line to the Point of Beginning, containing 2.557 acres and being subject to easements and restrictions of record.

**PARCEL B:**

All of Lots 1 through 14, inclusive, except the Easterly 12 feet of Lots 1 and 14 of Block 42, the adjacent vacated Southerly 5 feet of Abbott Street, the vacated alley and public easements in said Block 42, and the East 25 feet of vacated Brooklyn Avenue and public easement lying between Howard Avenue (60 feet wide) and Abbott Avenue (50 feet wide), said easement created by the Common Council of the City of Detroit on September 24, 1968, and recorded in the J.C.C., Pages 2331 - 2332, of the Plat of the Labrosse Farm, South of Chicago Road (Michigan Avenue), from Chicago Road to Fort Street, (City of Detroit), Wayne County, Territory of (now State of) Michigan, as recorded in Liber 13 of Deeds, Page 35, Wayne County Records; said parcel of land being more particularly described as:

BEGINNING at the northwest corner of Howard Street and Sixth Street at the southeast corner of said Easterly 12 feet of Lot 14; thence S60 degrees 01 minutes 23 seconds W 363.27 feet along the northwesterly line of said Howard Street to the southwesterly line of said East 25 feet of vacated Brooklyn Avenue; thence N30 degrees 00 minutes 47 seconds W 285.75 feet along said southwesterly line to the northwesterly line of said vacated Southerly 5 feet of Abbott Street; thence N59 degrees 58 minutes 43 seconds E 363.27 feet along said northwesterly line to the southwesterly line of said Easterly 12 feet of said Lots 1 and 14 and said Sixth Street; thence S30 degrees 00 minutes 47 seconds E 286.03 feet along said southwesterly line of said Easterly 12 feet of said Lots 1 and 14 and said Sixth Street to the Point of Beginning, containing 1.128 acres and being subject to easements and restrictions of record.

**PARCEL C:**

All of Lots 1 through 7, inclusive, except the Easterly 12 feet of Lot 1 and the Northerly 90.00 feet of Lots 8 through 11 of Block 42, of the Plat of the Labrosse Farm, South of Chicago Road (Michigan Avenue), from Chicago Road to Fort Street, (City of Detroit), Wayne County, Territory of (now State of) Michigan, as recorded in Liber 13 of Deeds, Page 35, Wayne County Records, and the Northerly 90.00 feet of Lots 1 through 5, inclusive, except the Easterly 12 feet of Lot 1, of the Plat of the Subdivision of Lots 12, 13, & 14, Block Number 34, Labrosse Farm on the Northwest Corner of Lafayette & Sixth Street, Detroit, Wayne County, Michigan, as recorded in Liber 44 of Deeds, Page 120, Wayne County Records, and the vacated alley in said Block 42, said parcel of land being more particularly described as:

BEGINNING at the southwest corner of Howard Street and Sixth Street at the northwest corner of said Easterly 12 feet of Lot 1; thence S30 degrees 00 minutes 47 seconds E 239.88 feet; thence S60 degrees 00 minutes 34 seconds W 338.58 feet along the southeasterly line of said Northerly 90 feet of said Lots 1 through 5 of the Subdivision of Lots 12, 13, & 14 and Lots 8 through 11 of said Block 34 to the southwesterly line of Brooklyn Avenue; thence N29 degrees 59 minutes 27 seconds W 239.96 feet along said southwesterly line to the northwesterly line of Howard Street; thence N60 degrees 01 minutes 23 seconds E 338.49 feet along said northwesterly line to the Point of Beginning, containing 1.864 acres and being subject to easements and restrictions of record.

**PARCEL D:**

Not included in Plaza Building Property.

**PARCEL E:**

All of Lots 114 through 123, inclusive, of West Side Industrial Subdivision No. 2, of part of Private Claims 22, 23, 24, 27, 246, 248, and 727, City of Detroit, Wayne County, Michigan, as recorded in Liber 86 of Plats, Pages 39 and 40, Wayne County Records, and a parcel of land lying south of Porter Street (60 feet wide), north of Howard Street (60 feet wide), east of and adjacent to the easterly line of said West Side Industrial Subdivision

No. 2, and west of the westerly line of the John C. Lodge Freeway and being a part of Lots 3, 4, and 12, and part of the vacated public alley (20 feet wide) adjoining said lots in Block 41, and part of Lots 4, 10, and 11 and part of the vacated public alley (20 feet wide) adjoining said lots in Block 49, and part of vacated Abbott Street (60 feet wide), of the Subdivision of that Part of the Labrosse (or Berthelet) Farm, and the Forsyth Farm South of Michigan Avenue, Map of the Western Addition to the City of Detroit, by John Mullett, Surveyor, July 3, 1835, City of Detroit, Wayne County, Michigan, as recorded in liber 14 of deeds, page 136, Wayne County Records and described as:

BEGINNING at the southwesterly corner of said Lot 12, which is also the southeasterly corner of said West Side Industrial Subdivision No. 2; thence along the easterly line of said West Side Industrial Subdivision No. 2, N30 degrees W 258.70 feet, and N45 degrees 15 minutes 59 seconds W 22.81 feet, and N66 degrees 12 minutes 03 seconds W 74.42 feet, and N30 degrees 01 minutes 13 seconds W 105.25 feet, and S59 degrees 58 minutes 35 seconds W 25.05 feet, and N30 degrees 01 minutes 13 seconds W 25.00 feet, and N21 degrees 23 minutes 35 seconds E32.05 feet, and N30 degrees 01 minutes 13 seconds W 130.19 feet to the northeasterly corner of said West Side Industrial Subdivision No. 2; thence along the westerly right of way line of said John C. Lodge Freeway, S37 degrees 59 minute 13 second E 597.91 feet; thence on a curve to the right, radius 43.33 feet, and arc distance of 45.39 feet to the Point of Beginning, chord of said curve bears S18 degrees 38 minutes 29 seconds W 44.00 feet, to the Point of Beginning, said parcel of land being more particularly described as:

BEGINNING at the southeast corner of Porter Street and Sixth Street at the northwest corner of said Lot 114; thence N60 degrees 00 minutes 00 seconds E 150.21 feet along the southeasterly line of Porter Street to the westerly Limited Access Right of Way Line of said John C. Lodge Freeway; thence S37 degrees 59 minutes 13 seconds E 597.71 feet; thence to the southeasterly line of a 20 foot wide public alley; thence southerly 46.15 feet along the arc of a 43.33 foot radius non-tangential curve to the right (with a central angle of 61 degrees 01 minutes 32 seconds subtending a chord bearing S18 degrees 17 minutes 30 seconds W 44.00 feet and having a tangent of 25.54 feet) to the southeast corner of said Lot 123 and northwesterly line of Howard Street; thence S60 degrees 00 minutes 00 seconds W 200.27 feet along said northwesterly line to the northeasterly line of said Sixth Street; thence N30 degrees 00 minutes 47 seconds W 621.19 feet along said northeasterly line and southwesterly line of said Lots 114 through 123 to the Point of Beginning, containing 2.754 acres and being subject to easements and restrictions of record.

(2) The sale of the property described in this section shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale of this property shall be done in an open manner that uses 1 or more of the following:

- (a) A competitive sealed bid.
- (b) Oral bid.
- (c) Public auction.
- (d) Use of broker services.

(3) Broker services for the sale of property under this section shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.



(4) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services regarding the property described in this section shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be 1 that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. A notice shall describe the general location of the property and the date, time, and place of the sale.

(5) The conveyance authorized under this section shall be by quitclaim deed approved by the attorney general.

(6) The fair market value of the property described in this section shall be determined by an appraisal as prepared by the state tax commission and an independent fee appraiser.

(7) The descriptions of the parcels in this section are approximate and for purposes of the conveyance are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

(8) The net revenue received under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

**Conveyance of property located in township of Clearwater, Kalkaska county, to the township of Clearwater; consideration; jurisdiction; description; quitclaim deed; approval by attorney general; reservation of mineral rights; deposit and credit of revenue.**

Sec. 3. (1) The department of natural resources, on behalf of the state, may convey to the township of Clearwater, for consideration of \$1.00, property under the jurisdiction of the department of natural resources and located in the township of Clearwater, Kalkaska county, Michigan, and further described as follows:

T 28 N, R 8 W, Sec. 9. A metes and bounds description in the NW 1/4 of SE 1/4, described as follows:

That part of the NW 1/4 SE 1/4 lying North of Smith and Ricker's Addition to Rapid City, except the right of way over a strip of land 2 rods wide extending across the entire north side thereof for a highway for public and private use and except a parcel of land beginning 66 feet due North of the Northwest corner of Lot 10, Block B of the aforesaid Addition to Rapid City, thence continuing due North 99 feet, thence East 356 feet on a line parallel with the North line of Water Street of the aforesaid Addition, thence due South 99 feet on the center line of First Street produced to the North line of Water Street, thence West 356 feet on the North line of Water Street to the point of beginning, and also except a parcel of land beginning at the intersection of the North line of Water Street and the center line of First Street of the aforesaid Addition, thence due North 99 feet, thence East 363 feet on a line parallel with the North line of Water Street, thence due South 99 feet to the North line of Water Street, thence West 363 feet on the North line of Water Street to the point of beginning. (Located on Rapid River, 15.37 acres, 1,452 feet of frontage)

T 28 N, R 8 W, Sec. 9 - A metes and bounds description in the NE 1/4 of SW 1/4, described as follows:

Commencing at the corner (center) of Section 9, running thence West on the East and West quarter line of said Section 9, 23 rods more or less to a point situated 133 feet East of the center line of the main track of the Chicago, Petoskey Division of the Pere Marquette Railroad, as now located over and across Section 9; thence South 36 rods; East to North and South quarter line of said Section 9; thence North to place of beginning. (Located on Rapid River, 5.175 acres, 308 feet of frontage)

(2) The conveyance authorized by this section shall provide for all of the following:

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

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

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

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights to the state.

(4) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 139]**

**(SB 899)**

AN ACT to amend 1917 PA 99, entitled "An act to provide for the construction, maintenance and improvement of federal aided roads; to authorize townships, good roads districts and counties to raise money by taxation and by loan for the purpose of contributing thereto; to validate and legalize proceedings heretofore taken to raise money for the purpose contemplated by this act; and to provide an appropriation for paying the state's portion of the expense incurred hereunder," by amending section 1 (MCL 249.1).

*The People of the State of Michigan enact:*

**249.1 Assent to federal aid for construction of rural post road; availability of funds; authority to survey, contract, receive and disburse money.**

Sec. 1. The legislature of the state of Michigan hereby assents to the provisions of the act of congress, approved July 11, 1916, 39 Stat. 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," and the good faith of the state is hereby pledged under the provisions of this act to make available from time to time sufficient funds to pay the state's portion of the cost of constructing and maintaining federal aided roads. The state transportation

department through the director of the state transportation department may make surveys, prepare plans and specifications, and take charge of the building and maintaining of federal aided roads in accordance with the provisions of the act of congress and the rules and regulations of the secretary of agriculture made under that act and amendments to that act as may from time to time be made. The director of the state transportation department may enter into all contracts and agreements with the United States government relating to the construction and maintenance of rural post roads under the provisions of the act of congress, to submit the scheme or program of construction and maintenance as may be required by the secretary of agriculture, and do all other things necessary fully to carry out the cooperation contemplated and provided for by that act. The state treasurer may receive any and all money due the state of Michigan under the provisions of this act, and shall pay out the same under the orders of the director of the state transportation department.

This act is ordered to take immediate effect.  
 Approved April 1, 2002.  
 Filed with Secretary of State April 1, 2002.

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**[No. 140]**

**(HB 5511)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 212a (MCL 750.212a), as added by 1998 PA 207.

*The People of the State of Michigan enact:*

**750.212a Violation as felony; term of imprisonment; definitions; other violations.**

Sec. 212a. (1) If a person violates this chapter and the violation is committed in or is directed at a vulnerable target, the person is guilty of a felony punishable by imprisonment for not more than 20 years. The court may order a term of imprisonment imposed under this section to be served consecutively to the term of imprisonment for the underlying violation.

(2) As used in this section:

(a) “Serious impairment of a body function” means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(b) “Vulnerable target” means any of the following:

(i) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(ii) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(iii) A building or structure open to the general public.

(iv) A church, synagogue, mosque, or other place of religious worship.

(v) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(vi) An institution of higher education.

(vii) A stadium.

(viii) A transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad.

(ix) An airport. As used in this subparagraph, “airport” means that term as defined in section 2 or section 9 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2 and 259.9.

(x) Port facilities. As used in this subparagraph, “port facilities” means that term as defined in section 2 of the Hertel-Law-T. Stopezynski port authority act, 1978 PA 639, MCL 120.102.

(xi) A public services facility. As used in this subparagraph, “public services facility” means any of the following facilities whether publicly or privately owned:

(A) A natural gas refinery, natural gas storage facility, or natural gas pipeline.

(B) An electric, steam, gas, telephone, power, water, or pipeline facility.

(C) A nuclear power plant, nuclear reactor facility, or nuclear waste storage facility.

(xii) A petroleum refinery, petroleum storage facility, or petroleum pipeline.

(xiii) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide transportation services to the public or to provide for the movement of goods in commerce.

(xiv) A building, structure, or other facility owned or operated by the federal government, by this state, or by a political subdivision or any other instrumentality of this state or of a local unit of government.

(3) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

### **Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 940 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 940, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 116, Eff. Apr. 22, 2002.

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**[No. 141]**

**(HB 5512)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 543x.

*The People of the State of Michigan enact:*

**750.543x Restitution; reimbursement.**

Sec. 543x. The court shall order a person who violates this chapter to make restitution to any victim in the manner provided in section 16, 44, or 76 of the crime victim’s rights act, 1985 PA 87, MCL 780.766, 780.794, and 780.826, and to reimburse any governmental entity for its expenses incurred as a result of the violation, in the manner provided in section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler’s note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 142]**

**(HB 5513)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 4701 and 4702 (MCL 600.4701 and 600.4702), section 4701 as amended by 2000 PA 184 and section 4702 as added by 1988 PA 104.

*The People of the State of Michigan enact:*

**600.4701 Definitions.**

Sec. 4701. As used in this chapter:

(a) “Crime” means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought:

(i) A violation of part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(ii) A violation of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12117.

(iii) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

(iv) A violation of section 2 or 3 of the Michigan antitrust reform act, 1984 PA 274, MCL 445.772 and 445.773.

(v) A violation described in section 409 of the uniform securities act, 1964 PA 265, MCL 451.809.

(vi) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677.

(vii) A violation of section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 145d, 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535, 540c, or 540g or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q, 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531, 750.535, 750.540c, 750.540g, and 750.543a to 750.543z.

(viii) A violation of 1979 PA 53, MCL 752.791 to 752.797.

(b) “Instrumentality of a crime” means any property, other than real property, the use of which contributes directly and materially to the commission of a crime.

(c) “Person” means an individual, corporation, partnership, or other business entity, or an unincorporated or voluntary association.

(d) “Proceeds of a crime” means any property obtained through the commission of a crime, including any appreciation in the value of the property.

(e) “Security interest” means any interest in real or personal property that secures payment or performance of an obligation.

(f) “Substituted proceeds of a crime” means any property obtained or any gain realized by the sale or exchange of proceeds of a crime.

### **600.4702 Property subject to seizure and forfeiture; encumbrances; substituted proceeds of crime.**

Sec. 4702. (1) Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:

(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.

(b) All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.

(c) In the case of a crime that is a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, all property described in subdivisions (a) and (b) and all real property or personal property that performed 1 of the following functions:

(i) Contributed directly and materially to the commission of the crime.

(ii) Was used to conceal the crime.

(iii) Was used to escape from the scene of the crime.

(iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime.

(2) Property is not subject to seizure or forfeiture if either of the following circumstances exists:

(a) The owner of the property did not have prior knowledge of, or consent to the commission of, the crime.

(b) The owner served written notice of the commission of the crime upon an appropriate law enforcement agency, and served a written notice to quit upon the person who committed the crime.

(3) The forfeiture of property encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of, the crime.

(4) The forfeiture of property encumbered by an unpaid balance on a land contract is subject to the interest of the land contract vendor, if the vendor did not have prior knowledge of, or consent to the commission of, the crime.

(5) The forfeiture of the substituted proceeds of a crime is limited to the value of the proceeds of the crime plus the amount by which any restitution or damages owed to the victim of the crime exceeds the value of the proceeds of the crime.

**Effective date.**

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

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 143]**

**(HB 5520)**

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



of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 22 of chapter XVII (MCL 777.22), as amended by 2000 PA 279.

*The People of the State of Michigan enact:*

## CHAPTER XVII

### **777.22 Offense variables; scoring.**

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if an element of the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if an element of the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

### **Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 144]**

**(SB 1105)**

AN ACT to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2003;

to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

*The People of the State of Michigan enact:*

PART 1

LINE-ITEM APPROPRIATIONS

**Appropriations; higher education.**

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for higher education for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

**HIGHER EDUCATION**

APPROPRIATION SUMMARY:

Full-time equated classified position.....1.0	
GROSS APPROPRIATION .....	\$ 1,943,717,366
Interdepartmental grant revenues:	
Total interdepartmental grants and intradepartmental transfers ....	0
ADJUSTED GROSS APPROPRIATION.....	\$ 1,943,717,366
Federal revenues:	
Total federal revenues.....	5,500,000
Special revenue funds:	
Total local revenues .....	0
Total private revenues.....	0
Total other state restricted revenues.....	125,573,850
State general fund/general purpose .....	\$ 1,812,643,516

**Central Michigan university.**

**Sec. 102. CENTRAL MICHIGAN UNIVERSITY**

Operations.....	\$ 90,003,800
GROSS APPROPRIATION .....	\$ 90,003,800
Appropriated from:	
State general fund/general purpose .....	\$ 90,003,800

**Eastern Michigan university.**

**Sec. 103. EASTERN MICHIGAN UNIVERSITY**

Operations.....	\$ 87,637,200
GROSS APPROPRIATION .....	\$ 87,637,200
Appropriated from:	
State general fund/general purpose .....	\$ 87,637,200

**Ferris state university.**

**Sec. 104. FERRIS STATE UNIVERSITY**

Operations.....	\$ 55,520,300
GROSS APPROPRIATION .....	\$ 55,520,300
Appropriated from:	
State general fund/general purpose .....	\$ 55,520,300

For Fiscal Year  
Ending Sept. 30,  
2003

**Grand valley state university.**

**Sec. 105. GRAND VALLEY STATE UNIVERSITY**

Operations.....	\$	60,095,400
GROSS APPROPRIATION.....	\$	<u>60,095,400</u>
Appropriated from:		
State general fund/general purpose .....	\$	60,095,400

**Lake Superior state university.**

**Sec. 106. LAKE SUPERIOR STATE UNIVERSITY**

Operations.....	\$	14,268,700
GROSS APPROPRIATION.....	\$	<u>14,268,700</u>
Appropriated from:		
State general fund/general purpose .....	\$	14,268,700

**Michigan state university.**

**Sec. 107. MICHIGAN STATE UNIVERSITY**

Operations.....	\$	325,982,300
GROSS APPROPRIATION.....	\$	<u>325,982,300</u>
Appropriated from:		
State general fund/general purpose .....	\$	325,982,300

**Michigan technological university.**

**Sec. 108. MICHIGAN TECHNOLOGICAL UNIVERSITY**

Operations.....	\$	55,241,600
GROSS APPROPRIATION.....	\$	<u>55,241,600</u>
Appropriated from:		
State general fund/general purpose .....	\$	55,241,600

**Northern Michigan university.**

**Sec. 109. NORTHERN MICHIGAN UNIVERSITY**

Operations.....	\$	52,012,900
GROSS APPROPRIATION.....	\$	<u>52,012,900</u>
Appropriated from:		
State general fund/general purpose .....	\$	52,012,900

**Oakland university.**

**Sec. 110. OAKLAND UNIVERSITY**

Operations.....	\$	52,384,700
GROSS APPROPRIATION.....	\$	<u>52,384,700</u>
Appropriated from:		
State general fund/general purpose .....	\$	52,384,700

**Saginaw valley state university.**

**Sec. 111. SAGINAW VALLEY STATE UNIVERSITY**

Operations.....	\$	27,393,300
GROSS APPROPRIATION.....	\$	<u>27,393,300</u>
Appropriated from:		
State general fund/general purpose .....	\$	27,393,300

For Fiscal Year  
Ending Sept. 30,  
2003

**University of Michigan - Ann Arbor.**

**Sec. 112. UNIVERSITY OF MICHIGAN - ANN ARBOR**

Operations.....	\$	363,562,700
GROSS APPROPRIATION.....	\$	<u>363,562,700</u>
Appropriated from:		
State general fund/general purpose .....	\$	363,562,700

**University of Michigan - Dearborn.**

**Sec. 113. UNIVERSITY OF MICHIGAN - DEARBORN**

Operations.....	\$	27,993,300
GROSS APPROPRIATION.....	\$	<u>27,993,300</u>
Appropriated from:		
State general fund/general purpose .....	\$	27,993,300

**University of Michigan - Flint.**

**Sec. 114. UNIVERSITY OF MICHIGAN - FLINT**

Operations.....	\$	24,068,100
GROSS APPROPRIATION.....	\$	<u>24,068,100</u>
Appropriated from:		
State general fund/general purpose .....	\$	24,068,100

**Wayne state university.**

**Sec. 115. WAYNE STATE UNIVERSITY**

Operations.....	\$	253,644,700
GROSS APPROPRIATION.....	\$	<u>253,644,700</u>
Appropriated from:		
State general fund/general purpose .....	\$	253,644,700

**Western Michigan university.**

**Sec. 116. WESTERN MICHIGAN UNIVERSITY**

Operations.....	\$	125,677,200
GROSS APPROPRIATION.....	\$	<u>125,677,200</u>
Appropriated from:		
State general fund/general purpose .....	\$	125,677,200

**State and regional programs.**

**Sec. 117. STATE AND REGIONAL PROGRAMS**

Full-time equated position.....	1.0	
Agricultural experiment station .....	\$	36,848,700
Cooperative extension service .....		31,782,600
Rare isotope accelerator.....		2,000,000
Michigan molecular institute .....		236,900
Japan center for Michigan universities.....		305,300
Higher education database modernization and conversion—		
1.0 FTE position .....		250,000
Midwestern higher education compact .....		82,500
GROSS APPROPRIATION.....	\$	<u>71,506,000</u>

**Compiler's note:** The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

For Fiscal Year  
Ending Sept. 30,  
2003

Appropriated from:	
Special revenue funds:	
Michigan tobacco settlement trust fund.....	\$ 2,000,000
State general fund/general purpose .....	\$ 69,506,000

### **Martin Luther King, Jr. - Cesar Chavez - Rosa Parks program.**

#### **Sec. 118. MARTIN LUTHER KING, JR. - CESAR CHAVEZ - ROSA PARKS PROGRAM**

Select student supportive services.....	\$ 2,173,450
Michigan college/university partnership program.....	652,050
Morris Hood, Jr. educator development program .....	165,100
GROSS APPROPRIATION .....	\$ 2,990,600

Appropriated from:	
State general fund/general purpose .....	\$ 2,990,600

### **Grants and financial aid.**

#### **Sec. 119. GRANTS AND FINANCIAL AID**

State competitive scholarships.....	\$ 36,654,616
Tuition grants.....	66,100,200
Michigan work-study program .....	8,015,800
Part-time independent student program.....	2,903,000
Grant for Michigan resident dental graduates .....	5,052,300
Grant for general degree graduates.....	6,319,400
Grant for allied health graduates.....	935,100
Michigan education opportunity grants.....	2,280,300
Robert C. Byrd honors scholarship program .....	1,900,000
Nursing scholarship program .....	4,000,000
Michigan merit award program .....	114,323,850
Tuition incentive program.....	5,250,000
GROSS APPROPRIATION .....	\$ 253,734,566

Appropriated from:	
Federal revenues:	
Higher education act of 1965, title IV, 20 U.S.C. ....	3,600,000
Higher education act of 1965, title IV, part A .....	1,900,000
Special revenue funds:	
Michigan merit award trust fund.....	123,573,850
State general fund/general purpose .....	\$ 124,660,716

## PART 2

### PROVISIONS CONCERNING APPROPRIATIONS

#### **GENERAL SECTIONS**

#### **Total state spending; payments to local units of government.**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is \$1,938,217,366.00

and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is \$4,029,061.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

Part-time independent student program.....	\$	1,345,831
Michigan education opportunity grant.....		999,912
Michigan work-study.....		1,683,318
TOTAL .....	\$	<u>4,029,061</u>

**Appropriations subject to §§ 18.1101 to 18.1594.**

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

**Reporting requirements; use of internet.**

Sec. 208. Unless otherwise specified, the institutions of higher education shall use the internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an internet or intranet site.

**Purchase of foreign goods or services.**

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods and services, or both, are available. Not later than May 1, 2003, each university shall have available upon request information on efforts to comply with this section.

**Distribution of payments; installments; submission of HEIDI data; procedures.**

Sec. 210. (1) The funds appropriated in part 1 to state institutions of higher education shall be paid out of the state treasury and distributed by the state treasurer to the respective institutions in 11 equal monthly installments on the sixteenth of each month, or the next succeeding business day, beginning with October 16, 2002. Except for Wayne State University, each institution shall accrue its July and August 2003 payments to its institutional fiscal year ending June 30, 2003.

(2) All universities shall submit higher education institutional data inventory (HEIDI) data and associated financial and program information requested by and in a manner prescribed by the state budget director. For universities with fiscal years ending June 30, 2002, these data shall be submitted to the state budget director by October 15, 2002. Universities with a fiscal year ending September 30, 2002 shall submit preliminary HEIDI data by November 15, 2002 and final data by December 15, 2002. If a university fails to submit HEIDI data and associated financial aid program information in accordance with this reporting schedule, the state treasurer shall withhold the monthly installments under subsection (1) to the university until those data are submitted.

(3) A detailed description of procedures utilized to arrive at the amounts appropriated in part 1 shall be submitted to each institution by the senate and house fiscal agencies.

**Federal or private funds; purposes; use.**

Sec. 211. Funds received by the state from the federal government or private sources for the use of a college or university are appropriated for the purposes for which they are provided. The acceptance and use of federal or private funds does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

**Furnishing program and financial information.**

Sec. 213. A state institution of higher education that receives funds under this act shall furnish all program and financial information that is required by and in a manner prescribed by the state budget director or the house or senate appropriations committee.

**Tuition and fee changes; submission of notification and documentation.**

Sec. 214. If section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, is not repealed and if a state institution of higher education that receives funds under this act notifies the department of treasury regarding its tuition and fee rates in order to qualify as an eligible institution for the Michigan tuition tax credit under section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, the institution shall also submit the notification and applicable documentation of tuition and fee changes to the house and senate fiscal agencies.

**Department of treasury annual report.**

Sec. 216. By February 15, 2003, the department of treasury shall provide the state budget director, the subcommittees on higher education of the house and senate appropriations committees, and the senate and house fiscal agencies with an annual report on restricted fund balances, projected revenues, and expenditures for the fiscal year ending September 30, 2002 and projected restricted fund balances, revenues, and expenditures for the fiscal year ending September 30, 2003.

**Capital outlay projects; competitive bid.**

Sec. 218. It is the intent of the legislature that capital outlay projects for which any state funds are used be competitively bid. As used in this section, "capital outlay projects" means capital outlay as defined in section 113 of the management and budget act, 1984 PA 431, MCL 18.1113.

**GRANTS AND FINANCIAL AID****State competitive scholarship program.**

Sec. 301. (1) Payments of the amounts included in part 1 for the state competitive scholarship program shall be distributed pursuant to 1964 PA 208, MCL 390.971 to 390.981.

(2) The Michigan higher education assistance authority shall implement a proportional competitive scholarship maximum award level for recipients enrolled less than full-time in a given semester or term.

(3) If a student who receives an award under this section has his or her tuition and fees paid under the Michigan educational trust program, pursuant to the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, and still has financial need, the funds awarded under this section may be used for educational expenses other than tuition and fees.

(4) If the Michigan higher education assistance authority increases the maximum award per eligible student from that provided in the previous fiscal year, it shall not have the effect of reducing the number of eligible students receiving awards in relation to the total number of eligible applicants. Any increase in the maximum grant shall be proportional for all eligible students receiving awards.



**Tuition grant program.**

Sec. 302. (1) The amounts appropriated in part 1 for the state tuition grant program shall be distributed pursuant to 1966 PA 313, MCL 390.991 to 390.997a.

(2) Tuition grant awards shall be made to all eligible Michigan residents who apply before September 1, 2002 and who are qualified. Tuition grant awards shall not be made to students newly enrolled in a juris doctor law degree program after the 1995-96 academic year.

(3) The Michigan higher education assistance authority shall determine an actual maximum tuition grant award per student that ensures that the aggregate payments for the tuition grant program do not exceed the appropriation contained in part 1 for the state tuition grant program. By December 15, 2002, and again by February 1, 2003, the authority shall analyze the status of award commitments, shall make any necessary adjustments, and shall confirm that those award commitments will not exceed the appropriation contained in part 1 for the tuition grant program. The determination and actions shall be reported to the state budget director and the house and senate fiscal agencies no later than February 15, 2003. If award adjustments are necessary, the students shall be notified of the adjustment by the third Monday in February.

(4) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the tuition grant program shall not lapse on September 30, 2003, but shall continue to be available for expenditure for tuition grants provided in the 2003-2004 fiscal year. The use of these unexpended fiscal year 2002-2003 funds shall terminate at the end of the 2003-2004 fiscal year.

(5) The Michigan higher education assistance authority shall continue a proportional tuition grant maximum award level for recipients enrolled less than full-time in a given semester or term.

(6) If the Michigan higher education assistance authority increases the maximum award per eligible student from that provided in the previous fiscal year, it shall not have the effect of reducing the number of eligible students receiving awards in relation to the total number of eligible applicants. Any increase in the maximum grant shall be proportional for all eligible students receiving awards for fiscal year 2002-2003.

(7) All Ferris State University students enrolled at Kendall College of Art and Design prior to January 1, 2001 who were qualified for the state tuition grant shall continue to receive the dollar amount of the state tuition grant for which they were eligible until they graduate or are no longer enrolled in the Kendall College of Art and Design at Ferris State University.

**Work-study program.**

Sec. 303. (1) Included in the appropriation in part 1 is funding for the Michigan work-study program established under 1986 PA 288, MCL 390.1371 to 390.1382, and 1986 PA 303, MCL 390.1321 to 390.1332. An effort should be made by each institution participating in the Michigan work-study program to assure that not less than 10% of those undergraduate, graduate, and professional students eligible to participate in the program are placed with for-profit employers no later than December 31 of each year for which funding is provided under this act.

(2) The Michigan higher education assistance authority shall allocate funds to institutions eligible for work-study money based upon each institution's specific Pell grant index and each institution's utilization rate of work-study funds for the 3 most recent years for which statistics are available.

(3) The Michigan higher education assistance authority shall set aside not more than 5% of the total work-study appropriation to process requests from participating institutions

for allocation adjustments. Allocation adjustments shall be based on criteria set by the authority prior to making the allocations under subsection (2).

### **General degree reimbursement program.**

Sec. 304. (1) Payments of the amounts included in part 1 for the general degree reimbursement program established under 1974 PA 75, MCL 390.1021 to 390.1027, shall be made for all degrees identified in section 1(1) of 1974 PA 75, MCL 390.1021, except doctor of dental surgery, doctor of dental medicine, juris doctor law, and allied health degrees.

(2) The reimbursement rate per eligible degree shall be the equally prorated amount permitted by the appropriation, except that the amount of the reimbursement for each associate degree shall be 1/2 of the rate of reimbursement for the other degrees eligible under subsection (1) for the general degree reimbursement program.

(3) From the general degree reimbursement program, \$135,300.00 shall be provided to Spring Arbor University for the southern Michigan state prison program.

(4) From the general degree reimbursement program, \$200,500.00 shall be provided to the University of Detroit - Mercy for graduate research aid.

(5) From the general degree reimbursement program, \$30,100.00 shall be provided to Marygrove College for learning clinics.

(6) From the general degree reimbursement program, \$50,000.00 shall be provided to Finlandia University for career education programs.

### **Allied health degree reimbursement program; rate.**

Sec. 305. The reimbursement rate per eligible degree under the allied health degree reimbursement program established under 1974 PA 75, MCL 390.1021 to 390.1027, shall be the equally prorated amount permitted by the appropriation included in part 1.

### **Degree reimbursement programs funds; use for theology or divinity programs; prohibition.**

Sec. 306. Funds disbursed through the degree reimbursement programs shall not be used by any recipient institution for theology or divinity programs.

### **Audit.**

Sec. 307. The auditor general may audit selected enrollments, degrees, and awards at selected independent colleges and universities receiving awards administered by the department of treasury. The audits shall be based upon definitions and requirements established by the Michigan higher education assistance authority, the state budget director, and the senate and house fiscal agencies. The auditor general shall accept the Free Application for Federal Student Aid (FAFSA) form as the standard of residency documentation. The auditor general shall submit a report of findings to the senate and house appropriations committees and state budget director by May 1, 2003.

### **Student financial aid and degree reimbursement programs; payments; distributions.**

Sec. 308. The sums appropriated in part 1 for the student financial aid and degree reimbursement programs shall be paid out of the state treasury and shall be distributed to the respective institutions under a quarterly payment system as follows:

(a) For the state competitive scholarship, tuition incentive, and tuition grant programs, 40% shall be paid at the beginning of the state's first fiscal quarter, 40% at the beginning

of the state's second fiscal quarter, 10% at the beginning of the state's third fiscal quarter, and 10% at the beginning of the state's fourth fiscal quarter.

(b) For the work-study program, payments shall be made in 11 monthly installments from October 1 to August 31 of any year.

(c) For the part-time independent student program and Michigan education opportunity grant program, 50% shall be paid at the beginning of the state's first fiscal quarter, 25% at the beginning of the state's second fiscal quarter, and 25% at the beginning of the state's third fiscal quarter.

(d) For the general degree reimbursement program, allied health degree reimbursement program, Michigan resident dental grant program, and Robert C. Byrd honors scholarship program, 50% shall be paid at the beginning of the state's first fiscal quarter and 50% at the beginning of the state's second fiscal quarter after the number of earned degrees conferred and total amounts to be paid are certified.

### **Needs analysis.**

Sec. 309. The Michigan higher education assistance authority shall determine the needs analysis criteria for students to qualify for the competitive scholarship program and tuition grant program. To be consistent with federal requirements, student wages may be taken into consideration when determining the amount of the award.

### **Tuition incentive program/high school completion program.**

Sec. 310. (1) The funds appropriated in part 1 for the tuition incentive program/high school completion program shall be distributed as provided in this section and pursuant to the administrative procedures for the tuition incentive program/high school completion program of the department of treasury.

(2) As used in this section:

(a) "Phase I" means the first part of the tuition incentive assistance program defined as the academic period of 80 semester or 120 term credits, or less, leading to an associate degree or certificate.

(b) "Phase II" means the second part of the tuition incentive assistance program which provides assistance in the third and fourth year of 4-year degree programs.

(c) "Department" means the department of treasury.

(3) A person shall meet the following basic criteria and financial thresholds to be eligible for tuition incentive benefits:

(a) To be eligible for phase I, a person shall meet all of the following criteria:

(i) Apply for certification to the department before graduating from high school or completing the general education development (GED) certificate.

(ii) Be less than 20 years of age at the time of high school graduation or GED completion.

(iii) Be a United States citizen and a resident of Michigan according to institutional criteria.

(iv) Be at least a half-time student, earning less than 80 semester or 120 term credits at a participating educational institution within 4 years of high school graduation or GED certificate completion.

(b) To be eligible for phase II, a person shall meet either of the following criteria in addition to the criteria in subdivision (a):

(i) Complete at least 56 transferable semester or 84 transferable term credits.

(ii) Obtain an associate degree or certificate at a participating institution.

(c) To be eligible for phase I or phase II, a person must be financially eligible as determined by the department. A person is financially eligible for the tuition incentive program if that person was Medicaid eligible for 24 months within the 36 months before application. Certification of eligibility may begin in the sixth grade and continue until the time of enrollment in a participating institution.

(4) For phase I, the department shall provide payment on behalf of a person eligible under subsection (3). The department shall reject billings that are excessive or outside the guidelines for the type of educational institution.

(5) For phase I, all of the following apply:

(a) Payments for associate degree or certificate programs shall not be made for more than 80 semester or 120 term credits for any individual student at any participating institution.

(b) For persons enrolled at a Michigan community college, the department shall pay the current in-district tuition and mandatory fees. For persons residing in an area that is not included in any community college district, the out-of-district tuition rate may be authorized.

(c) For persons enrolled at a Michigan public university, the department shall pay lower level resident tuition and mandatory fees for the current year.

(d) For persons enrolled at a Michigan independent, nonprofit degree granting college or university, or a Michigan federal tribally controlled community college, or Focus: HOPE, the department shall pay mandatory fees for the current year and a per-credit payment that does not exceed the average community college in-district per-credit tuition rate as reported on August 1, for the immediately preceding academic year.

(6) A person participating in phase II may be eligible for additional funds not to exceed \$500.00 per semester or \$400.00 per term up to a maximum of \$2,000.00 subject to the following conditions:

(a) Credits are earned in a 4-year program at a Michigan degree granting 4-year college or university.

(b) The tuition reimbursement is for coursework completed within 30 months of completion of the phase I requirements.

(7) Program payments shall not be used by any recipient for theology or divinity courses.

(8) The department shall work closely with participating institutions to develop an application and eligibility determination process that will provide the highest level of participation and ensure that all requirements of the program are met.

(9) Applications for the tuition incentive program may be approved at any time after the student begins the sixth grade. If a determination of financial eligibility is made, that determination is valid as long as the student meets all other program requirements and conditions.

(10) Each institution shall ensure that all known available restricted grants for tuition and fees are used prior to billing the tuition incentive program for any portion of a student's tuition and fees.

(11) The department shall ensure that the tuition incentive program is well publicized and that potentially eligible Medicaid clients are provided information on the program. The department shall provide the necessary funding and staff to fully operate the program.

(12) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the tuition incentive program shall not lapse on

September 30, 2003, but shall continue to be available for expenditure for the tuition incentive program in the fiscal year ending September 30, 2004.

**Availability of independent college and university data.**

Sec. 311. To enable the legislature and the state budget director to evaluate the appropriation needs of higher education, each independent college and university shall make available to the legislature or state budget director, upon request, data regarding grants for the preceding, current, and ensuing fiscal years.

**Nursing scholarship program.**

Sec. 312. (1) From the funds appropriated in part 1, the Michigan higher education assistance authority shall establish and administer the nursing scholarship program. The department of treasury shall disburse the amount of the scholarship awards determined under subsection (2) to recipients.

(2) The authority shall review applications for and determine recipients of the scholarships, which are intended for tuition, fees, and associated costs of a nursing education program.

(3) The scholarships may be used by enrollees in a licensed practical nurse (LPN), associate degree of nursing (ADN), or bachelor's of science nursing (BSN) program approved by the Michigan department of education.

(4) The authority shall develop and adopt rules regarding the required commitment by graduates of a program described in subsection (3) who received scholarships under the nursing scholarship program to employment in a direct patient care setting. It shall also determine the amount of the scholarship for each of the educational tracks identified in subsection (3).

(5) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the nursing scholarship program shall not lapse on September 30, 2003, but shall continue to be available for expenditure for nursing scholarships provided in the 2003-2004 fiscal year. The use of these unexpended fiscal year 2002-2003 funds shall terminate at the end of the 2003-2004 fiscal year.

(6) When statutory provisions are enacted to provide for a nursing scholarship program, the provisions of subsections (2) through (5) are superseded.

**STATE UNIVERSITIES**

**Joseph F. Young, Sr. psychiatric research and training program; use of funds by Wayne state university; reports.**

Sec. 401. (1) Included in part 1 is \$6,356,023.00 to Wayne State University for the Joseph F. Young, Sr. psychiatric research and training program. Wayne State University shall use these funds for psychiatric laboratory and clinical research, training, and treatment services. Within the available appropriation, services shall not be denied to any patient who meets established research guidelines for treatment on the basis of personal financial circumstances, age, geographic residence, or projected/actual length of treatment as medically warranted.

(2) Wayne State University shall report the following information to the department of community health by November 1, 2003:

(a) The number and type of psychiatric research projects funded by the appropriation described in subsection (1).

(b) The number and type of students trained and the location of training funded by the appropriation.

(c) Demographic data regarding the number and profile of patients to receive psychiatric services funded by the appropriation and a profile of the services provided.

(d) A summary budget outlining major expenditure categories and any first- and third-party reimbursements.

(3) Copies of these reports shall also be provided to the house and senate fiscal agencies and the state budget director.

### **Biological station at Douglas lake.**

Sec. 402. The University of Michigan biological station at Douglas Lake in Cheboygan County is regarded as a unique resource and is designated as a special research reserve. It is the intent of the legislature to protect and preserve the unique long-term research value and capabilities of the biological station area and Douglas Lake. The legislature further intends that no state programs or policies be developed that would have a deleterious impact on the research value of Douglas Lake.

### **Higher education institutional data inventory advisory committee.**

Sec. 405. (1) There is created the higher education institutional data inventory advisory committee. The committee shall be appointed by the state budget director and shall consist of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the state budget director's office.

(d) Three representatives of the presidents council of state universities. The presidents council shall appoint 1 representative each from a masters, a doctoral, and a research university.

(2) The committee shall provide for the general scope and direction for implementing the conversion and modernization of the state's higher education databases, for which funding is provided in part 1.

(3) The committee shall prepare a plan for the conversion and modernization effort. The plan shall include, but is not limited to, all of the following:

(a) The development of a data dictionary/glossary.

(b) The integration of appropriate federal, national, regional, and state databases.

(c) The assurance of the accuracy of the data.

### **Tenured and tenure track faculty; commitment to undergraduate instruction.**

Sec. 408. The legislature recognizes that the first and foremost obligation of the public universities is undergraduate instruction. The public universities are therefore encouraged to increase their commitment of tenured and tenure track faculty to undergraduate instruction.

### **University groupings; funding floors.**

Sec. 409. The amounts included in part 1 for public universities recognize 4 separate university groupings. Funding floors for the 4 groupings are established as follows:

(a) Funding floor of \$4,600.00 per fiscal-year-equated student for Eastern Michigan University, Ferris State University, Grand Valley State University, Lake Superior State

University, Northern Michigan University, Saginaw Valley State University, and the University of Michigan-Flint.

(b) Funding floor of \$4,800.00 per fiscal-year-equated student for Central Michigan University, Oakland University, and the University of Michigan-Dearborn.

(c) Funding floor of \$5,800.00 per fiscal-year-equated student for Michigan Technological University and Western Michigan University.

(d) Funding floor of \$9,100.00 per fiscal-year-equated student for Michigan State University, the University of Michigan-Ann Arbor, and Wayne State University.

### **Law degree seeking students; use of state funds.**

Sec. 418. No state funds shall be used by any state university to undertake a collaborative effort with any other university that would have the effect of increasing its enrollment of first-time professional law degree seeking students.

### **Charter schools development and performance institute; report.**

Sec. 421. (1) Central Michigan University shall report by September 30, 2003 to the state budget director, house and senate appropriations committees, and the house and senate fiscal agencies information on the activities and effectiveness of the charter schools development and performance institute for which an appropriation is provided in part 1. Included in the report shall be an accounting of all revenues and expenditures of the institute, the names of the public school academies served, and the type of assistance provided to each public school academy.

(2) All funds received under part 1 for the charter schools development and performance institute are intended to be expended on activities of that institute.

### **Textbook purchases.**

Sec. 426. It is the legislative intent that private bookstores that sell textbooks to university students and student governments that provide a book swap for university students have accurate and timely access to lists of universities' required textbooks in order to provide prompt and efficient service for students. It is further the legislative intent that each state university allow students who are on financial aid or are receiving tuition grants to decide where to purchase their textbooks.

### **Project GREEN.**

Sec. 433. (1) Included in part 1 is \$3,281,500.00 for the agricultural experiment station and \$2,910,000.00 for the cooperative extension service for project GREEN. Project GREEN is intended to address critical regulatory, food safety, economic, and environmental problems faced by this state's plant-based agriculture, forestry, and processing industries. "GREEN" is an acronym for generating research and extension to meet environmental and economic needs.

(2) The department of agriculture and Michigan State University, in consultation with agricultural commodity groups and other interested parties, shall develop project GREEN and its program priorities.

(3) Not later than September 30, 2003, a report shall be submitted by Michigan State University to the state budget director, the house and senate appropriations subcommittees on agriculture and on higher education, and the house and senate fiscal agencies for the preceding fiscal year regarding project GREEN projects. The report shall include, but is not limited to, the dollar amount of each project and a review of each project's performance and accomplishments.



**Presidents council meetings with Michigan economic development corporation; report.**

Sec. 434. All state universities shall work with the Michigan economic development corporation (MEDC) to foster the state's economic development. The presidents council shall meet quarterly with the MEDC or its representative to discuss potential cooperative efforts and examine any strategies or issues of concern related to advancement of Michigan's economic development. The state universities, through its presidents council, shall submit a report that summarizes the discussion and identifies any conclusions or recommendations of the participants at each quarterly meeting. The quarterly report shall be submitted to the state budget director, the house and senate appropriations subcommittees on higher education, and the house and senate fiscal agencies no later than 30 days after each quarterly meeting.

**Automatic sprinkler systems; installation in dormitories.**

Sec. 435. Each institution of higher education shall conduct a study on the installation of automatic sprinkler and other fire safety systems in dormitories, and shall report to the legislature on or before January 1, 2003 the existence or nonexistence of such systems and the estimated cost of installing automatic sprinkler systems where they do not exist.

**Tuition restraint; appropriation; withholding funds if tuition increase more than certain amount.**

Sec. 436. (1) It is the intent of the legislature to recognize and maintain the quality of Michigan's colleges and universities by allowing the higher education appropriations for the 2002-2003 fiscal year to remain at the same level as the appropriations for fiscal year 2001-2002, with no reductions. It is also the intent of the legislature to recognize the need for tuition restraint on the part of Michigan's public universities, in order to maintain access and affordability at Michigan's colleges and universities for students and parents. It is further the intent of the legislature to reduce appropriations for any college or university that does not exercise tuition restraint for the 2002-2003 academic year, as outlined in subsection (2).

(2) The appropriation for any university in part 1 of this act shall not be reduced if that university adopts a tuition and fee rate increase for resident undergraduate students that is 8.5% or less over the prior year, or a total increase of \$425.00 or less over the prior year, whichever is greater, and if a university reports to the state budget director and the appropriations committees of the house and senate any cost increases in excess of the increase over the prior year in the Detroit consumer price index, for utilities, retirement, health care, or technology.

(3) It is the intent of the legislature that the presidents and chancellors of Michigan's 15 public universities voluntarily agree to the conditions outlined in subsection (2), and that a letter signed by the presidents and chancellors confirming this agreement would be transmitted to the legislature by February 28, 2002.

(4) If a university does not exercise the tuition restraint as outlined in subsections (2) and (3) above, the legislature authorizes the state budget director to withhold funds appropriated for that university by an amount equal to the amount in excess of the desired restraint and to notify the appropriations committees of the house and senate. It is the intent of the legislature to redistribute these funds, based on each university's percentage share of the fiscal year 2001-2002 base appropriations, to those universities that honor the tuition restraint commitment.

**Rare isotope accelerator facilities.**

Sec. 437. Included in part 1 is \$2,000,000.00 for design and architectural studies related to the rare isotope accelerator facilities to be located at Michigan State University. This appropriation is for the development of a program statement and preliminary design documents for the rare isotope accelerator office building and for evaluation and prototyping of the rare isotope accelerator design elements. It is the intent of the legislature that Michigan State University will collaborate with the Michigan economic development corporation to develop the program statement and preliminary design documents.

**Availability of additional revenue; appropriation.**

Sec. 438. It is the intent of the legislature that if the May 2002 consensus revenue estimating conference determines that additional state general fund/general purpose revenue is available for expenditure in fiscal year 2002-2003, funds shall be appropriated to the state universities that have a per fiscal-year-equated student appropriation less than the per fiscal-year-equated student funding floor amount specified in section 409.

**College credits earned through postsecondary enrollment options act; formation of workgroup.**

Sec. 439. It is the intent of the legislature that a workgroup be formed to evaluate, discuss, and make recommendations for future action regarding state university admission and enrollment policies that specifically address the acceptance and application of college credits earned by students through the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524. The workgroup shall be bipartisan and shall include the chairpersons of the house and senate appropriations subcommittees on higher education, community colleges, and school aid.

**MARTIN LUTHER KING, JR. - CESAR CHAVEZ - ROSA PARKS PROGRAMS****Martin Luther King, Jr. - Cesar Chavez - Rosa Parks future faculty program.**

Sec. 501. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks future faculty program, that is intended to increase the pool of minority candidates pursuing faculty teaching careers in postsecondary education. Each university shall apply the percentage increase applicable to every university in the calculation of appropriations in part 1 to the amount of funds allocated to the future faculty program.

(2) The program shall be administered by each university in a manner prescribed by the Michigan department of career development. The Michigan department of career development shall use a good faith effort standard to evaluate whether a fellowship is in default.

**Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college day program.**

Sec. 502. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college day program that is intended to introduce schoolchildren underrepresented in postsecondary education to the potential of a college education.

(2) Individual program plans of each university shall include a budget of equal contributions from this program, the participating public university, the participating school district, and the participating independent degree granting college. College day funds shall not be expended to cover indirect costs. Not more than 20% of the university match shall be attributable to indirect costs. Each university shall apply the percentage increase applicable to every university in the calculation of appropriations in part 1 to the amount of funds allocated to the college day program.

(3) The program shall be administered by each university in a manner prescribed by the Michigan department of career development.

#### **Martin Luther King, Jr. - Cesar Chavez - Rosa Parks select student support services program.**

Sec. 503. (1) Included in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks select student support services program for developing academically and economically disadvantaged student retention programs for 4-year public and independent educational institutions in this state.

(2) An award made under this program to any 1 institution shall not be greater than \$150,000.00, and the amount awarded shall be matched on a 70% state, 30% college or university basis.

(3) The program shall be administered by the Michigan department of career development.

#### **Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college/university partnership program.**

Sec. 504. (1) Included in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college/university partnership program between 4-year public and independent colleges and universities and public community colleges, which is intended to increase the number of academically and economically disadvantaged students who transfer from community colleges into baccalaureate programs.

(2) The grants shall be made under this program to Michigan public and independent colleges and universities. An award to any 1 institution shall not be greater than \$150,000.00, and the amount awarded shall be matched on a 70% state, 30% college or university basis.

(3) The program shall be administered by the Michigan department of career development.

#### **Martin Luther King, Jr. - Cesar Chavez - Rosa Parks visiting professors program.**

Sec. 505. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks visiting professors program which is intended to increase the number of underrepresented minority instructors in the classroom and provide role models for underrepresented minority students.

(2) The program shall be administered by the Michigan department of career development.

#### **Morris Hood, Jr. educator development program.**

Sec. 506. (1) Included in the appropriation in part 1 is funding under the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks initiative for the Morris Hood, Jr. educator development program which is intended to increase the number of minority students,

especially males, who enroll in and complete K-12 teacher education programs at the baccalaureate level.

(2) The program shall be administered by each state-approved teacher education institution in a manner prescribed by the Michigan department of career development.

(3) Approved teacher education institutions may and are encouraged to use student support services funding in coordination with the Morris Hood, Jr. funding to achieve the goals of the program.

### **Expenditure of funds received under section 503, 504, or 506; notification.**

Sec. 507. Each state institution of higher education receiving funds under section 503, 504, or 506 shall notify the Michigan department of career development by April 15, 2003 as to whether it will expend by the end of its fiscal year the funds received under section 503, 504, or 506. Notwithstanding the award limitations in sections 503 and 504, the amount of funding reported as not being expended will be reallocated to the institutions that intend to expend all funding received under section 503, 504, or 506.

## **STUDENT PERFORMANCE REPORTING**

### **Academic status of students; informing high schools.**

Sec. 601. (1) From the amount appropriated in part 1 for state universities, the state universities shall systematically inform Michigan high schools regarding the academic status of students from each high school in a manner prescribed by the presidents council, state universities of Michigan in cooperation with the Michigan association of secondary school principals.

(2) The Michigan high schools shall systematically inform the state universities about the use of information received under this section in a manner prescribed by the Michigan association of secondary school principals in cooperation with the presidents council, state universities of Michigan.

### **Academic status of community college transfer students.**

Sec. 602. From the amount appropriated in part 1 for state universities, the state universities shall inform Michigan community colleges regarding the academic status of community college transfer students in a manner prescribed by the presidents council, state universities of Michigan in cooperation with the Michigan community college association.

## **GENERAL REPORTS AND AUDITS**

### **HEIDI enrollment data; review and audits; reports.**

Sec. 701. (1) The auditor general shall review higher education institutional data inventory (HEIDI) enrollment data submitted by all public universities and may perform audits of selected public universities if determined necessary. The review and audits shall be based upon the definitions, requirements, and uniform reporting categories established by the state budget director and the senate and house fiscal agencies. The auditor general

shall submit a report of findings to the house and senate appropriations committees and the state budget director no later than July 1, 2003.

(2) Student credit hours reports shall not include the following:

(a) Student credit hours generated through correspondence courses, credit by examination, or inmate prison programs regardless of teaching location.

(b) Student credit hours generated in new degree programs after January 1, 1975, that have not been specifically authorized for funding by the legislature, except spin-off programs converted from existing core programs that do all of the following:

(i) Represent new options, fields, or concentrations within existing programs.

(ii) Are consistent with the current institutional role and mission.

(iii) Are accommodated within the continuing funding base of the institution.

(iv) Do not require a new degree level beyond that which the institution is currently authorized to grant within that discipline or field.

(v) Do not require funding from the state other than that provided by the student credit hours generated within the program, either before program initiation or within the first 3 years of program operation.

(3) The auditor general shall periodically audit higher education institutional data inventory (HEIDI) data as submitted by the state universities for compliance with the definitions approved by the HEIDI advisory committee for the HEIDI database.

### **Degree programs; listing.**

Sec. 701a. (1) Pursuant to section 701(2)(b), the following degree programs may be established:

#### **(a) Bachelors**

Eastern Michigan University	Technology Management, B.S.
Ferris State University	Communication Major, B.A.
Ferris State University	Mathematics Major, B.A.
Ferris State University	Biology Major, B.A.
Ferris State University	E-Commerce Marketing, B.S.
Ferris State University	Industrial Technology and Management Concentration, B.A.S.
Lake Superior State University	Liberal Studies, B.A./B.S.
Michigan State University	Music Education, B.Mus.
Michigan Technological University	Bioinformatics, B.S.
University of Michigan	Joint Literature, Science and Arts/School of Natural Resources and Environment Degree in the Environment, B.A./B.S.
University of Michigan	Bachelor of Fine Arts (replaces existing curriculum), B.F.A.

#### **(b) Masters**

Central Michigan University	Geographic Information Sciences, M.S.
Michigan State University	Applied Spanish Linguistics, M.A.
Michigan State University	Education, M.A.
Michigan State University	Zoo and Aquarium Management, M.S.
Michigan State University	Comparative Medicine and Integrative Biology, M.S.
Michigan State University	Logistics, M.S.

Michigan State University	Professional Applications in Anthropology, M.A.
Oakland University	Information Technology Management, M.S.
Oakland University	Embedded Systems, M.S.
Oakland University	Information Systems Engineering, M.S.
Oakland University	Liberal Studies, M.A.
University of Michigan	Interdisciplinary Program in Survey Methodology, M.S.
University of Michigan	Judaic Studies, M.A.
University of Michigan	Integrated Microsystems, M. Engineering
Western Michigan University	Performing Arts Administration, M.F.A.
Western Michigan University	Educational Technology, M.A.
(c) <u>Doctorate/Other</u>	
Central Michigan University	Doctor of Health Administration, D.H.A.
Oakland University	Doctorate in Physical Therapy (combined with DScPT proposal), D.P.T.
Oakland University	Doctorate of Science in Physical Therapy (combined with DPT proposal), D.S.P.T.
Michigan State University	Comparative Medicine & Integrative Biology, Ph.D.
University of Michigan	Interdisciplinary Program in Survey Methodology, Ph.D.
University of Michigan	Interdepartmental Program in Greek and Roman History, Ph.D.
University of Michigan-Flint	Doctor of Physical Therapy, D.P.T.
Wayne State University	Doctor of Audiology, Au.D.
Western Michigan University	Doctor of Audiology, Au.D.
Western Michigan University	Electrical and Computer Engineering, Ph.D.

(2) The listing of degree programs in subsection (1) does not constitute legislative intent to provide additional dollars for those programs.

### **Report.**

Sec. 702. The principal executive officer of each institution of higher education receiving an appropriation under this act shall expend a portion of the funds appropriated to that institution to make a report to the auditor general, the house and senate fiscal agencies, and the state budget director within 60 days after the auditor general issues his or her report on the operation of the institution. The institution's report shall specify all of the following:

- (a) The recommendations of the auditor general implemented by the institution, including projected dates and resources required, if any, to achieve compliance.
- (b) The recommendations of the auditor general not implemented by the institution or implemented by the institution as modified.
- (c) The rationale for not implementing a recommendation of the auditor general or of implementing a recommendation as modified.

### **HEIDI submission; report; definitions; additional information.**

Sec. 705. (1) As part of the higher education data inventory (HEIDI) submission, each state university shall report the following information for the 2001-2002 academic year on or before October 31, 2002:

(a) Separately, the number of full-time equated tenured faculty, tenure-track faculty, nontenure-track faculty, and instruction/research assistants who taught an undergraduate class section.

(b) The total number of undergraduate credit hours taught by each of the following:

(i) Tenured faculty.

(ii) Tenure-track faculty.

(iii) Nontenure-track faculty.

(iv) Instruction/research assistants.

(2) For the purposes of subsection (1), the following definitions apply:

(a) “Tenured faculty” means a faculty member who has earned tenure.

(b) “Tenure-track faculty” means a faculty member who has not yet earned tenure but is eligible to earn tenure.

(c) “Nontenure-track faculty” means a faculty member who is not eligible to earn tenure.

(d) “Instruction/research assistant” means an individual who is a master’s or doctoral degree candidate.

(3) Each state university shall also report the following information for the 2001-2002 academic year, as part of the higher education data inventory (HEIDI) submission, on or before October 31, 2002:

(a) Separately, the fall term number (head count) of part-time faculty and full-time faculty.

(b) Separately, the fall term number (head count) of tenured faculty and nontenured faculty.

(4) For the purposes of subsection (3), the following definitions apply:

(a) “Part-time faculty” means an individual who does not have a full-time appointment as a faculty member.

(b) “Full-time faculty” means an individual who has a full-time appointment as a faculty member.

(c) “Tenured faculty” means an individual who has earned tenure and who does not hold an administrative post.

(d) “Nontenured faculty” means an individual who has not earned tenure.

### **Auditor general performance audits.**

Sec. 708. The auditor general shall conduct performance audits of not fewer than 3 state universities during the fiscal year ending September 30, 2003.

### **Reporting requirements under crime awareness and campus security act of 1990.**

Sec. 709. (1) An institution receiving funds under this act and also subject to the student right-to-know and campus security act, Public Law 101-522, 104 Stat. 2381, shall furnish by October 15, 2002 to the Michigan department of education, a copy of all material prepared pursuant to the public information reporting requirements under the crime awareness and campus security act of 1990, title II of the student right-to-know and campus security act, Public Law 101-542, 104 Stat. 2381.

(2) Each institution shall make this information available in electronic internet format on their websites.



**Students receiving grants, loans, and work-study financial aid; report.**

Sec. 710. By February 15, 2003, each public university that receives funds under this act shall report to the house and senate appropriations subcommittees on higher education and the house and senate fiscal agencies the aggregate dollar amount and the number and percentages of undergraduate students who receive need-based grants, merit-based scholarships and grants, loans, and work-study financial aid for the academic year 2001-2002.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 145]**

**(SB 902)**

AN ACT to amend 1909 PA 139, entitled “An act relative to the maintenance and construction of hospitals and sanatoria within the counties of this state and to provide a tax to raise moneys therefor,” by amending section 5 (MCL 331.105).

*The People of the State of Michigan enact:*

**331.105 Sanatorium; placement on approved list; report; certificate; state aid.**

Sec. 5. A sanatorium established under the provisions of this act solely for the treatment of tuberculosis that has expended at least \$10,000.00 in buildings and equipment, may, upon application to the department of community health, be placed upon the approved list of county sanatoriums. Once a sanatorium is entered upon the approved list, the sanatorium may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in a manner that meets the approval of the department of community health. On the first day of July of each year the secretary of the board of the sanatorium on the approved list, shall report under oath to the department of community health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on that date remaining in the sanatorium, the amount contributed by the county or counties for the support of the sanatorium, and such other matters as may be required by the department of community health. Upon the receipt of the report, if it appears that the sanatorium has been maintained in a satisfactory manner, the director of the department of community health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county, and file it with the state treasurer. Upon receiving the certificate the state treasurer shall draw his or her warrant payable to the treasurer of each county contributing toward the maintenance of the sanatorium, for a sum equal to 1/2 the amount actually contributed by that county for the support of the sanatorium for the preceding year. However, the total sum paid as state aid shall not exceed the sum of \$3,000.00 for any 1 sanatorium in any 1 year.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 2, 2002.

**[No. 146]****(HB 5400)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending section 5208 (MCL 500.5208), as amended by 1984 PA 267, and by adding section 407a.

*The People of the State of Michigan enact:*

**500.407a Noninsured benefit plan; offering and writing excess loss insurance; definition; authority of insurer not limited.**

Sec. 407a. (1) An insurer authorized to write insurance described in section 602 or 606 may offer and write specific or aggregate excess loss insurance to a noninsured benefit plan. An insurer that writes excess loss insurance shall comply with the applicable policy rate and form requirements under chapters 22, 24, and 30.

(2) As used in this section, “noninsured benefit plan” means that term as defined in section 5208.

(3) This section does not limit the authority of an insurer authorized to write insurance described in section 624 to offer and write specific or aggregate excess loss insurance to a noninsured benefit plan.

**500.5208 Corporate powers; limitations; applicability of prohibition; services performed in connection with noninsured benefit plan; provisions; interference with rights and obligations under collective bargaining agreement prohibited; report; liability of employee covered under noninsured benefit plan; “noninsured benefit plan” or “plan” defined.**

Sec. 5208. (1) The corporate powers of an insurer incorporated in this state is limited to the issuance of policies insuring persons or property or other hazards in the state of domicile and in other states from which it has received authority to transact insurance business from the insurance department of that state, and to the provision of services of the kind it performs in the normal conduct of its insurance business whether or not those services are performed in connection with an insurance contract. This section does not apply to insurers organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states, because the laws of those states do not permit the writing of the class or kind of insurance written by those insurers.

(2) For services provided under subsection (1) that are performed in connection with a noninsured benefit plan, all of the following apply:

(a) An insurer’s fees for services rendered shall be on a basis that precludes cost transfers between individuals receiving those services and policyholders of the insurer.

(b) Any insurer providing services described in subsection (1) in connection with a noninsured benefit plan shall offer a program of specific or aggregate excess loss insurance.

(c) Except as provided in subdivision (d), an insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall not enter into the service contract for a plan covering a group of less than 500 individuals. However, an insurer may continue a service contract for a plan covering a group of less than 500 individuals if the contract was in existence on December 29, 1981.

(d) An insurer may enter into a service contract for a plan covering a group of less than 500 individuals if either the insurer makes arrangements for excess loss insurance or the sponsor of the plan that covers the individuals is liable for the plan’s liabilities and is a sponsor of 1 or more plans covering 500 or more individuals in the aggregate. The commissioner, upon obtaining the advice of insurers, shall establish the standards for the manner and amount of the excess loss insurance required by this subdivision. It is the intent of the legislature that the excess loss insurance requirements be uniform as between insurers and other persons authorized to provide similar services.

(e) An insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall comply with section 5208a.

(f) A service contract containing an administrative services only arrangement between an insurer and a governmental entity not subject to ERISA, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by an insurer, health care corporation, dental care corporation, or health maintenance organization before the signing of the service contract, is void unless the governmental entity has provided the notice described in section 5208a(8) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subdivision does not relieve the governmental entity of any obligations to the insurer under the service contract.

(3) Nothing in this section shall be construed to permit an actionable interference by an insurer with the rights and obligations of the parties under a collective bargaining agreement.

(4) Services provided under subsection (1) that are performed in connection with a noninsured benefit plan shall be considered a business activity that is not an insurance carrier service and are subject to tax as authorized by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145.

(5) An insurer shall report with its annual statement the amount of business it has conducted as services provided under subsection (1) that are performed in connection with a noninsured benefit plan, and the commissioner shall annually transmit this information to the state commissioner of revenue.

(6) An employee covered under a noninsured benefit plan for which services are provided under a service contract authorized under subsection (1) is not liable for that portion of claims incurred and subject to payment under the plan if the service contract is entered into between an employer and insurer, unless that portion of the claim has been paid directly to the employee.

(7) As used in this section, “noninsured benefit plan” or “plan” means a benefit plan without insurance or the noninsured portion of a benefit plan that has specific or aggregate excess loss insurance.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 2, 2002.

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**[No. 147]**

**(HB 5328)**

AN ACT to amend 1879 PA 237, entitled “An act to provide for the execution, acknowledgment, and recording of contracts for the sale of land,” by amending section 6 (MCL 565.356), as added by 1998 PA 106.

*The People of the State of Michigan enact:*

**565.356 Definitions.**

Sec. 6. As used in this act:

(a) “Assignee” means assignee of the vendor named in a land contract, a succeeding assignee, or a land contract mortgagee who became the absolute holder of the land contract as a result of security enforcement procedures.

(b) “Grantee” means grantee of the vendor named in a land contract, a succeeding grantee, or a grantee pursuant to a mortgage foreclosure of a mortgage upon the land but subordinate to the land contract.

(c) “Land contract mortgage” means a mortgage granted by a vendor or a vendee.

(d) “Land contract mortgagee” means the holder of a land contract mortgage granted by a vendor or vendee, or his or her heirs, successors, or assigns.

(e) “Nonmortgaging vendee” means a vendee who has not entered into a land contract mortgage granted by his or her vendor.

(f) “Nonmortgaging vendor” means a vendor who has not entered into a land contract mortgage granted by his or her vendee.

(g) “Real estate mortgage” means a mortgage granted upon an interest in real property, other than a mortgage upon a vendor’s or vendee’s interest in a land contract unless the vendor and the vendee join in or subject their respective interests to a single mortgage. A land contract mortgage is not a real estate mortgage.

(h) “Third parties” means persons or entities other than the vendor, vendee, nonmortgaging vendor, nonmortgaging vendee, assignee, grantee, or land contract mortgagee, who have or claim an interest in or encumbrance upon real property or a vendor’s or vendee’s interest which is subject to a land contract mortgage.

(i) “Vendee” means the vendee named in the land contract and the vendee’s heirs, successors, or assigns.

(j) “Vendor” means the vendor named in the land contract and the vendor’s heirs, successors, or assigns.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 2, 2002.

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**[No. 148]**

**(HB 5118)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 502, 32503, and 33938 (MCL 324.502, 324.32503, and 324.33938), section 502 as amended by 1998 PA 114 and sections 32503 and 33938 as added by 1995 PA 59, and by adding sections 501a and 61505a.

*The People of the State of Michigan enact:*

**324.501a Jurisdiction, rights, and responsibilities of Great Lakes states and provinces.**

Sec. 501a. The Great Lakes are a binational public treasure and are held in trust by the Great Lakes states and provinces. Management of the water resources of the Great Lakes and the Great Lakes basin is subject to the jurisdiction, rights, and responsibilities of the Great Lakes states and provinces. Effective management of the water resources of the Great Lakes requires the in-basin exercise of such jurisdiction, rights, and responsibilities in the interest of all the people of the Great Lakes basin.

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

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

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

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

(b) Provide and develop facilities for outdoor recreation.

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

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

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

(3) Except as provided in subsection (4), the department may enter into contracts for the taking of coal, oil, gas, and other mineral products from state owned lands, upon a royalty basis or upon another basis, and upon the terms the department considers just and equitable subject to section 502a. This contract power includes authorization to enter into contracts for the storage of gas or other mineral products in or upon state owned lands, if the consent of the state agency having jurisdiction and control of the state owned land is first obtained. A contract permitted under this section for the taking of coal, oil, gas, or metallic mineral products, or for the storage of gas or other mineral products, is not valid unless the contract is approved by the state administrative board. Money received from a contract for the storage of gas or other mineral products in or upon state lands shall be transmitted to the state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law. Other money received from a contract permitted under this subsection, except money received from lands acquired with money from the game and fish protection fund created in section 43553, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of article IX of the state constitution of 1963 and provided for in part 19. However, the money received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection fund and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the game and fish protection fund shall be credited to the game and fish protection trust fund created in section 43702, except as otherwise provided by law.

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

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

**324.32503 Agreements pertaining to waters over and filling in of submerged patented lands; lease or deed of unpatented lands; terms, conditions, and requirements; reservation of mineral rights; exception; riparian owner dredging or placing materials on bottomland; permit; lease or deed allowing drilling operations for exploration of oil or gas purposes; execution of agreement, lease, or deed with United States.**

Sec. 32503. (1) Except as otherwise provided in this section, the department, after finding that the public trust in the waters will not be impaired or substantially affected, may enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases, or agreements covering unpatented lands may be issued or entered into by the department with any person, and shall contain such terms, conditions, and requirements as the department determines to be just and equitable and in conformance with the public trust. The department shall reserve to the state all mineral rights, including, but not limited to, coal, oil, gas, sand, gravel, stone, and other materials or products located or found in those lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) A riparian owner shall obtain a permit from the department before dredging or placing spoil or other materials on bottomland.

(3) The department shall not enter into a lease or deed that allows drilling operations beneath unpatented lands for the exploration or production of oil or gas.

(4) An agreement, lease, or deed entered into under this part by the department with the United States shall be entered into and executed pursuant to the property rights acquisition act, 1986 PA 201, MCL 3.251 to 3.262.

**324.33938 Removal of metallic minerals, marl, stone, rock, sand, gravel, or earth from or beneath lake bottomlands of Great Lakes; lease; drilling operations for exploration of oil or gas beneath lake bottomlands of Great Lakes; conditions; violation; liability.**

Sec. 33938. (1) A person shall not remove metallic minerals, marl, stone, rock, sand, gravel, or earth from or beneath the lake bottomlands of the Great Lakes or the bays and harbors connected with the Great Lakes without first obtaining a written lease from the department granting the right to take the material.

(2) A person shall not conduct drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas, unless either or both of the following conditions are met:

(a) The drilling operations began prior to the effective date of the 2002 amendatory act that added this subdivision.

(b) The person holds a lease that was in effect prior to the effective date of the amendatory act that added this subdivision and that allows the drilling operations.

(3) A person who violates subsection (1) or (2) is liable to this state for an amount equal to 3 times the value of the materials taken plus an amount equal to the cost of restoring the waters, lake bottomlands, adjacent uplands, or any natural resource of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, that is damaged as a result of the violation.