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CONSTITUTIONAL  
AMENDMENTS

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## CONSTITUTIONAL AMENDMENTS

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### CONSTITUTIONAL AMENDMENTS

#### ARTICLE I

#### Declaration of Rights

##### **§ 26 Affirmative action programs.**

Sec. 26. (1) The University of Michigan, Michigan State University, Wayne State University, and any other public college or university, community college, or school district shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(2) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(3) For the purposes of this section “state” includes, but is not necessarily limited to, the state itself, any city, county, any public college, university, or community college, school district, or other political subdivision or governmental instrumentality of or within the State of Michigan not included in subsection 1.

(4) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state.

(5) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(6) The remedies available for violations of this section shall be the same, regardless of the injured party’s race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Michigan anti-discrimination law.

(7) This section shall be self-executing. If any part or parts of this section are found to be in conflict with the United States Constitution or federal law, the section shall be implemented to the maximum extent that the United States Constitution and federal law permit. Any provision held invalid shall be severable from the remaining portions of this section.

(8) This section applies only to action taken after the effective date of this section.

(9) This section does not invalidate any court order or consent decree that is in force as of the effective date of this section.

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**Compiler’s note:** The constitutional amendment set out above was submitted to and approved by the electors as Proposal 06-4 at the general election held on November 7, 2006. The amendment, which added Section 26 to Article I of the Constitution of Michigan of 1963, became effective December 23, 2006.

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#### ARTICLE IX

#### Finance and Taxation

##### **§ 40 Michigan conservation and recreation legacy fund.**

Sec. 40. The Michigan conservation and recreation legacy fund is established. The state treasurer shall direct the investment of the legacy fund. The state treasurer shall

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establish within the legacy fund restricted accounts as authorized by this section and may establish additional subaccounts as authorized by law. The state treasurer may receive gifts, grants, bequests, or assets from any source for deposit into a particular account or subaccount. The assets of the legacy fund shall be invested as provided by law. Interest and earnings accruing from each account or subaccount shall be credited to that account or subaccount.

The forest recreation account is established as an account within the legacy fund. The forest recreation account shall consist of revenue derived from concessions, leases, contracts, and fees from recreational activities on state forestlands and other revenues as authorized by law. Money in the forest recreation account shall be expended only for the following:

(a) The development, improvement, operation, promotion, and maintenance of forest recreation activities.

(b) Grants to state colleges and universities to implement programs funded by the forest recreation account.

(c) The administration of the forest recreation account.

The game and fish protection account is established as an account within the legacy fund. The game and fish protection account shall consist of revenue derived from hunting and fishing licenses, passbooks, permits, fees, concessions, leases, contracts, and activities; damages paid for the illegal taking of game and fish; revenue derived from fees, licenses, and permits related to game, game areas, and game fish; and other revenues as authorized by law. Money in the game and fish protection account shall be expended only for the following:

(a) The development, improvement, operation, promotion, and maintenance of wildlife and fisheries programs and facilities.

(b) The acquisition of land and rights in land that support wildlife and fisheries programs.

(c) Research to support wildlife and fisheries programs.

(d) The enforcement and administration of the wildlife and fisheries laws of the state, including the necessary equipment and apparatus incident to the operation and enforcement of wildlife and fisheries laws.

(e) The protection, propagation, distribution, and control of wildlife and fish.

(f) Grants to state colleges and universities to implement programs funded by the game and fish protection account.

(g) The administration of the game and fish protection account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the game and fish protection fund or account.

The off-road vehicle account is established as an account within the legacy fund. The off-road vehicle account shall consist of revenue derived from fees imposed upon the use or registration of off-road vehicles and other revenues as authorized by law. Money in the off-road vehicle account shall be expended only for the following:

(a) Signage for and the improvement, maintenance, and construction of off-road vehicle trails, routes, or areas.

(b) The administration and enforcement of state regulations related to off-road vehicles.

(c) The leasing of land for use by off-road vehicles.

(d) The acquisition of easements, permits, or other agreements for the use of land for off-road vehicle trails, routes, or areas.

(e) The restoration of any of the natural resources of the state on public land that are damaged due to off-road vehicle use.

(f) Safety education programs related to the operation of off-road vehicles.

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(g) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's off-road vehicle programs.

(h) Grants to state colleges and universities to implement programs funded by the off-road vehicle account.

(i) The administration of the off-road vehicle account.

The recreation improvement account is established as an account within the legacy fund. The recreation improvement account shall consist of all tax revenue derived from the sale of two percent of the gasoline sold in this state for consumption in internal combustion engines and other revenues as authorized by law. Money in the recreation improvement account shall be distributed as follows:

(a) Eighty percent of the money shall be annually transferred to the waterways account to be used for the purposes of that account.

(b) Fourteen percent of the money shall be annually transferred to the snowmobile account to be used for the purposes of that account.

(c) The remainder of the money that is not transferred under this section shall be used, upon appropriation, for recreation projects, including grants to state colleges and universities to implement recreation projects, and for the administration of the recreation improvement account. Of the amount that is credited to recreational projects in a fiscal year, not less than twenty-five percent of any funds designated for projects intended for off-road vehicles shall be expended on projects to repair damages as a result of pollution, impairment, or destruction of air, water, or other natural resources, or the public trust, in air, water, or other natural resources, as a result of the use of off-road vehicles.

The snowmobile account is established as an account within the legacy fund. The snowmobile account shall consist of revenue derived from fees imposed for the registration or use of snowmobiles; revenue derived from the use of snowmobile trails; transfers from the recreation improvement account; and other revenues as authorized by law. Money in the snowmobile account shall be expended only for the following:

(a) Planning, construction, maintenance, and acquisition of trails and areas for the use of snowmobiles.

(b) Providing access to trails and areas for the use of snowmobiles.

(c) Providing basic snowmobile facilities.

(d) The administration and enforcement of state regulations related to snowmobiles.

(e) Safety education programs related to the operation of snowmobiles.

(f) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's snowmobile programs.

(g) Grants to state colleges and universities to implement programs funded by the snowmobile account.

(h) The administration of the snowmobile account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the recreational snowmobile trail improvement fund or snowmobile account.

The state park improvement account is established as an account within the legacy fund. The state park improvement account shall consist of revenue derived from concessions, leases, contracts, fees, and permits for activities in state parks and recreation areas; damages paid to the state for illegal activities in state parks and recreation areas; and other revenues

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as authorized by law. Money in the state park improvement account shall be expended only for the following:

(a) The development, improvement, operation, promotion, and maintenance of state parks and recreation areas.

(b) Grants to state colleges and universities to implement programs funded by the state park improvement account.

(c) The administration of the state park improvement account.

The waterways account is established as an account within the legacy fund. The waterways account shall consist of revenue derived from watercraft registration fees assessed on the ownership or operation of watercraft in the state; revenue derived from fees charged for the moorage of watercraft at state-operated mooring facilities; revenue derived from fees charged for the use of state-operated public access sites; transfers from the recreation improvement account; all tax revenue derived from the sale of diesel fuel in this state that is used to generate power for the operation or propulsion of vessels on the waterways of the state; and other revenues as authorized by law. Money in the waterways account shall be expended only for the following:

(a) The construction, operation, and maintenance of recreational boating facilities that provide public access to waterways or moorage of watercraft.

(b) The acquisition of property for the purpose of paragraph (a).

(c) Grants to local units of government and state colleges and universities for the provision of public access or moorage of watercraft and law enforcement or boating education to recreational watercraft operators.

(d) The acquisition and development of harbors and public access sites.

(e) The enforcement of laws related to the operation of watercraft and education related to the operation of watercraft. Not less than forty-nine percent of revenues from watercraft registration fees received by the waterways account shall be used for the purposes of this subdivision.

(f) The administration of programs funded by the waterways account.

(g) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's waterways programs.

(h) The administration of the waterways account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the Michigan state waterways fund or waterways account.

The legislature shall provide by law for the implementation of this section.

### **§ 41 Michigan game and fish protection trust fund.**

Sec. 41. The Michigan game and fish protection trust fund is established. The Michigan game and fish protection trust fund shall consist of revenue derived from bonuses, rentals, delayed rentals, royalties, and other revenues collected or reserved by the state under leases or direct sale contracts accruing from state owned lands acquired with money from state or federal game and fish protection funds or revenues accruing from lands purchased with such revenues. The Michigan game and fish protection trust fund may also receive gifts, grants, bequests, or assets from any source and may receive other revenues as authorized by law.

The assets of the Michigan game and fish protection trust fund shall be invested as provided by law. The interest and earnings from these investments shall be credited to the Michigan game and fish protection trust fund.

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The accumulated interest and earnings of the Michigan game and fish protection trust fund and not more than \$6,000,000.00 of the principal of the Michigan game and fish protection trust fund may be expended in any year for the purposes of the game and fish protection account of the Michigan conservation and recreation legacy fund established in section 40.

The legislature shall provide by law for the implementation of this section.

### **§ 42 Michigan nongame fish and wildlife trust fund.**

Sec. 42. The Michigan nongame fish and wildlife trust fund is established. The Michigan nongame fish and wildlife trust fund shall consist of revenue designated by a member of the public for the benefit of nongame fish and wildlife.

The Michigan nongame fish and wildlife trust fund may also receive gifts, grants, bequests, or assets from any source and may receive other revenues as authorized by law.

The assets of the Michigan nongame fish and wildlife trust fund shall be invested as provided by law. The interest and earnings from these investments shall be credited to the Michigan nongame fish and wildlife trust fund.

The Michigan nongame fish and wildlife trust fund shall maintain a principal balance of not less than \$6,000,000.00.

The interest and earnings of the Michigan nongame fish and wildlife trust fund and other revenues not retained on a permanent basis shall be expended only for the following:

- (a) The management of nongame fish and wildlife species consistent with a long-range plan for the management of Michigan's nongame fish and wildlife resources.
- (b) Grants to state colleges and universities to implement programs funded by the Michigan nongame fish and wildlife trust fund.
- (c) The administration of the Michigan nongame fish and wildlife trust fund.

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**Compiler's note:** The constitutional amendments set out above were agreed to as House Joint Resolution Z by the House of Representatives on July 14, 2004, and by the Senate on December 8, 2004. House Joint Resolution Z was ordered enrolled and was filed with the Secretary of State December 30, 2004.

House Joint Resolution Z was submitted to and approved by the electors as Proposal 06-4 at the general election held November 7, 2006. The amendments as proposed by House Joint Resolution Z, which added Sections 40, 41, and 42 to Article IX of the Constitution of Michigan of 1963, became effective December 23, 2006.

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## ARTICLE X

### Property

#### **§ 2 Eminent domain; compensation.**

Sec. 2. Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law. If private property consisting of an individual's principal residence is taken for public use, the amount of compensation made and determined for that taking shall be not less than 125% of that property's fair market value, in addition to any other reimbursement allowed by law. Compensation shall be determined in proceedings in a court of record.

"Public use" does not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Private property otherwise may be taken for reasons of public use as that term is understood on the effective date of the amendment to this constitution that added this paragraph.

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In a condemnation action, the burden of proof is on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking of a private property is for a public use, unless the condemnation action involves a taking for the eradication of blight, in which case the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use.

Any existing right, grant, or benefit afforded to property owners as of November 1, 2005, whether provided by this section, by statute, or otherwise, shall be preserved and shall not be abrogated or impaired by the constitutional amendment that added this paragraph.

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**Compiler's note:** The constitutional amendment set out above was agreed to as Senate Joint Resolution E by the House of Representatives on December 13, 2005, and by the Senate on December 13, 2005. Senate Joint Resolution E was ordered enrolled and was filed with the Secretary of State December 29, 2005.

Senate Joint Resolution E was submitted to and approved by the electors as Proposal 06-4 at the general election held November 7, 2006. The amendment as proposed by Senate Joint Resolution E, which amended Section 2 of Article X of the Constitution of Michigan of 1963, became effective December 23, 2006.