MICHIGAN COMMISSION OF AGRICULTURE and RURAL DEVELOPMENT

COMMISSION POLICIES

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MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT POLICY MANUAL INDEX

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MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT POLICIES

OVERVIEW

This overview includes individual sections covering the following:

- Statement of Purpose
- Responsibilities
- Legal Authority
- Procedures
    - Officers
    - Per Diem and Expenses
    - Meetings
    - Voting
    - Ethics
- Resolutions
- Legislative Opinions
- Public Appearance Guidelines
- Duties of the Director of the Michigan Department of Agriculture and Rural Development
- Policy Development

STATEMENT OF PURPOSE

The Michigan Commission of Agriculture and Rural Development has the responsibility to recommend, and in some cases determine, policy on food, agricultural, and rural development issues.

As gubernatorial appointees, the Commissioners are representatives of the Executive branch of government, and cooperate and collaborate with the Governor in the development, creation, implementation, and communication of policy. Effective and efficient administration requires a significant degree of interaction, especially in the implementation of Executive Orders and Executive Directives issued by the Governor that apply to the Commission and to the Department.

Michigan's multi-billion dollar food and agriculture industry needs ongoing focus and support for it to continue to grow. To this end, the Commission encourages a partnership of government, private industry, and citizens working toward common goals of protecting the public health, growing our economy, and preserving our environmental heritage.

The Commissioners strive to generate statewide citizen interest and mobilize support for issues important to the food and agriculture sector and to promote the future health and growth of Michigan's second largest industry.

RESPONSIBILITIES

The Commission of Agriculture and Rural Development should assist the Governor in protecting Michigan's health, economy, and environment through policies that:

- Enhance food safety;
- Prevent and mitigate diseases and pests of humans, plants, and animals;
- Promote land and water stewardship;
- Develop land-use policies that allow for long-term agricultural viability;
- Develop, diversify, and expand agriculture's economic potential;
- Protect consumers and ensure fairness in the marketplace;
- Recognize and celebrate the heritage of agriculture, including the events and activities that make Michigan a great place to live, work, and play;
- Promote and foster efforts that support viable rural communities;
- Promote public awareness of Michigan agriculture, food, and fiber;
- Coordinate and partner on food, agricultural, and rural development interests with government agencies at the federal, state, and local levels; the private sector, academia, and the many diverse and interested organizations to achieve these goals; and
- May, from time to time, participate as a group in agriculture industry tours.

LEGAL AUTHORITY

The Michigan Commission of Agriculture was created under Act 13 of 1921 (attachment A); and reorganized under Act 380 of 1965, as amended (attachment B); and named in other statutes that provide specific duties and responsibilities. Executive Orders 2009-45 (attachment C) and 2009-54 (attachment D) and 2011-2 (attachment E) further explain the role, powers and duties of the Commission. Executive Order 2011-2 also renamed the Commission into the Commission of Agriculture and Rural Development.

The Commission of Agriculture and Rural Development shall consist of five members, not more than three of whom shall be members of the same political party, appointed by the Governor and with the advice and consent of the Senate. The term of the office of each member shall be four years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The Commission shall elect from its members such officers as it deems advisable, and not later than March 31 of each year the Commission shall designate a Chairperson to serve in that role through March 31 of the following year. A member may not serve as Chairperson for consecutive annual periods. Commissioners "shall be knowledgeable about modern agriculture or food supply and committed to the protection, promotion, and preservation of the food, agricultural, conservation, and economic interests of the People of the State of Michigan." (Executive Order 2009-54).

A majority of the Commission members serving is required to constitute a quorum.

The business of the Commission shall be in compliance with the Open Meetings Act, Act 267 of 1976 (attachment F); and records of the Commission are subject to the Freedom of Information Act, Act 442 of 1976 (attachment G).

The chief executive officer of the department is the Director of the Department of Agriculture and Rural Development. The Director is appointed by the Governor and with the advice and consent of the Senate. The Director shall consult with the Commission on agricultural policy matters and the Commission may provide advice to the Director on matters relating to the Department, including, but not limited to, agricultural policy.

The Commission has specific responsibilities as delegated within various pieces of legislation:

a) Michigan Renaissance Zone Act, 1996 PA 376: responsibility to act on Agriculture Processing and Renewable Energy Renaissance Zones.

b) Julian-Stille Value-Added Act, 2000 PA 322: responsibility to act on Value Added Grants and the Agriculture Development Fund.

c) Insect and Plant Disease Act, 1931 PA 189: responsibility to act on Nursery Inspection Fees.

d) Michigan Right to Farm Act, 1981 PA 93: responsibility to define and review annually the Generally Accepted Agriculture and Management Practices; and, make recommendation to the Director when a review of a Livestock Siting Suitability Determination is requested.

e) Michigan Seed Law, 1965 PA 329: responsibility for prohibition of local ordinances unless reviewed by Commission.

f) Anhydrous Ammonia Security Act, 2006 PA 417: responsibility to establish Safety and Security Practices.

g) Michigan Organic Products Act, 2000 PA 316: responsibility to determine Registration Fees.

h) Animal Industry Act, 1988 PA 466: responsibility for determination of Livestock Zoning and Movement Restrictions.

i) Pseudorabies and Swine Brucellosis Control and Eradication Act, 1992 PA 239: responsibility to establish fee for testing of animals.

j) Michigan Agricultural Processing Act, 1998 PA 381: responsibility to define Generally Accepted Practices for Processors.

k) Food Law Act 92 of 2000, as amended: responsibility to consult on fees if the Local Health Department ceases their inspection.

l) State Potato Industry Commission, 1970 PA 29: responsibility to provide permission for Potato Commission to re-apportion districts.

m) State Bean Commission, 1965 PA 114: responsibility to provide permission for Bean Commission to re-apportion districts.

n) Agricultural Commodities Marketing Act, 1965 PA 232: responsibility to provide permission for re-apportionment of 232 Check-Off Programs.

o) Natural Resources and Environmental Protection Act, 1994 PA 451: responsibility to determine agriculture purpose within surface water discharge provisions; approval of conservation easement practices; approval of pesticide container recycling program; provision for reviewing local pesticide use ordinances; approval of Michigan Agriculture Environmental Assurance Program conservation practices; provision for reviewing local fertilizer ordinances; development and approval of voluntary groundwater stewardship practices; approval of members to Conservation Species Advisory Panel; identify jointly with Michigan Department of Environmental Quality 2,500 acres for cranberry production; definition of agriculture purpose for water diversions; water conservation measures and within the Generally Accepted

Agriculture and Management Practices; approval of scoring for purchase of Development Rights; spending of Ag Preservation funds; agriculture practices/Generally Accepted Agriculture and Management Practices within hunting / conservation practices; and orders on restricted species/invasives.

p) Horse Racing Law of 1995, 1995 PA 279: promulgation of rules for premiums at fairs.

PROCEDURES

Officers

Not later than March 31 of each year, the Commission of Agriculture and Rural Development shall designate a member of the Commission as the Chairperson through March 31 of the following year. A member of the Commission may not be designated as Chairperson for consecutive annual periods. The Commission may also designate a member to serve as Vice Chairperson and as Secretary.

In the absence of the Chairperson, the Vice Chairperson, or in the absence of both, the Secretary, shall serve as Acting Chairperson.

Compensation and Expenses

Members of the Commission shall serve without compensation (Executive Order 2009-54). Members of the Commission may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

Each Commissioner shall submit a signed expense voucher and statement of respective work completed to the Commission Assistant for payment.

Meetings

The Commission shall hold monthly meetings, with the exception of May and October, or as it deems necessary.

The yearly meeting schedule will be set at the preceding November meeting, but is subject to change with proper notification.

The Commission reserves the right to cancel meetings or hold special meetings at the direction of the chairperson and in accordance with the law.

The Commission shall:

1. Ensure that at least three Commissioners, a quorum, are present at the posted meeting location;
2. When necessary, provide for participation by Commissioners electronically via video conference, if possible, to ensure that there is no question about the identity of the participants; and
3. If possible, post the alternate locations as part of the formal Open Meetings Act notice, allowing the public to attend and participate through public comment.

The Director, in consultation with the Chair, shall develop a proposed agenda for each meeting to include action items, staff reports, presentations, and public comment.

All Commission meetings shall be compliant with the Persons With Disabilities Civil Rights Act (attachment H).

Minutes will be kept of all meetings of the Commission and retained per the Open Meetings Act and the State of Michigan Records Retention and Disposal Schedule.

Voting

Unless otherwise requested by a Commissioner, voting on matters before the Commission is by voice vote. If any Commissioner requests a roll call vote, the Secretary shall record the vote of each Commissioner.

Ethics

The members of the Commission shall adhere to basic principles for ethical conduct.

A member of the Commission of Agriculture and Rural Development shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. A member of the Commission shall not make or participate in making a decision, or in any way attempt to use his or her position as a member of the Commission to influence a decision, on a matter before the Department or the Commission regarding a loan, grant, or other expenditure in which the member is directly or indirectly interested. A member of the Commission shall not be interested directly or indirectly in any contract with the Department or the Commission that would cause a substantial conflict of interest. Members of the Commission shall comply, and the Commission shall adopt policies and procedures for members to comply, with the requirements of this paragraph and all of the following:

a) 1978 PA 472, MCL 4.411 to 4.430 (Lobbyists, Lobbying Agents, and Lobbying).
b) 1978 PA 566, MCL 15.181 to 15.185 (Incompatible Public Offices).
c) 1968 PA 318, MCL 15.301 to 15.310 (Conflicts of Interest).
d) 1968 PA 317, MCL 15.321 to 15.330 (Contracts of Public Servants with Public Entities).
e) 1973 PA 196, MCL 15.341 to 15.348 (Standards of Conduct for Public Officers and Employees).
f) 1976 PA 169, MCL 15.401 to 15.407 (relating to political activities by public employees).
g) Section 2(10) of the Julian-Stille Value-Added Act, 2000 PA 322, MCL 285.302.

Policy Manual

The Commission Policy Manual shall be reviewed, revised as necessary, and re-approved on at least a biennial basis.

RESOLUTIONS

The Commission may adopt resolutions to honor or recognize individuals and organizations, or to represent the Commission of Agriculture and Rural Development's position on a specific issue, topic or activity, and to convey that information or a request for action.

A. For resolutions that are meant to represent the Commission of Agriculture and Rural Development's position on a specific issue, topic or activity, or to convey a request of action on the part of others, the following procedure should be followed:

- A Commissioner with a resolution request should contact the Chair at least 20 days prior to a regularly scheduled Commission meeting;
- The Director is contacted and appropriate staff, with particular expertise in the subject area, will be assigned to draft the resolution;
- The draft resolution is returned to the Commission Chair and the Commissioner making the original request for review;
- The draft is distributed to all Commissioners in the pre-meeting mailing one week prior to a regularly scheduled Commission meeting.
- If it is deemed necessary to draft a resolution on the day of the Commission meeting, a Commissioner may request that the Commission Chair consider the resolution for placement on the agenda. If the Chair places the resolution request on the agenda, the Commission shall vote to approve the addition of the resolution to the agenda. Once formally placed on the agenda, the full Commission may consider the resolution.

B. To qualify for a Commission Resolution upon employee retirement or other celebratory occasion, each individual or organization must meet at least one of the following criteria:

- Retirement after 15 years or more of employment with the state of Michigan and outstanding service as an employee of the Department when recommended by division director and approved by the Director.
- Outstanding contribution to an industry serviced by this department when recommended by the Director.
- Any individual or organization so designated by the Commission of Agriculture and Rural Development.
- Other special circumstances.

When appropriate, departmental retirees not qualifying for a Commission resolution shall receive a letter of commendation from the Director of the Michigan Department of Agriculture and Rural Development.

Procedures for writing resolutions shall be established by the Office of Communications with approval of the Commission Assistant and the Director.

LEGISLATIVE, LEGAL, and MEDIA ISSUES

Commissioners shall refer all legal, legislative, and media contacts relating to the duties of the Commission to the Director of the Department or the Director's designee.

To remain informed on important public policy matters before the Legislature, the Commission asks for regular updates on legislative activities, and for the Department to advocate positions on legislation in accordance with Commission policies and those policies established by the Governor.

When legislative urgency requires a response from the Department, and there is no applicable policy from the Commission or the Governor, the Commission may call a special meeting pursuant to the Open Meetings Act.

Outside of Commission meetings, individual Commissioners may express their opinions to the Director on legislative issues.

While each Commissioner as a member of the public is free to contact their legislators and voice opinions during the legislative process or to the media, no Commissioner shall speak on behalf of the Commission to the media or on legislative matters unless done in coordination with the Director.

PUBLIC APPEARANCE GUIDELINES

Public comment and input is important to the development of public policy. As a public body, the Commission of Agriculture and Rural Development needs and wants to hear from the public. In the interest of fairness and ensuring that there is adequate time for as many voices as possible, the Commission operates under the following guidelines:

1. Public appearances will be scheduled during the Public Comment period of a regular session of the Commission of Agriculture and Rural Development. If there is a change in this scheduled time, it will be noted on the original agenda distributed in advance of the meeting. Those registering in advance (prior to noon on Friday before the week of the Commission meeting) of the meeting will be notified.

2. Persons addressing the Commission will be requested to identify their: Name, address, and the organization (if any) which they are representing. In those instances in which a person is representing an organization, the presenter should indicate whether the presentation represents the official views of the organization.

3. All persons wishing to address the Commission must declare their intent by completing a Public Appearance card prior to or during the Public Appearance portion of the meeting, unless they have already contacted the Assistant to the Commission, and their names appear on the agenda.

4. The public comment period(s) (time(s) allotted on agenda) of the meeting will last until closed by the Chair or by vote of the Commission.

5. Anyone wishing to address the Commission is limited to a presentation of no more than three (3) minutes. Extensions shall be at the discretion of the Commission Chair or by vote of the Commission.

   In instances where there are several speakers on the same subject, the Chair is authorized to request that the group appoint a representative to address the Commission on the group's behalf -or- each individual presentation shall be limited to three (3) minutes. If a spokesperson is designated, that individual may be granted 10 minutes.

   a. A group of persons speaking on a common subject are encouraged to choose a spokesperson for their group.

   b. The Commission of Agriculture and Rural Development will make every attempt to accommodate all individuals who wish to speak, and may set time frames different from those referenced above in order to encourage and allow maximum public input.

c. Questions asked by Commissioners and/or Department staff will not be considered part of the three minutes allotted for public comment.

6. Fifteen (15) copies of written comments (if possible) should be provided to the Assistant to the Commission for distribution, either prior to or at the meeting. This will allow the presenter to include detail and background not possible within the allowed time frame scheduled for oral presentation. These written comments will become a part of the formal Commission record and will provide the Commission and staff with a precise, clear reference upon which to base their response to concerns.

   All documents distributed at the meeting will be considered public documents and are subject to provisions of the Freedom of Information Act. It is the responsibility of the presenter to make sure all statements made are accurate and based on fact.

7. The Commission, at its discretion, may or may not hear matters relative to litigation. The Commission will not comment on or question presentations made relative to matters that are in litigation. Contacts on legal matters made to the Commission should be referred to the Department of Agriculture and Rural Development.

8. The public comment time provides the public an opportunity to speak. The Commission will not necessarily respond to the public comment.

DUTIES OF THE DIRECTOR OF THE MICHIGAN DEPARTMENT OF AGRICULTURE and RURAL DEVELOPMENT

It shall be the responsibility of the Director to provide leadership and administrative oversight in the day-to-day activities of the department and to carry out the tasks as designated under law.

A. The Director shall have authority over all employees, agents, and entities operating under the jurisdiction of the department.

B. The Director shall assist the Commission in policy decisions for the department, the industry, and government. The Director shall also recommend adjustments in administrative policies both in the development and implementation thereof.

C. The Director shall report to the Commission on a monthly basis or otherwise as the Commission requests, and shall direct appropriate staff to report as needed.

D. The Director shall make recommendations to the Commission on issues that require Commission approval.

E. The Director is the chief budget officer for the department. It is the duty of the Director to secure appropriate funding and human resources to carry out the department's programs and to recommend program adjustments where needed or required.

F. The Director is the chief spokesperson for the department, including legislative matters, and shall be responsible for recommending changes in current law or to recommend new laws that further the goals and commitment of the department.

G. The Director is the appropriate person to respond to Commission issues regarding department operation.

POLICY DEVELOPMENT

Accurate information, based on scientific and economic research, is essential to development of sound policies. Recognizing its close operational relationships, the Michigan Commission of Agriculture and Rural Development would work cooperatively with the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources, and the Michigan Natural Resources Commission as it strives toward promoting quality of life in Michigan; and, would seek input and expertise from other State of Michigan agencies and organizations as appropriate in developing policies to meet the objectives of the Commission and the Department to serve the citizens of the State of Michigan. Further, public understanding is necessary to gain support of such policies.

The Commission may adopt policies as either overarching goals for, or as specific direction to the Department.

An intensive ongoing communications effort should be developed to generate public awareness and support of policies recommended.

Policies adopted by the Commission of Agriculture and Rural Development will be communicated to the Governor, Legislature, stakeholders, and the general public as necessary.

In the Policy Development Process the Commission:

1. Recognizes the value of diversity in Michigan's agricultural sector. This diversity – in crop type, ownership, size of operation, etc. – contributes heavily to Michigan's economic success.

2. Recognizes that social change has led to greater consumer demand for wider food choices and consumer interest in food and agriculture systems and seeks to support new opportunities to meet these demands.

3. Recognizes the value of vibrant local food networks which provide greater stability for small farms and contribute to the quality of life for Michigan residents.

4. Recognizes the importance of medium- and large-size food and agricultural businesses for the State's economic stability, and the vital role of the Department's programs in supporting business activity.

5. Recognizes that good public policy requires a balance of competing interests, social and economic values, science and the political environment. MDARD will consider all of these variables.

6. Recognizes the value of engagement with a broad array of stakeholders including those who have not traditionally been involved in policy development.

7. Recognizes that public policy decisions need to balance responsiveness with short-and long-term impacts.

8. Recognizes the value of an intensive ongoing communication effort to generate public awareness and support of policies, including communication with the Governor and legislature, as necessary.

These statements are not intended to be construed as a position on any specific policy issue.

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 1

Policy Title: **GUIDING PRINCIPLES**

By policy the Michigan Commission of Agriculture and Rural Development affirms the Department's commitment to lead and serve the citizens of Michigan through the following values:

Integrity	We say what we will do and we do what we say. We shall strive to be role models to ensure that honesty, respect, fairness, impartiality, trustworthiness, and dependability are standards of all employees' personal and professional conduct.
Excellence	We are committed to getting the work done in a way that we are proud of and that our stakeholders are confident in and impressed with. We are committed to the development of our organization's mission, values, goals, and systems to monitor, measure, and sustain quality.
Inclusion	We reach out to everyone in our society and every employee of the Department of Agriculture and Rural Development to be represented and involved in the important decisions that affects their lives.
Teamwork	We focus on what we can do together, sharing information, resources, and energy to achieve our vision for the Department and the State.
Customer Focus	We provide the highest quality of service to our customers. It is our responsibility to identify customers and their expectations, and to devise ways to address their needs in a timely manner.
Meeting Staff Needs	We are committed to the development of our entire workforce and encourage participation, learning, and creativity to foster individual achievement at all levels of the organization.
Effective Communication	We encourage the exchange of ideas and information throughout the Department of Agriculture and Rural Development and with our customers and organizational partners.
Continuous Improvement	We will take responsibility to seek out and advocate new methods for improving our services.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 2

Policy Title: **EQUAL OPPORTUNITY PROGRAM**

The Commission of Agriculture and Rural Development is committed to equal opportunity in state employment, promotes diversity in the workforce, and affirms the Department's policy. The Michigan Department of Agriculture and Rural Development's policy is as attached.

Re-approved in Lansing, Michigan
May 13, 2015

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The State of Michigan and the Department of Agriculture and Rural Development will provide equal employment opportunity for all persons regardless of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position This policy is promulgated consistent with state and federal law.

This policy statement and attached plan replaces any existing Equal Employment Opportunity and/or Affirmative Action Plan.

The State of Michigan, Department of Agriculture and Rural Development and I, as the department Director, firmly support equal employment opportunity. I will ensure that the Department of Agriculture and Rural Development is committed to reviewing all aspects of employment, including recruitment, selection, retention, and promotion, to identify and eliminate barriers to providing all persons equal employment opportunity.

Jamie Clover Adams

Jamie Clover Adams, Director

Dated: July 9, 2012

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 3

Policy Title: **DEPARTMENTAL SAFETY**

It shall be the policy of the Michigan Commission of Agriculture and Rural Development to foster the safety and occupational well-being of the Department's employees during the performance of their official duties. All departmental employees shall work cooperatively to identify unsafe working conditions involving themselves and others. The Department shall strive to meet or exceed federal, state, local and industrial safety and health standards.

This policy shall be implemented within the department by utilizing the following:

A. An active safety program shall be developed, implemented and annually reviewed.

B. The Director shall appoint a safety committee, composed of departmental staff, to provide recommendations to the Director regarding safety issues and programs.

C. The Director shall provide ongoing education for employees on safety and the safe use of materials within the work place.

D. The Director shall designate an individual to serve as Department Safety Officer.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 4

Policy Title: **PROMOTION OF AGRICULTURE**

It shall be the policy of the Commission of Agriculture and Rural Development to foster and encourage the expansion and promotion of all agricultural goods and services and improve public awareness of Michigan food products and to strengthen the economy of rural Michigan.

We encourage positive public relations and promotion activities to increase sales of Michigan's products in cooperation with the food and agricultural industry, including commodity marketing programs and individual companies. It is important that consumers everywhere recognize the quality of Michigan products.

We encourage continued cooperation with partners, stakeholders, and private industry. It is important to provide assistance in identifying and developing opportunities in new and existing markets domestically and internationally. We will provide the food and agricultural industry with current information and compliance assistance to support growth of the agri-food industry.

Further, we encourage the expansion of Michigan food and agriculture through business, education, research, legislative changes, and cooperation with other governmental agencies and organizations.

We are committed to and encourage expanding opportunities and fostering entrepreneurship for innovation and new technology within the food and agriculture sector. The Commission directs the department to assist in the coordination, development, and promotion of the bio-economy to improve the environment and economy of the Great Lakes State.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 5

Policy Title: **FOOD SAFETY**
ANIMAL AND PLANT HEALTH
CONSUMER PROTECTION and INDUSTRY SUPPORT

It is the policy of the Commission of Agriculture and Rural Development to help safeguard the health and welfare of consumers of this state and to protect the food chain by assuring safe, secure, wholesome and accurately labeled food and other consumer products.

In accordance with its statutory duties, the Department shall:

- Prevent, control, and eradicate reportable infectious, contagious and communicable diseases of domestic animals; and work with others on the prevention, control, and response to all diseases of animals;
- Prevent, control, and eradicate pests and diseases of plants;
- Prevent and respond to contamination of any portion of the food or feed supply by noxious materials or toxic substances;
- Protect consumers' health by maintaining a safe and wholesome food supply; and,
- Promote the economic viability of food and agricultural industries in this state through producer security programs; grading, testing, and evaluation certification programs; and industry collaboration programs.

To achieve this it shall be the mandate of the Michigan Department of Agriculture and Rural Development to:

A. Enforce laws and regulations that: protect the safety and wholesomeness of foods; govern weights and measures and their respective devices and practices; govern the commercial handling, inspecting, and processing of farm produce; and govern product advertising and labeling;

B. Provide regulatory response and resource expertise for support of domestic animal health and welfare programs, food and dairy, and weights and measures regulatory programs, and assist the livestock, food, and dairy industries;

C. Enforce laws and regulations that protect the welfare of the public and the health of the livestock and animal industries of this state and work with the regulated industries and the veterinary profession to promote compliance;

D. Provide, through laboratory services, accurate scientific analyses and technical data necessary to support the consumer protection and regulatory services of the department;

E. Provide Michigan consumers and agri-businesses the necessary technical assistance to ensure wholesomeness and purity of food, dairy, meat, poultry and consumer products;

F. Conduct investigations and surveys and support research, when necessary, to monitor the state's food chain and recommend changes and modifications to existing standards to protect the food chain;

G. Recommend necessary changes to existing laws and policies to accomplish these mandates;

H. Provide personnel and expertise in the management and control of the food chain and animal and livestock industry during a crisis by providing effective emergency services planning and response within the department and participate in a coordinated statewide emergency preparedness program, to ensure the food chain, animal food supply, and livestock and plant industries are free from undesirable substances, diseases, and pathogens;

I. Seize, control, or quarantine animals and plants, when necessary, to protect the food chain and the animal and plant industries of this state and destroy and dispose of animals and plants in those situations where threat of exposure to the food chain or the environment is imminent;

J. Seize or otherwise control food and food products to protect the health and welfare of consumers;

K. Seize or otherwise control animal feeds and other products to protect plants and animals, and the health and welfare of consumers;

L. Work with the dairy, grain, nursery and other industries to facilitate legislatively enacted producer security and inspection programs; and

M. Collaborate with Michigan's fairs, festivals, and other agricultural events to celebrate Michigan's agricultural heritage and promote understanding and support for Michigan's food and agriculture industry.

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 6

Policy Title: **EMERGENCY MANAGEMENT**

It is the policy of the Michigan Commission of Agriculture and Rural Development that the Department maintain an ongoing capability to prepare for, respond to, recover from, and mitigate impacts of emergencies and disasters which affect the food and agricultural resources of this state.

The department will utilize the principles of the National Incident Management System and will appoint an Emergency Management Coordinator to provide leadership, assistance, and support to employees of the department in meeting their responsibilities to the food and agriculture sector and the general public during times of emergency or disaster. The principal duties of the Emergency Management Coordinator are:

- Establish and maintain an emergency management program based on departmental duties and structure that is capable of responding to emergencies and disasters affecting Michigan's food and agricultural resources;

- Maintain the Agriculture Annex to the Michigan Emergency Management Plan as required by Public Act 390 of 1976 (attachment I); and prepare and train departmental personnel to meet the emergency and disaster responsibilities of the department.

- Represent the department and its stakeholders on the Michigan Citizen-Community Emergency Response Coordinating Council to advance the cause of emergency planning in the food and agriculture sector as required by SARA Title III, PL 99-499 of 1968 and Executive Order 2007-18 Michigan Citizen-Community Emergency Response Coordinating Council;

- Cooperate and coordinate with federal, state, and local emergency management agencies in providing emergency and disaster services to the affected public;

- Develop relationships with the food and agricultural community that enhance the delivery of emergency and disaster services; and

- Coordinate with other agencies and the private sector to provide human and animal food and water to victims of disasters and emergencies when normal food and feed delivery systems are unable to do so.

It is further the policy of the Commission that all personnel and divisions of the department will fully support the emergency management program whenever the opportunity to do so arises.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 7

Policy Title: **ENVIRONMENTAL STEWARDSHIP AND FARMLAND PRESERVATION**

It is the policy of the Commission of Agriculture and Rural Development to strive to cooperate with local, state and federal agencies to protect soil, air, surface water, groundwater and other natural resources, promote energy conservation and efficiency. This may include, but is not limited to:

- Air, surface water and groundwater pollution prevention strategies;
- Soil erosion prevention programs;
- Regulation and education regarding agri-chemical use and storage;
- Animal manure and nutrient management systems;
- Energy conservation and efficiency programs;
- Private wildlife habitat programs;
- Forest stewardship programs on private land and;
- Drainage of land for agricultural and food production;
- Use of innovative technologies that promote sound resource management

The impact of farmland and agriculture should be carefully considered during the planning stages of any infrastructure project. Public policy should support the planned further development of existing communities and redevelopment of abandoned industrial or residential sites where infrastructure already exists as a priority over Greenfield development (developing green space).

As part of a sound farmland and natural resource protection policy, Michigan must continue to strengthen the economic viability of the food and agricultural industry and help provide profitable economic opportunities for farming operations, including retention and expansion of value-added agricultural processing and urban agriculture. Farm operations must have the protection and freedom to expand or change to remain competitive and profitable. Michigan must also encourage the development of policy and programs that ensure and promote clean water, air, energy efficiency, and protection of our valuable natural resources.

The Commission is committed to the fair, non-discriminatory treatment of all people in the development, implementation, and enforcement of environmental laws, regulations, and policies.

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 8

Policy Title: **RIGHT TO FARM PROGRAM**

Pursuant to the Michigan Right to Farm Act (Act), P.A. 93 of 1981, as amended, the Michigan Commission of Agriculture and Rural Development has the responsibility to define Generally Accepted Agricultural and Management Practices (Practices).

When defining Practices, the Commission will give due consideration to available Michigan Department of Agriculture and Rural Development (MDARD) information and written recommendations from the Michigan State University (MSU) College of Agriculture and Natural Resources, MSU Extension, and MSU Agricultural Experiment Station in cooperation with the United States Department of Agriculture, Natural Resources Conservation Service, the Farm Services Agency, the Michigan Department of Environmental Quality (MDEQ), the Michigan Department of Natural Resources (MDNR), and other professional and industry organizations.

The Practices will be developed, adopted, and revised pursuant to the procedures in the Appendix. The Commission will define generally accepted agricultural and management practices by formal resolution. Practices will be reviewed annually and revised by the Commission when necessary.

The Commission recognizes the diversity of Michigan's agricultural industry, which produces more than 200 commodities using a multiplicity of varied management procedures and techniques, and will strive to define specific Practices encompassing all sectors of the industry. Given the breadth of the industry, it is the policy of this Commission that Generally Accepted Agricultural and Management Practices include any traditional farming practice which is not detrimental to the environment or human and animal health.

The following list includes categories and examples of farm products as defined under the Michigan Right to Farm Act:

A. Forages, Sod Crops, and Renewable Fuels: forages, grasses, pasture, seed crops, sod crops, and turf.

B. Field Crops: cereal grains, feed grains, feed crops, field crops, seed crops, soybeans, dry beans, potatoes, sugar beets, mint, hops, ginseng, and other herbs.

C. Livestock and Dairy: breeding and grazing livestock, dairy cattle and dairy products, beef cattle, veal, swine, equine, sheep, goats, bison, llama, privately owned cervid, and wool. (Livestock does not include dogs and cats.)

D. Poultry and Ratites: laying chickens and eggs, broiler chickens, turkeys, ducks, geese, guinea fowl, peafowl, ostriches, emus, rheas, cassowaries, kiwis, and game birds that are propagated and maintained under the husbandry of humans.

E. Fish and Fish Products: aquatic animals such as fish, shrimp and other crustaceans, mollusks, reptiles, and amphibians, aquatic plants, and other aquacultural products reared or cultured under controlled conditions.

F. Bees: colonized bees raised for pollination or to produce honey, and wax.

G. Small Fruit: blueberries, grapes, strawberries, raspberries, and cranberries.

H. Tree and Tree Crops: fruit trees, nut trees, coniferous trees, deciduous trees, saw logs, firewood, pulpwood, and maple syrup.

I. Vegetable Crops: asparagus, carrots, celery, cole crops, cucurbits, lettuce, onions, peppers, snap beans, sweet corn, and tomatoes.

J. Greenhouse and Nursery Products: bedding plants, vegetable and flower seedlings, foliage plants, flowering plants, cut flowers, seeds, tree seedlings, shrubs, ornamental plants, and other nursery stock.

K. Mushrooms: agaricus, shiitake, oyster, morel, and chanterelle.

L. Fur Bearers: mink, fox, rabbits, and chinchilla.

This listing should not be construed to be all encompassing. Other products may be identified and added to the above list at the discretion of the Commission consistent with the Act.

Pursuant to the Memorandum of Understanding with the MDEQ, MDARD staff will be utilized for the investigation and resolution of non-emergency environmental complaints. MDARD procedures will be followed for the investigation and resolution of other farm-related complaints. MDARD staff will provide public information and education on the Act, the Practices, and other statutes. MDARD and MSU may conduct informational seminars in cooperation with other agencies and individuals concerning the Practices. MDARD staff may request other public agencies, professional and industry organizations, and individuals to assist on Right to Farm issues.

APPENDIX

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT PROCEDURES FOR THE DEVELOPMENT, ADOPTION, AND REVIEW OF "GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES"

The Michigan Right to Farm Act, (Public Act 93 of 1981, MCL 286.471 et seq.) says in part:

> A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary. (MCL 286.473(1)).

Annually, the Commission will establish and review policy for the implementation of Generally Accepted Agricultural and Management Practices (GAAMPs). In addition, the Michigan Department of Agriculture and Rural Development (MDARD) staff will present to the Michigan Commission of Agriculture and Rural Development (Commission) on the status of all existing GAAMPs and the need, if any, for proposed new GAAMPs. The Commission will direct MDARD staff as to whether significant changes should be examined in any set of GAAMPs or a new set of GAAMPs should be developed.

New and Existing GAAMPs may be developed and/or adopted by the following procedure:

1) Creation of New Material

a) The Commission identifies the need for GAAMPs and takes a vote to proceed with a request to the Michigan State University (MSU) College of Agriculture and Natural Resources or any other resource or topical experts as deemed appropriate to name a Chairperson for a GAAMPs Advisory Committee. MDARD will assist in the formulation and management of the Advisory Committee.

b) The Advisory Committee develops draft scientifically-based GAAMPs pursuant to the Michigan Right to Farm Act. The Advisory Committee may give due consideration to available MDARD information and written recommendations from any other educational, professional and industry organizations.

c) The Advisory Committee Chairperson presents the new draft GAAMPs to the Commission for review. The Commission may request MDARD staff to review the draft GAAMPs and discuss suggested changes with the GAAMPs Advisory Committee, which may revise and resubmit the draft GAAMPs to the Commission.

d) The Commission considers the draft GAAMPs and may request other methodologies be used to further identify or define the GAAMPs.

e) In addition, the Commission may identify existing scientifically-based materials, including but not limited to, publications from university, research and extension sources, documents from other departments, and/or documents from other state agencies or federal agencies that may be adopted by the Commission as GAAMPs.

f) The Commission votes on whether to adopt the new GAAMPs.

2) Annual Review of Existing GAAMPs

a) MDARD contacts Advisory Committee Chairpersons to begin the annual review process and to determine if and how new technology, research results, or new regulations may impact the current GAAMPs.
b) If the Advisory Committee Chairpersons determine that substantial changes to the GAAMPs are warranted, they contact their committee members to reconvene their respective committees to review current GAAMPs and propose recommended changes.
c) MDARD staff reviews GAAMPs in light of recent Right to Farm program environmental complaints and site selection verification requests for new and/or expansion of existing livestock facilities and provide feedback to the Advisory Committee Chairperson or Committee as part of the review process.
d) The Advisory Committee Chairperson or Committee completes its review and proposed draft GAAMPs are prepared for the Commission.
e) If the Commission determines its necessary, the Advisory Committee Chairperson conducts Public Input meetings to receive additional comments on the draft GAAMPs.
f) The Advisory Committee presents revised GAAMPs to the Commission.
g) The Commission reviews existing GAAMPs, with any changes proposed by the Advisory Committee(s), and votes whether to adopt the revisions to the GAAMPs.

All sets of GAAMPs may undergo the annual review process simultaneously to streamline and maximize staff efficiency.

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 9

Policy Title: **GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES DETERMINATION OF NON-COMPLIANCE**

It is the policy of the Michigan Commission of Agriculture and Rural Development to determine that a farm/farmer is not following Generally Accepted Agricultural and Management Practices if a Right to Farm complaint case involves air and/or odor issues, and Michigan Department of Agriculture and Rural Development staff is refused access to review practices and/or records related to the appropriate Generally Accepted Agricultural and Management Practices.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT
POLICY NO. 10

Policy Title: **ENFORCEMENT**

It is the policy of the Michigan Department of Agriculture and Rural Development to utilize progressive enforcement when possible, including, but not limited to non-judicial actions such as: compliance assistance; official warning letter; assessment of civil penalties which may include specified performance requirements as part of the "Consent Agreement"; the designation of a probationary period; or a combination of these. The department will consider various factors when assessing non-judicial penalties, such as:

- nature of the violation
- establishment compliance history
- establishment maintenance and/or self-inspection programs;
- establishment probationary status
- economic benefit for the establishment versus harm to the consumer associated with the alleged violation(s)
- other evidence/special circumstances offered by the establishment operator

A maintenance and/or self-inspection program is considered an essential component of "Good Business Practices" and the implementation of these programs will be considered and weighted accordingly.

Serious, repeated, and/or multiple violation(s) of department law and/or regulation may result in criminal prosecution.

Re-approved in Lansing, Michigan
May 13, 2015

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT

POLICY NO. 11

Policy Title: **FISCAL CONTROL**

It is the policy of the Commission of Agriculture and Rural Development that sound fiscal control practices be utilized in the conduct of department activities. All memoranda of understanding or other documents which commit department resources shall be reviewed by the Operational Services and Central Licensing Division following procedures approved by that division and the Department Director.

Re-approved in Lansing, Michigan
May 13, 2015

ATTACHMENTS

A) PA 13 of 1921, Department of Agriculture
B) PA 380 of 1965, Executive Organization Act
C) EO 2009-45, Executive Reorganization (Creation of Department of Natural Resources and Environment and Direct Governor Appointment of Director)
D) EO 2009-54, Executive Reorganization (Restoration of Commission Oversight of Policy)
E) EO 2011-2, Executive Reorganization (Commission powers and agency name)
F) PA 267 of 1976, Open Meetings Act
G) PA 442 of 1976, Freedom of Information Act
H) PA 220 of 1976, Persons With Disabilities Civil Rights Act
I) PA 390 of 1976, Michigan Emergency Management Plan

DEPARTMENT OF AGRICULTURE
Act 13 of 1921

AN ACT to promote the agricultural interests of the state of Michigan; to create a state department of agriculture; to define the powers and duties thereof; to provide for the transfer to and vesting in said department of powers and duties now vested by law in certain other state boards, commissions and officers, and to abolish certain boards, commissions and officers the powers and duties of which are hereby transferred.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921.

The People of the State of Michigan enact:

285.1 Department of agriculture; commission; director; assistants and employees; term, compensation, offices.

Sec. 1. There is hereby created a state department of agriculture which shall possess the powers and perform the duties hereinafter granted and conferred. The general administration of said powers and duties shall be vested in a bipartisan commission of agriculture which shall be composed of 5 members appointed by the governor, subject to confirmation by the senate: Provided, That 1 member of said commission shall be a resident of the Upper Peninsula. The members of said commission shall be selected with special reference to their training and experience along the line of 1 or more of the principal lines of activities vested in the department of agriculture and their ability and fitness to deal therewith. The term of office of each member of the commission shall be 6 years: Provided, That of those first appointed 2 shall be appointed for 2 years, 2 for 4 years and 1 for 6 years. The governor shall fill any vacancy occurring in the membership of the commission and may remove any member of the commission for cause after a hearing. Each member of this commission shall hold his office until the appointment and qualification of his successor. The commission, after having qualified, shall within 30 days and annually thereafter meet at its office in Lansing and organize by electing a chairman and a secretary. Three members of said commission shall constitute a quorum for the transaction of business. Meetings may be called by the chairman and shall be called on request of a majority of the members of the commission and may be held as often as necessary and at other places than the commissioners' offices at Lansing: Provided, That 1 meeting shall be held each month. The commission shall appoint and employ a director of agriculture who shall continue in office at the pleasure of the commission and who shall receive such annual salary as shall be appropriated by the legislature. He may appoint, with the approval of the commission, such assistants and employees as may be necessary to perform the duties hereby imposed, the number of such assistants and employees, and the compensation payable to all persons so appointed and employed, being within the appropriation made therefor by the legislature. The members of the commission shall receive compensation of $20.00 per day when in actual performance of duties: Provided, That no commissioner shall receive more than $400.00 in any fiscal year as compensation. The salaries of all officers and employees hereby authorized, and the necessary expenses thereof while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state officers and employees are paid. The board of auditors shall provide suitable offices at Lansing and proper office equipment for the use of said department. Each member of the commission and the director of agriculture shall qualify by taking and subscribing to the constitutional oath of office, and filing same in the office of the secretary of state.

Whenever, in any law of the state reference is made to the commissioner of agriculture, reference shall be deemed to be made to the director of agriculture.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—CL 1929, 5001;—Am. 1933, Act 51, Imd. Eff. Apr. 14, 1933;—Am. 1945, Act 344, Eff. Sept. 6, 1945;—Am. 1947, Act 104, Imd. Eff. May 20, 1947;—CL 1948, 285.1;—Am. 1952, Act 217, Eff. Sept. 18, 1952;—Am. 1957, Act 113, Imd. Eff. May 24, 1957.

285.2 Transfer of powers and duties to department of agriculture; abolition of agencies and officers; transfer of records, files, and papers; pending proceedings.

Sec. 2. The department of agriculture shall exercise the powers and perform the duties now vested by law in the department of animal industry, the state food and drug commissioner, the state veterinary board, the immigration commission, the commissioner of immigration, the market director, the Michigan weather service, and the Michigan agricultural fair commission. The departments, boards, commissions, and officers, except the Michigan weather service, whose powers and duties are transferred to the department of agriculture under this section are abolished as of June 30, 1921. All records, files, and papers of any nature pertaining to the functions of a transferred department, board, commission, or officer shall be turned over to the department

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of agriculture. Any hearing or other proceeding pending before any board or officer whose tenure is terminated under this section shall not be abated, but shall be considered to be transferred to the department of agriculture and shall be carried on and determined by the director of the department of agriculture in accordance with the provisions of the law governing the hearing or proceeding.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—Am. 1923, Act 34, Eff. Aug. 30, 1923;—CL 1929, 5002;—CL 1948, 285.2;—Am. 1980, Act 314, Imd. Eff. Dec. 5, 1980.

285.3 Transfer of additional powers and duties to department of agriculture; abolition of offices; records, files, and data.

Sec. 3. In addition to the powers and duties transferred to the department of agriculture under section 2, the powers and duties of the state board of agriculture with reference to the inspection and regulation of orchards, vineyards, nurseries, and apiaries; the testing of agricultural seeds; the analysis of commercial fertilizers; the testing and examination of insecticides; the analysis and testing of commercial stock foods; the investigation and improvement of marketing conditions; and the publication of Michigan weather service summaries are also transferred to the department of agriculture. The offices of state inspector of orchards and nurseries, and inspector of apiaries are abolished. The powers and duties pertaining to those offices are transferred to the department of agriculture. All records and files pertaining to either of those offices, or to any of the powers and duties transferred under this section, are a part of the records and files of the department of agriculture and shall be preserved accordingly. All duties of the secretary of state imposed by law regarding the collection and publication of statistics relating to agriculture and agricultural interests within the state and the Michigan weather service are also transferred to the department of agriculture. All records and data of the secretary of state regarding agriculture and agricultural interests, and the publication of a summary of the observations of the director of the Michigan weather service shall be delivered to the department of agriculture by the secretary of state. The secretary of state is relieved from further performance of those duties.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—CL 1929, 5003;—CL 1948, 285.3;—Am. 1980, Act 314, Imd. Eff. Dec. 5, 1980.

285.4 Repealed. 2000, Act 39, Imd. Eff. Mar. 24, 2000.

Compiler's note: The repealed section pertained to control of fair lands.

285.5 Promotion of agricultural interests; cooperation with state and federal agricultural agencies; fostering trade; preventing fraudulent land sales; supervisory control.

Sec. 5. The state department of agriculture shall foster and promote in every possible way the agricultural interests of this state; shall cooperate with agricultural agencies in the different counties of the state and of the federal government; shall foster direct trading between the producer and consumer; and shall prevent, and assist in preventing, by all available means authorized by law, the sale of unimproved lands and lands not suitable for agricultural development within the state by fraud, misrepresentation, or deceit and the publication of false or misleading statements or advertising matter designed to effect such sales. The powers and duties imposed by this act on the state department of agriculture shall be exercised and performed under the supervisory control of the state administrative board.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—CL 1929, 5005;—CL 1948, 285.5;—Am. 1974, Act 59, Imd. Eff. Apr. 1, 1974.

285.6 Effective date; repeal.

Sec. 6. This act, other than sections 1 and 4, shall be in force and effect on and after the first day of July, 1921. All acts and parts of acts in any way contravening the provisions of this act shall be deemed to be superseded and repealed as of said date.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—CL 1929, 5006;—CL 1948, 285.6.

285.7 Declaration of necessity.

Sec. 7. This act is hereby declared to be immediately necessary for the preservation of the public peace, health and safety.

History: 1921, Act 13, Imd. Eff. Mar. 22, 1921;—CL 1929, 5007;—CL 1948, 285.7.

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EXECUTIVE ORGANIZATION ACT OF 1965
Act 380 of 1965

AN ACT to organize the executive and administrative agencies of state government; to establish principal departments and department heads; to define the powers and duties of the principal departments and their governing agents; to allocate executive and administrative powers, duties, functions, and services among the principal departments; to provide for a method for the gradual implementation of the provisions of this act and for the transfer of existing funds and appropriations of the principal departments herein created and established.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

The People of the State of Michigan enact:

CHAPTER 1
GENERAL PROVISIONS

16.101 Short title.

Sec. 1. This act shall be known and may be cited as the "Executive organization act of 1965."

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.102 Head of department defined.

Sec. 2. Whenever the term "head of the department" is used it shall mean the head of one of the principal departments created by this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.103 Types of transfers; continuation of agencies not enumerated.

Sec. 3. (a) Under this act, a type I transfer means the transferring intact of an existing department, board, commission or agency to a principal department established by this act. When any board, commission, or other agency is transferred to a principal department under a type I transfer, that board, commission or agency shall be administered under the supervision of that principal department. Any board, commission or other agency granted a type I transfer shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department. Under a type I transfer all budgeting, procurement and related management functions of any transferred board, agency or commission shall be performed under the direction and supervision of the head of the principal department.

(b) Under this act, a type II transfer means transferring of an existing department, board, commission or agency to a principal department established by this act. Any department, board, commission or agency assigned to a type II transfer under this act shall have all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, transferred to that principal department.

(c) Under this act, a type III transfer means the abolishing of an existing department, board, commission, or agency and all its statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, are transferred to that principal department as specified under this act.

(d) Any department, board, commission, or agency not enumerated within this act, but established by law within a department, board, commission or agency shall continue within the department, board, commission or agency within which it had previously been established, and shall continue to exercise all its powers, duties and functions within the principal department established by this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See MCL 16.732.

Popular name: Act 380

16.104 Principal departments.

Sec. 4. Except as otherwise provided by this act, or the state constitution, all executive and administrative powers, duties, and functions, excepting those of the legislature and the judiciary, previously vested by law in

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the several state departments, commissions, boards, officers, bureaus, divisions, or other agencies are vested in the following principal departments:

(1) Department of State
(2) Department of Attorney General
(3) Department of Treasury
(4) Department of Management and Budget
(5) Department of State Police
(6) Department of Military Affairs
(7) Department of Agriculture
(8) Department of Civil Service
(9) Department of Commerce
(10) Department of Natural Resources
(11) Department of Corrections
(12) Department of Education
(13) Department of Licensing and Regulation
(14) If section 28 of article 5 of the state constitution of 1963 is amended to provide for changing the name of the state highway department to the department of transportation. However, until section 28 of article 5 is amended in the manner described in this section, the name of the department shall be the Department of State Highways and Transportation.
(15) Department of Labor
(16) Department of Mental Health
(17) Department of Public Health
(18) Department of Social Services
(19) Department of Civil Rights

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968;—Am. 1973, Act 127, Imd. Eff. Aug. 22, 1973;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

16.105 Principal department with commission head; delegation of powers and duties.

Sec. 5. When a principal department is headed by a commission, it may delegate such duties, powers and authority to the director of the department as it deems necessary to fulfill the duties and obligations of the commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.106 Deputy department heads; powers and duties.

Sec. 6. Deputy department heads shall perform such duties and exercise such powers as the head of the principal department may prescribe. Except when the head of a department is a commission, deputy department heads shall act for, and exercise the powers of, the head of the principal department during his absence or disability.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.107 Internal organization of principal departments; executive allocation and reallocation of duties and functions; limitations; transfer of type II or type III agencies; administration; rules.

Sec. 7. (a) Except as provided by law or within this act, the head of each principal department with the approval of the governor is authorized to establish the internal organization of his department and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the department. No substantive function vested by law in any officer or agency within the principal department shall be removed from the jurisdiction of such officer or agency under the provisions of this section.

(b) Except as provided by law or within this act, when any department, commission or board or other agency is transferred by a type II or type III transfer to a principal department under the provisions of this act, the functions of the department, commission or board or other agency shall be administered under the direction and supervision of the head of the principal department. When a department, commission, board or other agency is transferred by a type II or type III transfer to a principal department all prescribed statutory functions of rule making, licensing and registration including the prescription of rules, regulations, standards and adjudications shall be transferred to the head of the principal department into which the department,

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commission, board or agency has been incorporated.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.108 Compensation; heads of principal departments; directors; commissions; boards; exclusive employment.

Sec. 8. (a) Heads of principal departments, commissions or boards, principal executive officers of departments, commissions and boards shall receive compensation prescribed by law.

(b) Directors of departments, commissions, boards and directors of departments, boards and commissions transferred to a principal department shall not engage in any business, vocation or employment other than their office. Members of boards and commissions may so engage unless specifically prohibited by law.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.109 Rules and regulations; promulgation.

Sec. 9. The head of each principal department, and those commissions, boards and agencies granted a type I transfer may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in them in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

Administrative rules: R 400.5106 of the Michigan Administrative Code.

16.110 Powers and duties of governor continued.

Sec. 10. All powers, duties and functions vested in the office of governor are continued, except as otherwise provided by this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.111 Special commissions.

Sec. 11. Special commissions created under Act No. 195 of the Public Acts of 1931, being sections 10.51 to 10.57 of the Compiled Laws of 1948, are units of the executive office of governor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.112 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to the executive budget.

Popular name: Act 380

16.113 Department of economic expansion; transfer to executive office of governor; personnel.

Sec. 13. The powers, duties and functions of the department of economic expansion, created by Act No. 116 of the Public Acts of 1963, enumerated in section 125.1204 (h), (i) and (j) of the Compiled Laws of 1948, as amended, are transferred to the executive office of the governor. The personnel of the department of commerce necessary to implement this section are transferred to the executive office of the governor.

History: Add. 1967, Ex. Sess., Act 11, Eff. Mar. 22, 1968.

Popular name: Act 380

CHAPTER 2
DEPARTMENT OF STATE

16.125 Department of state; creation.

Sec. 25. There is hereby created a department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

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16.126 Head of department of state.

Sec. 26. The head of the department of state is the secretary of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.127 Secretary of state; transfer of powers and duties.

Sec. 27. Except as otherwise provided in the constitution or in this act, all powers, duties and functions vested by law in the secretary of state are transferred by a type I transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.128 Board of state canvassers; transfer.

Sec. 28. The board of state canvassers created under article 2, section 7 of the state constitution, is transferred by a type I transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.129 License appeals board; transfer.

Sec. 29. The license appeals board created under sections 322 and 423 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.322 and 257.323 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.130 Michigan historical commission; transfer.

Sec. 30. The Michigan historical commission created under Act No. 271 of the Public Acts of 1913, as amended, being sections 399.1 to 399.9 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.131 Highway reciprocity board; transfer.

Sec. 31. The highway reciprocity board created under Act No. 124 of the Public Acts of 1960, being sections 3.161 to 3.177 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Compiler's note: For abolishment of the highway reciprocity board and transfer of its powers and duties to the department of state, see E.R.O. No. 2007-11, compiled at MCL 17.722.

Popular name: Act 380

16.132 Commission on legislative apportionment; transfer.

Sec. 32. The commission on legislative apportionment created under article 4, section 6 of the state constitution, is transferred by a type I transfer to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.133 Notaries public; powers; duties and functions of governor; delegation to department.

Sec. 33. All or any portion of the powers, duties and functions of governor under section 107 of chapter 14 of the Revised Statutes of 1846, as amended, being section 55.107 of the Compiled Laws of 1948, relating to notaries public, may be delegated by executive order to the department of state.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.134 Executive orders; filing; submission to legislature; publication; modification and repeal.

Sec. 34. (1) Whenever the governor issues an executive order pertaining to organization of the executive branch, it shall be filed with the department of state in the same manner as required by law for the filing of public acts of this state. Copies of each such executive order shall be filed with and retained on record by the

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legislative council and a copy transmitted to each member of the legislature.

(2) Whenever the governor makes changes in the organization of the executive branch or in the assignment of functions among its units which require the force of law, such changes shall be set forth in executive orders and copies of the orders shall be submitted to the legislature as provided in section 2 of article 5 of the state constitution. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house within the constitutional time period, such executive orders shall become effective at the date designated by the governor.

(3) Executive orders as described in subsection (2) shall be dated, shall be given an identification number and published in the same manner as required by law for the publication of the public acts of the state.

(4) An executive order as described in subsection (2) may be modified or repealed by the legislature at any time by law.

History: Add. 1968, Act 237, Imd. Eff. June 26, 1968.

Popular name: Act 380

CHAPTER 3

DEPARTMENT OF THE ATTORNEY GENERAL

16.150 Department of attorney general; creation.

Sec. 50. There is hereby created a department of the attorney general.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.151 Head of department of attorney general.

Sec. 51. The head of the department of the attorney general is the attorney general.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.152 Attorney general; transfer of powers and duties to department.

Sec. 52. Except as otherwise provided in the constitution or by this act, all powers, duties and functions of the attorney general are transferred by a type I transfer to the department of the attorney general.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.153 Board of commissioners for promotion of uniformity of legislation; transfer.

Sec. 53. The board of commissioners for the promotion of uniformity of legislation in the United States created under Act No. 196 of the Public Acts of 1909, being sections 8.51 to 8.55 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of the attorney general.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.154 Public solicitation for charitable purposes; transfer of powers, duties, and functions to department of attorney general.

Sec. 54. All powers, duties and functions of the state social welfare commission and the state department of social welfare under the provisions of Act No. 68 of the Public Acts of 1915, as amended, being sections 400.301 to 400.304 of the Compiled Laws of 1948, relating to solicitation of the public for charitable purposes, are transferred by a type II transfer to the department of attorney general.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

CHAPTER 4

DEPARTMENT OF TREASURY

16.175 Department of treasury; creation.

Sec. 75. There is hereby created a department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.176 Head of department of treasury.

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Sec. 76. The head of the department of treasury is the state treasurer.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.177 State treasurer; transfer of powers and duties to department.

Sec. 77. Except as otherwise provided in this act, all powers, duties and functions vested by law in the state treasurer are transferred by a type I transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.178 Repealed. 1995, Act 44, Eff. Jan. 1, 1996.

Compiler's note: The repealed section pertained to transfer of board of escheats to department of treasury by type III transfer.

Popular name: Act 380

16.179 Elected auditor general; transfer of powers, duties, and functions relating to property taxation.

Sec. 79. All powers, duties and functions of the elected auditor general relating to property taxation created under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948, are transferred by a type II transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.180 Elected auditor general; transfer of powers, duties, and functions relating to uniform system of accounts.

Sec. 80. All powers, duties and functions of the elected auditor general relating to uniform system of accounts for county offices and examination thereof, created under Act No. 71 of the Public Acts of 1919, as amended, being sections 21.41 to 21.53 of the Compiled Laws of 1948, are transferred by a type II transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.181 Elected auditor general; transfer of powers, duties, and functions relating to plats.

Sec. 81. All powers, duties and functions of the elected auditor general created under the provisions of Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, relating to plats, are transferred by a type II transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.182 Elected auditor general; transfer of other powers, duties, and functions; abolition of office.

Sec. 82. All powers, duties and functions of the auditor general elected under the Constitution of 1908, excepting those reassigned by sections 79, 80 and 81 of this act and those granted to the auditor general appointed under article 4, section 53 of the Constitution of 1963, are transferred by a type III transfer to the department of treasury, and the office of the elected auditor general is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.183 Department of revenue; transfer to department; department head.

Sec. 83. The department of revenue of the state of Michigan created under Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.17 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury, and the head of the department of revenue shall be a member of the classified civil service.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.184 State tax commission; transfer.

Sec. 84. The state tax commission created under Act No. 360 of the Public Acts of 1927, as amended, being sections 209.101 to 209.107 of the Compiled Laws of 1948, is transferred by a type I transfer to the

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department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.185 State board of assessors; transfer.

Sec. 85. The state board of assessors created under section 1 of Act No. 282 of the Public Acts of 1905, as amended, being section 207.1 of the Compiled Laws of 1948, is transferred by a type II transfer to the state tax commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.186 State board of equalization; abolition; transfer of powers, duties, and functions.

Sec. 86. The state board of equalization created under section 1 of Act No. 44 of the Public Acts of 1911, as amended, being section 209.1 of the Compiled Laws of 1948, is transferred by a type III transfer to the state tax commission, and the state board of equalization is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.187 State board of tax appeals; transfer.

Sec. 87. The state board of tax appeals created under section 8 of Act No. 122 of the Public Acts of 1941, being section 205.8 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.188 Repealed. 2002, Act 187, Imd. Eff. Apr. 24, 2002.

Compiler's note: The repealed section pertained to transfer of municipal finance commission to department of treasury by type I transfer.

Popular name: Act 380

16.189 Corporation franchise fee appeal board; transfer.

Sec. 89. The corporation franchise fee appeal board created under sections 9 and 10 of Act No. 85 of the Public Acts of 1921, as amended, being sections 450.309 and 450.310 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.190 Michigan corporation and securities commission; transfer of powers, duties, and functions.

Sec. 90. Except as otherwise provided in sections 235, 236, 237, 328 and 330 of this act, all powers, duties and functions formerly vested in the Michigan corporation and securities commission are transferred to the department of treasury.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1966, Act 324, Imd. Eff. July 19, 1966.

Popular name: Act 380

16.191 Investment functions transferred; powers and duties of state treasurer; reports; creation and composition of investment advisory committee; appointment, terms, and compensation of members; meetings; powers and duties of committee; investment consultants.

Sec. 91. The investment functions of the boards named in section 106(a), (c), (d), (e), and (f) are transferred to the department of treasury. Notwithstanding the provisions of any other act, the state treasurer shall invest, reinvest, assign, reassign, sell, transfer, and manage the investment funds and portfolios of the respective retirement systems, may solicit proxies in connection with contests for corporate control of corporations in which the treasurer has made an investment, and may use nominees to facilitate transfers. The state treasurer or his or her designee may execute all necessary instruments to effectuate those purposes. The state treasurer shall promptly report all investment transactions to the department of management and budget and to the respective retirement boards, and to the attorney general, not less than once every 3 months. There is created an investment advisory committee composed of the director of commerce, the director of the

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department of management and budget, or their duly authorized representatives, and 3 public members appointed by the governor with the advice and consent of the senate. The term of office for all public members shall be 3 years or until the member's successor has been appointed and has qualified. The public members shall serve without pay, but shall be paid actual and necessary travel and other expenses in accordance with the provisions of the standard travel regulations issued by the department of management and budget. The investment advisory committee shall meet at least once each quarter. The investment advisory committee shall review investments, goals, and objectives of each of the retirement funds, and may submit recommendations. The investment advisory committee may also, by a majority vote, direct the state treasurer to dispose of any holding which in the committee's judgment is not suitable for the fund involved, and may by unanimous vote direct the state treasurer to make specific investments. Investment consultants may be engaged by the state treasurer to advise with respect to investments to the extent that funds for those expenditures are made available by the legislature. A report shall be made annually to the appropriating committees of the senate and house of representatives listing the consultants engaged and the compensation paid to each.

History: Add. 1968, Act 45, Imd. Eff. May 23, 1968;—Am. 1969, Act 232, Imd. Eff. Aug. 11, 1969;—Am. 1983, Act 225, Imd. Eff. Nov. 28, 1983;—Am. 1988, Act 42, Eff. Mar. 30, 1989.

Popular name: Act 380

CHAPTER 5
DEPARTMENT OF MANAGEMENT AND BUDGET

16.200-16.203 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to creation of department of management and budget.

Popular name: Act 380

16.204 Repealed. 1980, Act 374, Imd. Eff. Dec. 30, 1980.

Compiler's note: The repealed section pertained to transfer of state building commission to department of management and budget.

Popular name: Act 380

16.205-16.209 Repealed. 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed sections pertained to transfers to the department of management and budget.

Popular name: Act 380

CHAPTER 6
DEPARTMENT OF MILITARY AFFAIRS

16.225 Department of military affairs; creation.

Sec. 125. There is hereby created a department of military affairs.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.226 Head of department of military affairs.

Sec. 126. The head of the department of military affairs shall be appointed by the governor and serve at the pleasure of the governor. Any other provision of the law to the contrary notwithstanding, the adjutant general of the state of Michigan may be appointed to and serve as the head of the department of military affairs.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.227 Military establishment and state military board; transfer.

Sec. 127. The military establishment and the state military board created under Act No. 84 of the Public Acts of 1909, as amended, being sections 32.1 to 32.85 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of military affairs.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.228 Naval militia and state naval board; transfer.

Sec. 128. The naval militia and the state naval board created under Act No. 184 of the Public Acts of 1893, as amended, being sections 33.1 to 33.38 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of military affairs.

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History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.229 Grand Rapids home for veterans; D.J. Jacobetti home for veterans.

Sec. 129. Beginning on the effective date of the amendatory act that added this section, the Michigan veterans' facility at Grand Rapids, created by Act No. 152 of the Public Acts of 1885, being sections 36.1 to 36.12 of the Michigan Compiled Laws, shall be known as the Grand Rapids home for veterans, and the D.J. Jacobetti veterans' facility at Marquette, created by Act No. 152 of the Public Acts of 1885, shall be known as the D.J. Jacobetti home for veterans.

History: Add. 1992, Act 18, Imd. Eff. Mar. 19, 1992.

Popular name: Act 380

CHAPTER 7
DEPARTMENT OF STATE POLICE

16.250 Department of state police; creation.

Sec. 150. There is hereby created a department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.251 Head of department of state police.

Sec. 151. The head of the department of state police is the director of the department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.252 Director of department of state police; appointment.

Sec. 152. The director of the department of state police shall be appointed by the governor and serve at the pleasure of the governor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.253 State police and commissioner of state police; transfer of powers, duties, and functions.

Sec. 153. All powers, duties and functions vested by law in the Michigan state police and the commissioner of the Michigan state police are transferred by a type III transfer to the department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.254 Civil defense advisory council; transfer.

Sec. 154. The civil defense advisory council created under section 3 of Act No. 154 of the Public Acts of 1953, as amended, being section 30.233 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.255 State safety commission; transfer.

Sec. 155. The Michigan state safety commission created under Act No. 188 of the Public Acts of 1941, being sections 256.561 to 256.563 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state police.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.256 Private detectives and detective agencies; transfer of licensing and regulatory functions.

Sec. 156. All powers, duties and functions of the secretary of state under the provisions of Act No. 383 of the Public Acts of 1927, as amended, being sections 338.801 to 338.813 of the Compiled Laws of 1948, relating to private detectives and private detective agencies are transferred by a type II transfer to the department of state police.

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History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.257 Law enforcement officers training council; transfer.

Sec. 157. The Michigan law enforcement officers training council created under Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state police.

History: Add. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.258 State fire safety board; transfer.

Sec. 158. The state fire safety board created under Act No. 200 of the Public Acts of 1965, being sections 29.3a to 29.3c of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state police.

History: Add. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

CHAPTER 8
DEPARTMENT OF AGRICULTURE

16.275 Department of agriculture; creation.

Sec. 175. There is hereby created a department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.276 Head of department of agriculture.

Sec. 176. The head of the department of agriculture is the commission of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.277 Department of agriculture; transfer.

Sec. 177. The department of agriculture, created under section 1 of Act No. 13 of the Public Acts of 1921, as amended, being section 285.1 of the Public Acts of 1948, is transferred by a type I transfer to the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.278 Director of agriculture; transfer of powers, duties, and functions to head of department.

Sec. 178. All powers, duties and functions now vested by law in the director of agriculture are transferred by a type I transfer to the head of the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.279 Commission of agriculture; appointment, qualifications, and terms of members; vacancy; election of officers; quorum; conducting business at public meeting; notice.

Sec. 179. The commission of agriculture shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years, and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members officers as it considers advisable. A majority of the commission members shall be required to constitute a quorum. The business which the commission of agriculture may perform shall be conducted at a meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1978, Act 179, Imd. Eff. June 4, 1978.

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Popular name: Act 380

16.280 Director of department of agriculture; appointment by commission.

Sec. 180. The principal executive officer of the department is the director of the department of agriculture. The director shall be appointed by the commission and serve at its pleasure.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.281 Repealed. 1980, Act 314, Imd. Eff. Dec. 5, 1980.

Compiler's note: The repealed section pertained to transfer of Michigan weather service to department of agriculture.

Popular name: Act 380

16.282 State soil conservation committee; transfer.

Sec. 182. The state soil conservation committee created under Act No. 297 of the Public Acts of 1937, as amended, being sections 282.1 to 282.16 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.283 Commodity commissions and councils; transfer.

Sec. 183. The following commissions and councils are transferred by a type I transfer to the department of agriculture.

(a) The Michigan state apple commission created by Act No. 87 of the Public Acts of 1939, as amended, being sections 290.51 to 290.66 of the Compiled Laws of 1948.

(b) The Michigan cherry commission created by Act No. 228 of the Public Acts of 1947, as amended, being sections 290.501 to 290.514 of the Compiled Laws of 1948.

(c) The Michigan potato industry council created by Act No. 208 of the Public Acts of 1961, being sections 290.181 to 290.191 of the Compiled Laws of 1948.

(d) The Michigan bean commission created under Act No. 114 of the Public Acts of 1965, being sections 290.551 to 290.568 of the Compiled Laws of 1948.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.284 Office of racing commissioner; transfer.

Sec. 184. The office of racing commissioner under the provisions of Act No. 27 of the Public Acts of 1959, as amended, being sections 431.31 to 431.56 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.285 State fair authority; transfer.

Sec. 185. The Michigan state fair authority created by Act No. 224 of the Public Acts of 1962, being sections 291.21 to 291.37 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.286 Upper Peninsula state fair board of managers; transfer.

Sec. 186. The board of managers of the Upper Peninsula state fair created by Act No. 89 of the Public Acts of 1927, as amended, being sections 285.141 and 285.142 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.287 State agricultural society transferred to department of agriculture.

Sec. 187. The Michigan state agricultural society created by Act No. 180 of the Public Acts of 1849, being sections 453.51 to 453.53 of the Michigan Compiled Laws, is transferred by a type III transfer to the department of agriculture.

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History: Add. 1973, Act 63, Imd. Eff. July 23, 1973.

Popular name: Act 380

CHAPTER 9

DEPARTMENT OF CIVIL SERVICE

16.300 Department of civil service; creation.

Sec. 200. There is hereby created a department of civil service.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.301 Head of department of civil service.

Sec. 201. The head of the department of civil service is the civil service commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.302 Civil service commission; transfer of powers, duties, and functions.

Sec. 202. All powers, duties and functions vested by the constitution or by law in the civil service commission are transferred by a type I transfer to the civil service commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.303 Civil service commission; membership; terms; vacancies; officers; quorum.

Sec. 203. The civil service commission shall consist of 4 members appointed by the governor, not more than 2 of whom shall be members of the same political party. The term of office of each member shall be 8 years, except that of members first appointed 1 each shall be appointed for terms of 2, 4, 6 and 8 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.304 Executive officer of civil service commission.

Sec. 204. The principal executive officer of the commission is the state personnel director.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

CHAPTER 10

DEPARTMENT OF COMMERCE

16.325 Department of commerce; creation.

Sec. 225. There is hereby created a department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Compiler's note: For renaming the department of consumer and industry services to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 380

16.326 Head of department of commerce.

Sec. 226. The head of the department of commerce is the director of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.327 Repealed. 1966, Act 324, Imd. Eff. July 19, 1966.

Compiler's note: The repealed section pertained to transfer of duties and functions of Michigan corporation and securities division to department of commerce.

Popular name: Act 380

16.328 State banking department and office of commissioner; transfer.

Sec. 228. The state banking department and the office of commissioner of the state banking department created under section 3 of Act No. 341 of the Public Acts of 1937, being section 487.3 of the Compiled Laws

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of 1948, are transferred by a type I transfer to the department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.329 Department of insurance and office of commissioner; transfer.

Sec. 229. The department of insurance and the office of the commissioner of insurance created under sections 200 and 202 of Act No. 218 of the Public Acts of 1956, being sections 500.200 and 500.202 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See MCL 16.732.

Popular name: Act 380

16.330 State liquor control commission; transfer.

Sec. 230. The state liquor control commission created by section 5 of Act No. 8 of the Extra Session of 1933, as amended, being section 436.5 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.331 Public service commission; transfer.

Sec. 231. The Michigan public service commission created under section 1 of Act No. 3 of the Public Acts of 1939, as amended, being section 460.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.332 Department of economic expansion; transfer; exceptions.

Sec. 232. The department of economic expansion created under Act No. 116 of the Public Acts of 1963, being sections 125.1201 to 125.1208 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of commerce, except for those powers, duties and functions transferred to the executive office of the governor by section 13.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1967, Ex. Sess., Act 11, Eff. Mar. 22, 1968.

Compiler's note: For transfer of authority, powers, duties, functions, and management-related functions of the Department of Economic Expansion and the Economic Expansion Council, to the Chief Executive Officer of Michigan Jobs Commission, see E.R.O. No. 1993-3, compiled at MCL 408.46 of the Michigan Compiled Laws.

Popular name: Act 380

16.333 Department of aeronautics and Michigan aeronautics commission; transfer.

Sec. 233. The department of aeronautics created under section 26 of Act No. 327 of the Public Acts of 1945, being section 259.26 of the Compiled Laws of 1948, and the Michigan aeronautics commission established thereunder are transferred by a type I transfer to the department of commerce.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.334 Powers and duties of secretary of state relating to savings and loan associations; type II transfer.

Sec. 234. All powers, duties and functions of the secretary of state under the provisions of Act No. 156 of the Public Acts of 1964, as amended, being sections 489.501 to 489.899 of the Compiled Laws of 1948, relating to savings and loan associations and savings associations, are transferred by a type II transfer to the financial institutions bureau of the department of commerce. The commissioner of the financial institutions bureau is designated as the supervisory authority pursuant to section 172 of Act No. 156 of the Public Acts of 1964, as amended.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1971, Act 71, Imd. Eff. July 28, 1971.

Popular name: Act 380

16.335 Corporation and securities commission; transfer of powers, duties, and functions assigned under securities act.

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Sec. 235. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 265 of the Public Acts of 1964, as amended, being sections 451.501 to 451.818 of the Compiled Laws of 1948, are transferred to the department of commerce.

History: Add. 1966, Act 324, Imd. Eff. July 19, 1966.

Popular name: Act 380

16.336 Corporation and securities commission; transfer of powers, duties, and functions assigned under condominiums act.

Sec. 236. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 229 of the Public Acts of 1963, as amended, being sections 559.1 to 559.30 of the Compiled Laws of 1948, are transferred to the department of commerce.

History: Add. 1966, Act 324, Imd. Eff. July 19, 1966.

Popular name: Act 380

16.337 Corporation and securities commission; transfer of powers, duties, and functions assigned under debt management act.

Sec. 237. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 135 of the Public Acts of 1961, as amended, being sections 451.451 to 451.468 of the Compiled Laws of 1948, are transferred to the department of commerce.

History: Add. 1966, Act 324, Imd. Eff. July 19, 1966.

Popular name: Act 380

16.338 Department of state highways; transfer of powers, duties, and functions of weighmaster to public service commission of department.

Sec. 238. The powers, duties and functions of the department of state highways administered by the weighmaster section, relating to the administration and enforcement of the size, weight and load of vehicles provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, with the exception of sections 719a, 722f, 725 and 725a, are transferred to the public service commission of the department of commerce.

History: Add. 1968, Act 77, Imd. Eff. June 4, 1968.

Compiler's note: For transfer of Public Service Commission highway enforcement functions relating to motor carriers to Department of State Police, see E.R.O. No. 1982-1, compiled at MCL 28.21 of the Michigan Compiled Laws.

Transfer of powers: See MCL 28.21.

Popular name: Act 380

16.339 Department and secretary of state; transfer of commercial vehicle regulatory powers, duties, and functions to department.

Sec. 239. The powers, duties and functions of the secretary of state and the department of state relating to the regulation of commercial vehicles, other than titling and registration, under the provisions of Act No. 300 of the Public Acts of 1949, as amended, are transferred to the public service commission of the department of commerce.

History: Add. 1968, Act 77, Imd. Eff. June 4, 1968.

Compiler's note: For transfer of Public Service Commission highway enforcement functions relating to motor carriers to Department of State Police, see E.R.O. No. 1982-1, compiled at MCL 28.21 of the Michigan Compiled Laws.

Popular name: Act 380

16.340 Effective date of sections 16.338 and 16.339; transfer of records, property, and personnel.

Sec. 240. The powers, duties and functions transferred to the department of commerce in sections 238 and 239 of this act shall be transferred effective July 1, 1968. All records, property, personnel and appropriations used, held, employed, available or to be made available in connection with such powers, duties and functions shall be transferred to the department of commerce.

History: Add. 1968, Act 77, Imd. Eff. June 4, 1968.

Popular name: Act 380

16.341 Department of commerce; annual report.

Sec. 241. Annually, the department of commerce shall make a report to the governor and to the legislature covering the operation of the department for the fiscal year ending June 30. The report shall contain a

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summary of the department's activities during the fiscal year, a statement of all revenues and expenditures made by or in behalf of the department, such other information as it may deem necessary or useful and any additional information which may be requested by the governor. The report of the department of commerce shall include reports required by law of all bureaus, agencies and commissions within the department.

History: Add. 1968, Act 176, Eff. Nov. 15, 1968.

Popular name: Act 380

16.342 Michigan tourist council; transfer.

Sec. 242. The Michigan tourist council created by Act No. 106 of the Public Acts of 1945, as amended, being sections 2.101 to 2.108 of the Michigan Compiled Laws, is transferred by a type I transfer to the department of commerce.

History: Add. 1973, Act 175, Imd. Eff. Dec. 21, 1973.

Popular name: Act 380

CHAPTER 11
DEPARTMENT OF NATURAL RESOURCES

16.350 Department of natural resources; creation.

Sec. 250. There is created a department of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.351 Head of department of natural resources.

Sec. 251. The head of the department of natural resources is the commission of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.352 Department of conservation; transfer.

Sec. 252. The department of conservation, created under section 1 of Act No. 17 of the Public Acts of 1921, as amended, being section 299.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.353 Director of conservation; transfer of powers, functions, and duties.

Sec. 253. All powers, duties and functions now vested by law in the director of conservation are transferred by a type I transfer to the department of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.354 Commission of natural resources; creation.

Sec. 254. The commission of natural resources is created as provided in the natural resources and environmental protection act.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968;—Am. 1973, Act 35, Imd. Eff. June 21, 1973;—Am. 1994, Act 446, Eff. Jan. 18, 1995.

Popular name: Act 380

16.355 Director of department; appointment.

Sec. 255. The principal executive officer of the department is the director of the department of natural resources. The director shall be appointed by the commission and serve at its pleasure.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.356 Mackinac island state park commission; transfer.

Sec. 256. The Mackinac island state park commission created under section 2 of Act No. 355 of the Public Acts of 1927, as amended, being section 318.62 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

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History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.357 Water resources commission; transfer.

Sec. 257. The water resources commission created under section 1 of Act No. 245 of the Public Acts of 1929, as amended, being section 323.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.358 State waterways commission; transfer.

Sec. 258. The Michigan state waterways commission created under section 2 of Act No. 320 of the Public Acts of 1947, as amended, being section 281.502 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.359 Repealed. 1968, Act 353, Eff. Nov. 15, 1968.

Compiler's note: The repealed section pertained to transfer of boating control committee to department of conservation.

Popular name: Act 380

16.360 Repealed. 1973, Act 175, Imd. Eff. Dec. 21, 1973.

Compiler's note: The repealed section pertained to transfer of Michigan tourist council.

Popular name: Act 380

CHAPTER 12
DEPARTMENT OF CORRECTIONS

16.375 Department of corrections; creation.

Sec. 275. There is hereby created a department of corrections.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.376 Head of department of corrections.

Sec. 276. The head of the department of corrections is the commission of corrections.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.377 Department of corrections; transfer.

Sec. 277. The department of corrections created under section 1 of Act No. 232 of the Public Acts of 1953, being section 791.201 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of corrections.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.378 Commission of corrections; membership, terms, vacancies, officers, quorum.

Sec. 278. The commission of corrections shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.379 Director of department; appointment.

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Sec. 279. The principal executive officer of the department is the director of the department of corrections. The director shall be appointed by the commission and serve at its pleasure.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

CHAPTER 13
DEPARTMENT OF EDUCATION

16.400 Department of education; creation.

Sec. 300. There is hereby created a department of education.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.401 Head of department of education.

Sec. 301. The head of the department of education is the state board of education established by the state Constitution of 1963.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.402 Board of education; transfer of powers, duties, and functions to department.

Sec. 302. All powers, duties and functions vested by law in the board of education are transferred by a type I transfer to the department of education.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.403 Superintendent of public instruction; transfer of powers, duties, and functions to department.

Sec. 303. All powers, duties and functions now vested by law in the superintendent of public instruction are transferred by a type III transfer to the department of education.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.404 Board of education; membership; nomination and election; terms.

Sec. 304. The board of education shall consist of 8 members nominated by party convention and elected at large for 8-year terms.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.405 Superintendent of public instruction; appointment; term.

Sec. 305. The principal executive officer of the department of education is the superintendent of public instruction. The state board of education shall appoint the superintendent of public instruction whose term of office shall be determined by the board.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.406 State tenure commission; transfer.

Sec. 306. The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.81 to 38.191 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of education.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.407 State higher education facilities commission; transfer.

Sec. 307. The state higher education facilities commission created under Act No. 233 of the Public Acts of 1964, being sections 390.941 to 390.948 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of education.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

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16.408 Repealed. 1989, Act 128, Imd. Eff. June 28, 1989.

Compiler's note: The repealed section transferred the Michigan education assistance authority to the board of education.

Popular name: Act 380

16.409 Repealed. 1982, Act 540, Eff. Mar. 30, 1983.

Compiler's note: The repealed section transferred the state board of libraries to the board of education.

Popular name: Act 380

16.410 State board for public community and junior colleges; transfer.

Sec. 310. The state board for public community and junior colleges created under Act No. 193 of the Public Acts of 1964, being sections 390.911 to 390.916 of the Compiled Laws of 1948, is transferred by a type I transfer to the board of education.

History: Add. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

CHAPTER 14
DEPARTMENT OF LICENSING AND REGULATION

16.425 Department of licensing and regulation; creation.

Sec. 325. There is hereby created a department of licensing and regulation.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.426 Head of department of licensing and regulation.

Sec. 326. The head of the department of licensing and regulation is the director of licensing and regulation.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.427 Boards and agencies transferred to department of licensing and regulation.

Sec. 327. The following boards and agencies are transferred by a type I transfer to the department of licensing and regulation:

(a) The board of registration in medicine created under section 1 of Act No. 237 of the Public Acts of 1899, as amended, being section 338.51 of the Compiled Laws of 1948.

(b) The state board of osteopathic registration and examination created under section 1 of Act No. 162 of the Public Acts of 1903, as amended, being section 338.101 of the Compiled Laws of 1948.

(c) The board of chiropractic examiners created under section 1 of Act No. 145 of the Public Acts of 1933, as amended, being section 338.151 of the Compiled Laws of 1948.

(d) The Michigan state board of dentistry created under section 1 of Act No. 122 of the Public Acts of 1939, as amended, being section 338.201 of the Compiled Laws of 1948.

(e) The board of examiners in optometry created under section 1 of Act No. 71 of the Public Acts of 1909, as amended, being section 338.251 of the Compiled Laws of 1948.

(f) The board of registration in chiropody created under section 2a of Act No. 115 of the Public Acts of 1915, as amended, being section 338.302a of the Compiled Laws of 1948.

(g) The state board of pharmacy created under section 2 of Act No. 151 of the Public Acts of 1962, being section 338.1102 of the Compiled Laws of 1948.

(h) The Michigan state board of accountancy created under section 1 of Act No. 353 of the Public Acts of 1925, being section 338.501 of the Compiled Laws of 1948.

(i) The state board of registration for architects, professional engineers and land surveyors created under section 3 of Act No. 240 of the Public Acts of 1937, being section 338.553 of the Compiled Laws of 1948.

(j) The board of examiners of barbers created under section 2 of Act No. 382 of the Public Acts of 1927, as amended, being section 338.602 of the Compiled Laws of 1948.

(k) The state board of cosmetology created under section 5 of Act No. 176 of the Public Acts of 1931, being section 338.755 of the Compiled Laws of 1948.

(*l*) The state board of examiners in mortuary science created under section 1 of Act No. 268 of the Public Acts of 1949, being section 338.861 of the Compiled Laws of 1948.

(m) The plumbing board created under section 7 of Act No. 266 of the Public Acts of 1929, as amended, being section 338.907 of the Compiled Laws of 1948.

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(n) The electrical administrative board created under section 2 of Act No. 217 of the Public Acts of 1956, as amended, being section 338.882 of the Compiled Laws of 1948.

(o) The state board of registration for foresters created under section 3 of Act No. 78 of the Public Acts of 1955, being section 338.723 of the Compiled Laws of 1948.

(p) The Michigan state athletic board of control created by section 1 of Act No. 205 of the Public Acts of 1939, as amended, being section 431.101 of the Compiled Laws of 1948.

(q) The board of landscape architects created under section 4 of Act No. 126 of the Public Acts of 1963, being section 338.1204 of the Compiled Laws of 1948.

(r) The Michigan board of nursing created under section 1 of Act No. 319 of the Public Acts of 1909, as amended, being section 338.351 of the Compiled Laws of 1948.

(s) The advisory council to the board of nursing created under section 1 of Act No. 319 of the Public Acts of 1909, as amended, being section 338.351 of the Compiled Laws of 1948.

(t) The office of the state superintendent of private employment bureaus under Act No. 321 of the Public Acts of 1929, as amended, being sections 408.601 to 408.624 of the Compiled Laws of 1948.

(u) The board of examiners in basic sciences created under section 2 of Act No. 59 of the Public Acts of 1937, as amended, being section 338.2 of the Compiled Laws of 1948.

(v) The state board of veterinary examiners created by Act No. 152 of the Public Acts of 1956, as amended, being sections 287.451 to 287.474 of the Compiled Laws of 1948.

(w) The state board of physical therapy registration created under Act No. 164 of the Public Acts of 1965, being sections 338.321 to 338.337 of the Compiled Laws of 1948.

(x) The state board of horology created under Act No. 201 of the Public Acts of 1965, being sections 338.1401 to 338.1414 of the Compiled Laws of 1948.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.428 Michigan corporation and securities commission; transfer of powers, duties, and functions relating to real estate brokers and salesmen.

Sec. 328. The powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 306 of the Public Acts of 1919, as amended, being sections 451.201 to 451.219 of the Compiled Laws of 1948, relating to real estate brokers and salesmen, are transferred by a type II transfer to the department of licensing and regulation.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.429 Superintendent of public instruction; transfer of powers, duties, and functions relating to certification of psychologist.

Sec. 329. All powers, duties and functions of the superintendent of public instruction under the provisions of Act No. 257 of the Public Acts of 1959, as amended, being sections 338.1001 to 338.1019 of the Compiled Laws of 1948, relating to certification of psychologists, are transferred by a type II transfer to the department of licensing and regulation.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.430 Michigan corporation and securities commission; transfer of powers, duties, and functions relating to residential building contractors.

Sec. 330. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 208 of the Public Acts of 1953, as amended, being sections 338.971 to 338.991 of the Compiled Laws of 1948, and Act No. 383 of the Public Acts of 1965, as amended, being sections 338.1501 to 338.1519 of the Compiled Laws of 1948, relating to residential building contractors, are transferred by a type I transfer to the department of licensing and regulation.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1966, Act 324, Imd. Eff. July 19, 1966.

Popular name: Act 380

16.431 State health commissioner; transfer of duties relating to sanitarians.

Sec. 331. All powers, duties and functions of the state health commissioner under Act No. 147 of the Public Acts of 1963, being sections 338.1301 to 338.1315 of the Compiled Laws of 1948, relating to sanitarians, are transferred by a type I transfer to the department of licensing and regulation.

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History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.432 Carnival-amusement safety board; type II transfer to department of licensing and regulation.

Sec. 332. The carnival-amusement safety board created under Act No. 225 of the Public Acts of 1966, as amended, being sections 408.651 to 408.667 of the Michigan Compiled Laws, is transferred by a type II transfer to the department of licensing and regulation.

History: Add. 1982, Act 34, Imd. Eff. Mar. 12, 1982.

Popular name: Act 380

CHAPTER 15
DEPARTMENT OF TRANSPORTATION

16.450 Department of transportation; creation.

Sec. 350. There is created a department of transportation.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

16.451 State transportation commission as policy making body.

Sec. 351. The policy making body of the department of transportation is the state transportation commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

16.452 Transfer of powers, duties, and functions.

Sec. 352. All powers, duties, and functions vested by law in the state highway department are transferred by a type I transfer to the department of transportation.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

16.453 Commissioner of state highways; transfer of powers, duties, and functions.

Sec. 353. All powers, duties, and functions now vested by law in the commissioner of state highways are transferred by a type I transfer to the state highway commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975.

Popular name: Act 380

16.454 State highway commission; appointment, qualifications, and terms of members; vacancy; quorum; compensation; expenses.

Sec. 354. The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that the members first appointed shall be appointed for specific terms of 1, 2, 3, and 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. A majority of the commission members shall be required to constitute a quorum. The compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1967, Act 182, Eff. Nov. 2, 1967;—Am. 1975, Act 70, Imd. Eff. May 20, 1975.

Popular name: Act 380

16.455 Director of department; appointment.

Sec. 355. The head of the department of transportation is the director of the department of transportation. The director shall be appointed as provided in section 5 of Act No. 286 of the Public Acts of 1964, as amended, being section 247.805 of the Michigan Compiled Laws.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec.

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1, 1978.

Popular name: Act 380

16.456 State bridge commission; transfer and abolition.

Sec. 356. The state bridge commission created under Act No. 147 of the Public Acts of 1935, as amended, being sections 254.151 to 254.167 of the Michigan Compiled Laws, is transferred by a type III transfer to the department of transportation, and the state bridge commission is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

16.457 Mackinac bridge authority; transfer to department of transportation; powers and duties of authority; employees; "authority" defined.

Sec. 357. (1) The Mackinac bridge authority created under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.305, is transferred to the department of transportation.

(2) The authority shall exercise its prescribed statutory powers, duties, and functions independently of the director of the department of transportation. The budgeting, procurement, and related management functions of the authority shall be performed by the authority consistent with the requirements of generally applicable state law in consultation with the director of the department of transportation.

(3) Individuals employed by the department of transportation to provide services to the authority shall be employees of the department of transportation, members of the state classified service, but shall report to the executive secretary of the authority.

(4) As used in this section, "authority" means the Mackinac bridge authority created under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.304.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978;—Am. 2005, Act 330, Imd. Eff. Dec. 28, 2005.

Popular name: Act 380

16.458 International bridge authority; transfer.

Sec. 358. The international bridge authority created under section 2 of Act No. 237 of the Public Acts of 1935, being section 254.202 of the Michigan Compiled Laws, is transferred by a type 1 transfer to the department of transportation.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1975, Act 70, Imd. Eff. May 20, 1975;—Am. 1978, Act 483, Imd. Eff. Dec. 1, 1978.

Popular name: Act 380

CHAPTER 16
DEPARTMENT OF LABOR

16.475 Department of labor; creation.

Sec. 375. There is hereby created a department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Compiler's note: For transfer of certain powers and duties of the department of labor to the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For renaming the department of consumer and industry services to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 380

16.476 Head of department of labor.

Sec. 376. The head of the department of labor is the director of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.477 Commissioner of labor; transfer; abolition of office.

Sec. 377. The commissioner of labor and all his powers, duties and functions, created under section 21 of Act No. 357 of the Public Acts of 1947, being section 408.21 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of labor, and the office of commissioner of labor is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

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Popular name: Act 380

16.478 Workmen's compensation appeal board; transfer.

Sec. 378. The workmen's compensation appeal board created under section 9 of chapter 1a of Act No. 357 of the Public Acts of 1947, being section 408.9 of the Compiled Laws of 1948, is transferred by a type 1 transfer to the department of labor, and notwithstanding any other provision of this act to the contrary, retains its authority to employ such personnel as provided by law.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.479 Employment security commission; employment security advisory council; employment security appeal board.

Sec. 379. (a) The Michigan employment security commission created by section 3 of Act No. 1 of the Extra Session of 1936, as amended, being section 421.3 of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement and management related functions are transferred to and shall be an autonomous entity in the department of labor.

(b) The Michigan employment security advisory council created by section 3a of Act No. 1 of the Extra Session of 1936, as amended, being section 421.3a of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations of other funds, including the functions of budgeting and procurement and management related functions are transferred to and shall be an autonomous entity in the department of labor.

(c) The Michigan employment security appeal board created by section 35 of Act No. 1 of the Extra Session of 1936, as amended, being section 421.35 of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement and management related functions are transferred to and shall be an autonomous entity in the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.480 Wage deviation board; transfer.

Sec. 380. The wage deviation board created under Act No. 154 of the Public Acts of 1964, as amended, being sections 408.381 to 408.396 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.481 Labor mediation board; transfer.

Sec. 381. The labor mediation board created under section 3 of Act No. 176 of the Public Acts of 1939, being section 423.3 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.482 Workmen's compensation department and director; transfer.

Sec. 382. The workmen's compensation department and the director of the workmen's compensation department created under chapter 1a of Act No. 357 of the Public Acts of 1947, being sections 408.1 to 408.12 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.483 Construction safety commission; transfer.

Sec. 383. The state construction safety commission created under section 3 of Act No. 89 of the Public Acts of 1963, being section 408.713 of the Compiled Laws of 1948, is transferred by a type 1 transfer to the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

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16.484 Office of inspector of coal mines; transfer and abolition.

Sec. 384. The office of inspector of coal mines created under section 2 of Act No. 177 of the Public Acts of 1913, as amended, being section 425.2 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of labor, and the office of inspector of coal mines is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.485 Board of boiler rules; transfer.

Sec. 385. The board of boiler rules created under Act No. 290 of the Public Acts of 1965, as amended, being sections 408.751 to 408.776 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of labor.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.486 Repealed. 1982, Act 34, Imd. Eff. Mar. 12, 1982.

Compiler's note: The repealed section transferred the carnival-amusement safety board, by a type II transfer, to the department of labor.

Transfer of powers: See MCL 16.732.

Popular name: Act 380

16.487 Elevator safety board; transfer.

Sec. 387. The elevator safety board created under section 7 of Act No. 227 of the Public Acts of 1967, being section 408.807 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of labor.

History: Add. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.490 Commission on agricultural labor; powers; appointment, qualifications, and terms of members; vacancies; expenses.

Sec. 390. There is established within the department a commission to be known as the commission on agricultural labor with powers of a type II transfer. The commission shall consist of 11 members, 4 of whom shall be chosen from growers and producers of agricultural products; 4 of whom shall be chosen from agricultural workers, of the 4 agricultural workers chosen 2 shall be permanent or year round workers and 2 shall be resident seasonal workers; and 3 shall be chosen from the general public. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate. Of the members first appointed, 2 chosen from growers and producers and 1 of the general public shall serve for a term of 3 years, 1 chosen from growers and producers and 1 of the general public shall serve for terms of 2 years each, 1 chosen from growers and producers and 1 of the general public shall serve for a term of 1 year, and their successors shall serve for terms of 3 years. Of those members first appointed to represent agricultural workers, 2 shall serve for 2 years and 2 shall serve for 3 years. Vacancies may be filled for the unexpired portion of the term in the same manner as appointments are made for a full term. The members shall serve without compensation other than for their necessary and proper expenses, which expenses are to be audited and paid from funds appropriated by the legislature for this purpose.

History: Add. 1968, Act 353, Eff. Nov. 15, 1968;—Am. 1976, Act 4, Imd. Eff. Feb. 8, 1976.

Popular name: Act 380

16.491 Commission; duties.

Sec. 391. The commission shall:

(a) Cooperate with all governmental agencies and committees concerned with agricultural labor including but not limited to migratory labor.

(b) Cooperate with private voluntary or community groups having as their prime concern problems involving agricultural labor.

(c) Conduct a continuing program for the people to acquaint them with the importance of agricultural labor and the sources from which it can be recruited to agriculture.

(d) Seek effective methods for the improvement of living, working and related problems affecting agricultural labor of all types.

(e) Formulate policies to effectuate the purposes of this act and make recommendations to agencies and officers of the state or local subdivisions of government on such policies and purposes.

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History: Add. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.492 State agencies; cooperation with commission.

Sec. 392. State agencies and departments whose work is related to the problems which affect agricultural labor shall cooperate with the commission in the implementation of this act.

History: Add. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.493 Commission; chairman; duties; meetings; committees.

Sec. 393. A chairman shall be selected by the governor whose duty shall be that of calling meetings of the commission at least quarterly but not oftener than 12 times a year, and presiding over such meetings. The commission may authorize committees of such commission to meet during interims between meetings.

History: Add. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.494 Commission; annual reports; recommendations.

Sec. 394. The commission shall render an annual report and also from time to time render recommendations to the governor, to the legislature and to the director of the department pertaining to agricultural labor, including recommendations for legislation.

History: Add. 1968, Act 353, Eff. Nov. 15, 1968.

Popular name: Act 380

16.496 Commission on disability concerns; type II transfer.

Sec. 396. The commission on disability concerns established under executive order 1995-10, MCL 395.351, and to which powers and duties described in 1968 PA 11, MCL 395.301 to 395.307, were transferred by a type II transfer to the department of consumer and industry services.

History: Add. 1972, Act 281, Imd. Eff. Oct. 19, 1972;—Am. 1998, Act 70, Imd. Eff. May 4, 1998.

Popular name: Act 380

CHAPTER 17
DEPARTMENT OF MENTAL HEALTH

16.500 Department of mental health; creation.

Sec. 400. There is hereby created a department of mental health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See MCL 16.731.

Popular name: Act 380

16.501 Head of department.

Sec. 401. The head of the department of mental health is the director of mental health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.502 Department of mental health; transfer of powers, duties, and functions.

Sec. 402. All powers, duties and functions vested by law in the department of mental health are transferred by a type I transfer to the department of mental health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.503 Director of department of mental health; transfer of powers, duties, and functions.

Sec. 403. All powers, duties and functions now vested by law in the director of the department of mental health are transferred by a type I transfer to the department of mental health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.504 Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: The repealed section pertained to the advisory council on mental health services.

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Popular name: Act 380

CHAPTER 18
DEPARTMENT OF PUBLIC HEALTH

16.525 Department of public health; creation.

Sec. 425. There is hereby created a department of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See MCL 16.731.

Popular name: Act 380

16.526 Head of department of public health.

Sec. 426. The head of the department of public health is the director of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.527 Department of health and state health commissioner; transfer of powers, duties, and functions.

Sec. 427. Except as otherwise provided in this act, all powers, duties and functions vested by law in the department of health and the state health commissioner are transferred by a type I transfer to the department of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.528 State veterans' facility and board of managers; transfer.

Sec. 428. The state veterans' facility of Michigan and the board of managers, created under Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.529 State council of health; transfer and abolition.

Sec. 429. The state council of health created under section 5 of Act No. 146 of the Public Acts of 1919, as amended, being section 325.5 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of public health and the state council of health is abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.530 Advisory hospital council; advisory council on tuberculosis sanitariums; advisory committee on use of animals; anatomy committee; transfer and abolition.

Sec. 430. The advisory hospital council, the advisory council on tuberculosis sanitariums, the advisory committee on the use of animals, and the anatomy committee are transferred by a type III transfer to the department of public health, and the advisory councils named in this section are abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.531 State board of alcoholism; transfer.

Sec. 431. The state board of alcoholism created under section 47a of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.47a of the Compiled Laws of 1948, is transferred by a type II transfer to the department of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.532 Michigan crippled children commission; transfer.

Sec. 432. The Michigan crippled children commission created under Act No. 158 of the Public Acts of 1937, as amended, being sections 722.201 to 722.244 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of public health.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

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Popular name: Act 380

CHAPTER 19
DEPARTMENT OF SOCIAL SERVICES

16.550 Department of social services; creation.

Sec. 450. There is hereby created a department of social services.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Transfer of powers: See MCL 16.731.

Popular name: Act 380

16.551 Head of department of social services.

Sec. 451. The head of the department of social services is the director of social services.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.552 Department of social welfare; transfer of powers, duties, and functions.

Sec. 452. All powers, duties and functions of the state department of social welfare created under Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.90 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of social services.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.553 Michigan social welfare commission and office of director of social welfare; transfer and abolition.

Sec. 453. The Michigan social welfare commission and the office of director of the state department of social welfare created under sections 2 and 3 of Act No. 280 of the Public Acts of 1939, as amended, being sections 400.2 and 400.3 of the Compiled Laws of 1948, are transferred by a type III transfer to the department of social services and the Michigan social welfare commission and the office of the director of the state department of social welfare are abolished.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.554 Michigan commission on aging; transfer.

Sec. 454. The Michigan commission on aging created under section 1 of Act No. 11 of the Public Acts of 1960, being section 400.501 of the Compiled Laws of 1948, is transferred by a type 1 transfer to the department of social services.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

CHAPTER 20
DEPARTMENT OF CIVIL RIGHTS

16.575 Department of civil rights; creation.

Sec. 475. There is hereby created a department of civil rights.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.576 Head of department of civil rights.

Sec. 476. The head of the department of civil rights is the civil rights commission.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.577 Civil rights commission; continuation of constitutional powers, duties, and functions.

Sec. 477. All powers, duties and functions vested by law or the state constitution in the civil rights commission are continued.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

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CHAPTER 21
TRANSFER OF POWERS

16.600 Actions, suits, or proceedings not to abate by reason of reorganization; maintenance by or against successors.

Sec. 500. No suit, action or other proceeding lawfully commenced by or against any department, board, commission, agency or any officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by the reason of the taking effect of any reorganization under the provisions of this act. The court may allow the suit, action or other proceeding to be maintained by or against the successor of any department, board, commission, agency or any officer affected by this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.601 Continuation of rules, regulations, and orders adopted prior to act.

Sec. 501. All rules, regulations and orders of departments, boards, commissions or other agencies lawfully adopted prior to the effective date of any provision of this act shall continue to be effective until revised, amended or repealed.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.602 Criminal action not to abate.

Sec. 502. No criminal action commenced by the state shall abate by the taking effect of this act.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.603 Appointment of principal department head; access of appointee to records; continuation of powers and duties.

Sec. 503. The governor may appoint the head of any principal department not otherwise elected or appointed. Prior to assuming his duties as head of a department, the appointee shall have full access to all departments and agencies and records thereof relevant to his prospective duties for the purpose of formulating the internal organization of the department. During the period before the transfer of any powers, duties and functions in accordance with this act, existing departments and agencies shall continue to exercise their powers, duties and functions.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1965, Act 407, Imd. Eff. Oct. 29, 1965.

Popular name: Act 380

16.604 Establishment of effective date of each section by executive order; limitations as to constitutional offices; final effective date.

Sec. 504. The governor shall establish, from time to time, by executive order the effective date of each section of this act which provides for the transfer of any organizational entity or the powers, duties and functions of any organizational entity or officer as provided in this act, but in no case shall such transfer change the powers, duties and functions of any state official elected in a general election prior to January 1, 1964, before the expiration of his term of office in contravention of the state constitution. All provisions of this act shall become effective not later than December 31, 1966.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.605 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

Compiler's note: The repealed section pertained to transfer of records, property, personnel, and funds to principal department.

Popular name: Act 380

16.606 Advisory councils; members; terms; vacancies; meetings; compensation.

Sec. 506. The governor may establish in the departments of commerce, labor, state police, military affairs, public health, licensing and regulation, and social services, advisory councils consisting of 8 members appointed by the governor with the advice and consent of the senate. The term of office of each member of an advisory council shall be 4 years, except that of the members first appointed, 2 each shall be appointed for terms of 1, 2, 3 and 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The advisory councils shall meet upon the call of the head of

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their respective departments and shall advise and consult with the head of the department. Members of advisory councils shall receive no compensation, but may be reimbursed for the actual and necessary expenses incurred in carrying out their advisory functions.

History: 1965, Act 380, Imd. Eff. July 23, 1965;—Am. 1970, Act 138, Imd. Eff. Aug. 1, 1970.

Popular name: Act 380

16.607 Executive designation of successor to state officer not continued under act when member of governmental agency.

Sec. 507. If under any law a state officer or state department official is designated as a member of a governmental agency and if such state officer or state departmental official is not continued under the provisions of this act, the governor by executive order may designate a state officer or state departmental official to succeed to the membership.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

16.608 Executive appointment of single executive head of principal department.

Sec. 508. When a single executive is the head of a principal department, unless elected as provided in the constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

History: 1965, Act 380, Imd. Eff. July 23, 1965.

Popular name: Act 380

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EXECUTIVE ORDER
No. 2009 — 45

DEPARTMENT OF AGRICULTURE
DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DEPARTMENT OF NATURAL RESOURCES
DEPARTMENT OF TREASURY

CREATING THE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

EXECUTIVE REORGANIZATION

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department of state government shall be under the supervision of the Governor, unless otherwise provided in the Constitution;

WHEREAS, Section 52 of Article IV of the Michigan Constitution of 1963 declares the conservation and development of the natural resources of this state to be of paramount public concern in the interest of the health, safety, and general welfare of the people;

WHEREAS, the people of the State of Michigan have consistently demonstrated the importance of both natural resource management and protection of Michigan's unique environmental qualities; and

WHEREAS, the conservation and development of the natural resources of this state can best be achieved through efficient and coordinated management of state policies, programs, and functions, including, but not limited to, the

implementation of an ecosystem-based strategy for resource management aimed at protecting and enhancing the sustainability, diversity, and productivity of the natural resources of this state;

WHEREAS, the consolidation of state government functions related to the natural resources and environment of this state will eliminate unnecessary duplication and facilitate more effective and efficient coordination of policies, programs, and functions related to natural resources and protecting the environment;

WHEREAS, the consolidation of state government functions related to the natural resources of this state and protection of the environment will better enable this state to conserve, manage, protect, and promote Michigan's environmental, natural resource, and related economic interests for current and future generations;

WHEREAS, the consolidation of state government functions related to the natural resources of the state will facilitate the effective use of our natural resources in a sustainable manner, preserve Michigan's rich outdoor heritage, provide quality and accessible public outdoor recreation, restore the Great Lakes and other degraded natural systems to ensure resiliency and sustainability, and promote stewardship of Michigan's natural resources through education, awareness, and action;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government and to reduce the number of principal state departments;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

B. "Commission of Agriculture" means the commission created under Section 1 of 1921 PA 13, MCL 285.1 and continued under Section 179 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.279.

C. "Commission of Natural Resources" means the commission created under Section 1 of 1921 PA 17, MCL 299.1, continued under Section 254 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.354, transferred to the Department of Natural Resources under Executive Order 1991-22, MCL 299.13, and

continued under Section 501 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.501.

D. "Department of Agriculture" means the principal department of state government created under Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

E. "Department of Energy, Labor, and Economic Growth" means the principal department of state government created by Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order 1996-2, MCL 445.2001, by Executive Order 2003-18, MCL 445.2011, and by Executive Order 2008-20, MCL 445.2025.

F. "Department of Environmental Quality" means the principal department of state government created under Executive Order 1995-18, MCL 324.99903.

G. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

H. "Department of Natural Resources" means the principal department of state government provided for by Section 250 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.350, Executive Order 1991-22, MCL 299.13, and Section 501 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.501, as modified by Executive Order 1995-18, MCL 324.99903.

I. "Department of Natural Resources and Environment" or "Department" means the principal department of state government created under Section II of this Order.

J. "Department of Treasury" means the principal department of state government created under Section 75 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.175.

K. "Environmental Science Review Boards" means the boards provided for under Section II.C. of this Order.

L. "Executive Director of the Michigan Gaming Control Board" or "Executive Director" means the position created under Section 4 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.204.

M. "Michigan Gaming Control Board" means the board created under Section 4 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.204.

N. "Michigan Trails Advisory Council" or "Council" means the council created under Section II.D. of this Order.

O. "Natural Resources Commission" or "Commission" means the commission provided for by Section II.B. of this Order.

P. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

Q. "Type I transfer" means that phrase as defined in Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

R. "Type II transfer" means that phrase as defined in Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

S. "Type III transfer" means that phrase as defined in Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. CREATION OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

A. Establishing the Department of Natural Resources and Environment as a Principal Department of State Government

1. The Department of Natural Resources and Environment is created as a principal department of state government. The Department shall protect and conserve the air, water, and other natural resources of this state.

2. The Director of the Department of Natural Resources and Environment shall be the head of the Department. Consistent with Section 3 of Article V of the Michigan Constitution of 1963, the Director of the Department shall be appointed by the Governor, subject to disapproval under Section 6 of Article V of the Michigan Constitution of 1963, and shall serve at the pleasure of the Governor.

3. The Director of the Department of Natural Resources and Environment shall establish the internal organization of the Department and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the Department.

4. The Director of the Department of Natural Resources and Environment may promulgate rules and regulations as may be necessary to carry out functions vested in the Director under this Order or other law in accordance with the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

5. The Director of the Department of Natural Resources and Environment may perform a duty or exercise a power conferred by law or executive order upon the Director of the Department at the time and to the extent the duty or power is delegated to the Director of the Department by law or order.

6. The Director of the Department of Natural Resources and Environment may appoint 1 or more deputy directors and other assistants and employees as are necessary to implement and effectuate the powers, duties, and functions vested in the Department under this Order or other law of this state. Deputies may perform the duties and exercise the duties as prescribed by the Director. The Director may delegate within the Department a duty or power conferred on the Director of the Department by this Order or by other law, and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the Director of the Department.

7. Decisions made by the Director of the Department of Natural Resources and Environment or persons to whom the Director has lawfully delegated decision-making authority shall be subject to judicial review as provided by law and in accordance with applicable court rules.

8. The Director of the Department of Natural Resources and Environment may utilize administrative law judges and hearing officers employed by the State Office of Administrative Hearings and Rules created by Executive Order 2005-1, MCL 445.2021, to conduct contested case hearings and to issue proposals for decisions as provided by law or rule.

9. The position of the Director of the Department of Natural Resources as a member or chairperson of all of the following boards or commissions is transferred to the Director of the Department of Natural Resources and Environment:

a. *Ex officio* member of the Michigan Historical Commission under Section 1 of the Michigan Historical Commission Act, 1913 PA 271, MCL 399.1.

b. Member of the Michigan Freedom Trail Commission under Section 3 of the Michigan Freedom Trail Commission Act, 1998 PA 409, MCL 399.83.

c. *Ex officio* member of the Michigan Public Safety Communications System Advisory Board created under Executive Order 2005-8.

d. Member and Chairperson of the Michigan Commission on the Commemoration of the Bicentennial of the War of 1812 created by Executive Order 2007-51.

e. Member and Chairperson of the Michigan Center for Innovation and Reinvention Board created under Section IV of Executive Order 2009-36.

10. The position of the Director of the Department of Environmental Quality as a member or chairperson of all of the following boards or commissions is transferred to the Director of the Department of Natural Resources and Environment:

a. Member of the Michigan Supply Chain Management Development Commission created within the Department of Treasury under Section 3 of 2008 PA 398, MCL 125.1893. Nothing in this paragraph shall be construed to authorize the use of state funds for the operations of the Michigan Supply Chain Management Development Commission.

b. Member and Chairperson of the Brownfield Redevelopment Board created under Section 20104a of the Natural Resources and Protection Act, 1994 PA 451, MCL 324.20104a, as modified by Executive Order 2003-18, MCL 445.2011, and Executive Order 2006-13, MCL 125.1991.

c. *Ex officio* member of the State Plumbing Board created within the Department of Energy, Labor, and Economic Growth under Section 13 of the State Plumbing Act, 2002 PA 733, MCL 338.3523.

d. Member of the Michigan Homeland Protection Board created within the Department of State Police under Executive Order 2003-6.

e. Member of the Michigan Citizen-Community Emergency Response Coordinating Council created within the Department of State Police under Executive Order 2007-18.

f. Member of the Great Lakes Wind Council created within the Department of Energy, Labor, and Economic Growth under Executive Order 2009-1.

11. The position as an *ex officio* member of the State Plumbing Board held by an employee of the Department of Environmental Quality designated by the Director of the Department of Environmental Quality under Section 13 of the State Plumbing Act, 2002 PA 733, MCL 338.3523, is transferred to a qualified employee of the Department of Natural Resources and Environment designated by the Director of the Department of Natural Resources and Environment.

12. Subject to available funding, the Director of the Department of Natural Resources and Environment shall continue efforts to reduce the time for the processing and issuance of environmental permits and related customer service practices with the objective of achieving best-in-class permit processing time and improved customer service. As used in this paragraph, "environmental permits" means all permits and operating licenses issued by the Department. Environmental permits do not include hunting, fur harvester, or fishing licenses or other licenses or permits issued under any of the following:

a. Part 401 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40101 to 324.40120.

b. Part 413 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.41301 to 324.41325.

c. Part 421 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.42101 to 324.42106.

d. Part 427 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.42701 to 324.42714.

e. Part 435 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.43501 to 324.43561.

f. Part 441 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.44101 to 324.44106.

g. Part 445 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.44501 to 324.44526.

h. Part 457 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.45701 to 324.45711.

i. Part 459 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.45901 to 324.45908.

j. Part 473 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.47301 to 324.47362.

k. Part 515 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.51501 to 324.51514.

l. Part 741 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.74101 to 324.74126.

m. Part 761 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.76101 to 324.76118.

n. Part 801 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.80101 to 324.80199.

o. Part 811 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81101 to 324.81150.

p. Part 821 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.82101 to 324.82160.

q. Section 509 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.509.

13. The Director of the Department of Natural Resources and Environment may establish advisory workgroups, advisory councils, or other ad hoc committees to provide citizen and other public input and to advise the Director or the Department on the exercise of the authority, powers, duties, functions, responsibilities vested in the Department of Natural Resources and Environment.

B. Natural Resources Commission

1. Except as otherwise provided in this Order, the Commission of Natural Resources is transferred by Type II transfer from the Department of Natural Resources to the Department of Natural Resources and Environment. The Commission of Natural Resources is renamed the Natural Resources Commission. Members of the Commission shall be knowledgeable about conservation and committed to the scientific management of natural resources. This paragraph does not affect the continued service or terms of office of the Commission of Natural Resources.

2. The Governor shall designate a member of the Natural Resources Commission to serve as its Chairperson at the pleasure of the Governor. The Commission may select a member of the Commission to serve as Vice-Chairperson of the Commission.

3. The Natural Resources Commission shall have and continue to exercise the authority, powers, duties, functions, and responsibilities previously vested in the Commission on Natural Resources under all of the following:

a. Part 435 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.43501 to 324.43561.

b. Section 40111a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40111a.

c. Section 40113a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40113a.

4. Except as otherwise provided in this Order, the final decision of the Natural Resources Commission in any of the matters assigned to it under Section II.B.3. of this Order shall be made by the Natural Resources Commission or a person to whom the Commission has lawfully delegated such authority. Decisions by the Natural Resources Commission shall be subject to judicial review as provided by law and in accordance with applicable court rules.

5. Except as otherwise provided in this Order, the Natural Resources Commission may utilize administrative law judges and hearing officers employed by the State Office of Administrative Hearings and Rules created by Executive Order 2005-1, MCL 445.2021, to conduct contested case hearings and to issue proposals for decisions as provided by law or rule.

6. The Natural Resources Commission shall provide advice to the Director of the Department of Natural Resources and Environment on matters related to natural resources and conservation and may perform additional duties as provided by this Order, other law, or as requested by the Director or the Governor.

7. The Natural Resources Commission shall be staffed and assisted by personnel from the Department of Natural Resources and Environment, subject to available funding. Any budgeting, procurement, or related management functions of the Commission shall be performed under the direction and supervision of the Director of the Department.

8. The Natural Resources Commission shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

9. A majority of the members of the Natural Resources Commission serving constitutes a quorum for the transaction of the Commission's business. The Commission shall act by a majority vote of its serving members.

10. The Natural Resources Commission shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Commission.

11. The Natural Resources Commission may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public. Subject to available funding, the Commission may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

12. Members of the Natural Resources Commission shall serve without compensation. Members of the Commission may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

13. The Natural Resources Commission may accept donations of labor, services, or other things of value from any public or private agency or person.

14. Members of the Natural Resources Commission shall refer all legal, legislative, and media contacts to the Department.

C. Environmental Science Review Boards

1. The Director of the Department of Natural Resources and Environment may from time to time create one or more environmental science review boards to advise the Department of Natural Resources and Environment and the Governor on scientific issues affecting the protection and management of Michigan's environment and natural resources, or affecting a program administered by the Department of Natural Resources and Environment.

2. A board created under Section II.C.1. of this Order shall consist of 7 members appointed by the Director, each of whom shall have expertise in one or more of the following areas: biological sciences; chemistry; ecological science; engineering; geology; physics; risk assessment; and other related disciplines.

3. A board created under Section II.C.1. of this Order shall assess the scientific issue before the board and shall determine whether the board has sufficient expertise to fully review the issue. Should that board determine that additional expertise would aid the board in its review, the board may request assistance from 1 or more persons with knowledge and expertise related to the subject of the specific scientific inquiry.

4. The Director of the Department of Natural Resources and Environment shall designate a member of a board created under Section II.C.1. of this Order to serve as the chairperson of that board at the pleasure of the Director. The board may select a member of the board to serve as Vice-Chairperson of the board.

5. A board created under Section II.C.1. of this Order shall be staffed and assisted by personnel from the Department of Natural Resources and Environment, subject to available funding. Any budgeting, procurement, or related management functions of the board shall be performed under the direction and supervision of the Director of the Department.

6. A board created under Section II.C.1. of this Order shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

7. A majority of the members serving on a board created under Section II.C.1. of this Order constitutes a quorum for the transaction of the board's business, and such a board shall act by a majority vote of its serving members.

8. A board created under Section II.C.1. of this Order shall meet at the call of its chairperson and as may be provided in procedures adopted by the board.

9. A board created under Section II.C.1. of this Order may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive

comments from the public. The board may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, government agencies, and at institutions of higher education.

10. Members of a board created under Section II.C.1. of this Order shall serve without compensation. Members of a board created under Section II.C.1. of this Order may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

11. A board created under Section II.C.1. of this Order may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Board and the performance of its duties as the Director of the Department of Natural Resources and Environment deems advisable and necessary, in accordance with this Order, the relevant statutes, the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

12. A board created under Section II.C.1. of this Order may accept donations of labor, services, or other things of value from any public or private agency or person.

D. Michigan Trails Advisory Council

1. The Michigan Trails Advisory Council is created as an advisory body within the Department of Natural Resources and Environment.

2. The Council shall advise the Director of the Department of Natural Resources and Environment and the Governor on the creation, development, operation, and maintenance of motorized and non-motorized trails in this state, including, but not limited to, snowmobile, biking, equestrian, hiking, off-road vehicle, and skiing trails. In advising the Director and the Governor on the creation and development of motorized and non-motorized trails in this state, the Council shall seek to have the trails linked where ever possible. The Council may perform additional related duties as provided by this Order, other law, or as requested by the Director or the Governor.

3. The Council shall consist of 7 members appointed by the Governor. Members of the Council shall be appointed for a term of 4 years. A vacancy on the Council occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term. A vacancy shall not affect the power of the remaining members to exercise the duties of the Council.

4. The Governor shall designate a member of the Council to serve as the Chairperson of the Council at the pleasure of the Governor. The Council may select a member of the Council to serve as Vice-Chairperson of the Council.

5. The Council shall be staffed and assisted by personnel from the Department of Natural Resources and Environment, subject to available funding. Any budgeting, procurement, or related management functions of the Council shall be performed under the direction and supervision of the Director of the Department.

6. The Council shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

7. A majority of the members of the Council serving constitutes a quorum for the transaction of the Council's business. The Council shall act by a majority vote of its serving members.

8. The Council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Council.

9. The Council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, government agencies, and at institutions of higher education.

10. The Council may establish advisory workgroups, including, but not limited to, an advisory workgroup on snowmobiles, as deemed necessary by the Council to assist the Council in performing the duties and responsibilities of the Council.

11. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

12. The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Director of the Department of Natural Resources and Environment deems advisable and necessary, in accordance with this Order, the relevant statutes, the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

13. The Council may accept donations of labor, services, or other things of value from any public or private agency or person.

14. Members of the Council shall refer all legal, legislative, and media contacts to the Department of Natural Resources and Environment.

III. DEPARTMENT OF NATURAL RESOURCES

A. Transfers from the Department of Natural Resources

1. Except as otherwise provided in this Order, all of the authority, powers, duties, functions, responsibilities, personnel, equipment, property, and budgetary resources of the Department of Natural Resources are transferred by Type II transfer to the Department of Natural Resources and Environment, including, but not limited to, the authority, powers, duties, functions, and responsibilities of the Department of Natural Resources under all of the following:

a. 1974 PA 359, MCL 3.901 to 3.910 ("Sleeping Bear Dunes National Lakeshore").

b. The Executive Organization Act of 1965, 1965 PA 380, MCL 16.350 to 16.360.

c. The Property Rights Preservation Act, 1996 PA 101, MCL 24.421 to 24.425.

d. Section 2 of the Methamphetamine Reporting Act, 2006 PA 262, MCL 28.192.

e. Section 7 of the Hazardous Materials Transportation Act, 1998 PA 138, MCL 29.477.

f. Section 4c of 1913 PA 172, MCL 32.224c ("Crawford County land").

g. Section 48 of State Employees' Retirement Act, 1943 PA 240, MCL 38.48.

h. Section 8b of the Township and Village Public Improvement and Public Service Act, 1923 PA 116, MCL 41.418b.

i. Section 26 of The Home Rule Village Act, 1909 PA 278, MCL 78.26.

j. Section 10 of 1957 PA 185, MCL 123.740 ("county department and board of public works").

k. 1990 PA 182, MCL 141.1301 to 141.1304 ("county redistribution of federal payments").

l. Sections 7g and 7jj of The General Property Tax Act, 1893 PA 206, MCL 211.7g and MCL 211.7jj.

m. 1943 PA 92, MCL 211.371 to 211.375 ("withholding lands from sale").

n. Section 18 of 1909 PA 283, MCL 224.18 ("public highways and private roads").

o. Sections 3 and 4 of 1927 PA 341, MCL 247.43 and 247.44 ("discontinuation of highway bordering lake or stream").

p. Section 4 of 1941 PA 359, MCL 247.64 ("noxious weeds").

q. Sections 602a and 660 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.602a and 257.660.

r. Section 4 of the Michigan Aquaculture Development Act, 1996 PA 199, MCL 286.874.

s. 1976 PA 308, MCL 287.251 to 287.258 ("disposal of livestock").

t. Section 14 of the Animal Industry Act, 1988 PA 466, MCL 287.714.

u. Privately Owned Cervidae Producers Marketing Act, 2000 PA 190, MCL 287.951 to 287.969.

v. 1986 PA 109, MCL 300.21 to 300.22 ("conservation officers").

w. The Right to Forest Act, 2002 PA 676, MCL 320.2031 to 320.2036.

x. The Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 to 324.90106.

y. The Clean Michigan Initiative Act, 1998 PA 284, MCL 324.95101 to 324.95108.

z. 2008 PA 290, MCL 324.95151 to 324.95155 ("control of gray wolves").

aa. 2008 PA 318, MCL 324.95161 to 324.95167 ("removal, capture, or lethal control of gray wolf").

bb. The Great Lakes Water Quality Bond Authorization Act, 2002 PA 396, MCL 324.95201 to 324.95208.

cc. The Michigan Civilian Conservation Corps Act, 1984 PA 22, MCL 409.301 to 409.314.

dd. Sections 167a and 167c of The Michigan Penal Code, 1931 PA 328, MCL 750.167a and 750.167c.

ee. Executive Order 1973-2, MCL 299.11.

ff. Executive Order 1973-12, MCL 125.241.

gg. Executive Order 1988-4, MCL 299.12.

hh. Executive Order 1991-31, MCL 299.13.

ii. Executive Order 1995-7, MCL 324.99901.

jj. Executive Order 2004-3, MCL 287.981.

kk. Executive Order 2007-14, MCL 324.99910.

ll. Executive Order 2009-14, MCL 324.99916.

mm. Executive Order 2009-15, MCL 324.99917.

2. The powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Department of Natural Resources transferred to the Department of Natural Resources and Environment under Section III of this Order shall include, without limitation, the powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Department of Natural Resources relating to invasive species management.

3. Except as otherwise provided in this Order, all of the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the Director of the Department of Natural Resources are transferred to the Director of the Department of Natural Resources and Environment.

4. The Department of Natural Resources is abolished.

5. After the effective date of this Order, statutory and other legal references to the Department of Natural Resources shall be deemed references to the Department of Natural Resources and Environment.

B. Citizens Committee for Michigan State Parks

1. The powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Citizens Committee for Michigan State Parks created under Section 74102a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.74102a, are transferred from the Department of Natural Resources to the Natural Resources Commission provided for under Section II of this Order.

2. The Citizens Committee for Michigan State Parks is abolished.

C. Mackinac Island State Park Commission

1. The Mackinac Island State Park Commission provided for under 1958 PA 201, MCL 318.201 to 318.208, transferred under Section 256 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.356, and created by Section 76503 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.76503, and transferred to the Department of Natural Resources under Executive Order 2009-36, is transferred by Type I transfer from the Department of Natural Resources to the Department of Natural Resources and Environment, including, but not limited to, the authority, powers, duties, functions, and responsibilities of the Commission under all of the following:

a. Sections 76501 to 76509, 76701 to 76709, 76901 to 76903, 77101, 77301, 77302, 77701 to 77704, and 77901 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.76501 to 324.76509, 324.76701 to 324.76709, 324.76901 to 324.76903, 324.77101, 324.77301, 324.77302, 324.77701 to 324.77704, and 324.77901.

b. Section 511 of the Michigan Liquor Control Code of 1998, 58 PA 1998, MCL 436.1511.

D. Michigan Forest Finance Authority

1. The Michigan Forest Finance Authority created under Section 50503 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50503, is transferred by Type I transfer from the Department of Natural Resources to the Department of Natural Resources and Environment.

2. The position of the Director of the Department of Natural Resources or his or her designee from within that Department as a member of the Board of Directors of the Michigan Forest Finance Authority under Section 50504 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.50504, is transferred to the Director of the Department of Natural Resources and Environment or his or her designee from within that Department.

E. Michigan Natural Resources Trust Fund Board

1. The Michigan Natural Resources Trust Fund Board, created under Section 1905 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.1905, is transferred by Type I transfer from the Department of Natural Resources to the Department of Natural Resources and Environment.

2. The position of the Director of the Department of Natural Resources or a member of the Commission on Natural Resources as a member of the Michigan Natural Resources Trust Fund Board under Section 1905 of the Natural Resources

and Environmental Protection Act, 1994 PA 451, MCL 324.1905, is transferred to the Director of the Department of Natural Resources and Environment or his or her designee from within the Department, including, but not limited to, a member of the Natural Resources Commission.

F. Michigan Snowmobile Advisory Committee

1. The powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Michigan Snowmobile Advisory Committee created within the Department of Natural Resources under Section 82102a of the Natural Resources and Environmental Protection Act of 1994, 1994 PA 324.82102a, are transferred to the Michigan Trails Advisory Council created under Section II.D. of this Order.

2. The Michigan Snowmobile Advisory Committee is abolished.

G. Michigan Trailways Advisory Council

1. The powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Michigan Trailways Advisory Council created within the Department of Natural Resources under Section 72110 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.72110, are transferred are transferred to the Michigan Trails Advisory Council created under Section II.D. of this Order.

2. The Michigan Trailways Advisory Council is abolished.

H. Water Resources Conservation Advisory Council

1. The Water Resources Conservation Advisory Council created within the Department of Natural Resources under Section 32803 of the Natural Resources and Environmental Protection Act of 1994, 1994 PA 324.32803, which was required to complete its final report by August 8, 2009, is transferred by Type III transfer from the Department of Natural Resources to the Natural Resources Commission provided for under Section II of this Order.

2. The Water Resources Conservation Advisory Council is abolished.

IV. DEPARTMENT OF ENVIRONMENTAL QUALITY

A. Transfers from the Department of Environmental Quality

1. Except as otherwise provided in this Order, all of the authority, powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Department of Environmental Quality are transferred by Type II transfer to the Department of Natural Resources and Environment, including, but

not limited to, the authority, powers, duties, functions, and responsibilities of the Department of Environmental Quality under all of the following:

a. Sections 2b and 2d of 1855 PA 105, MCL 21.142b and 21.142d ("surplus funds in treasury").

b. The Property Rights Preservation Act, 1996 PA 101, MCL 24.421 to 24.425.

c. Fire Prevention Code, 1941 PA 207, MCL 29.1 to 29.34.

d. The Hazardous Materials Transportation Act, 1998 PA 138, MCL 29.472 to 29.480.

e. Section 8a of the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.508a.

f. Sections 7, 9, and 10 of the Land Bank Fast Track Act, 2003 PA 258, MCL 124.757, 124.759, and 124.760.

g. Section 10 of the Water Resource Improvement Tax Increment Finance Authority Act, 2008 PA 94, MCL 125.1780.

h. The Mobile Home Commission Act, 1987 PA 96, MCL 125.2301 to 125.2349.

i. The Brownfield Redevelopment Financing Act, 1996 PA 381, MCL 125.2651 to 125.2672.

j. The Safe Drinking Water Financial Assistance Act, 2000 PA 147, MCL 141.1451 to 141.1455.

k. Section 437 of the Michigan Business Tax Act, 2007 PA 436, MCL 208.1437.

l. Sections 9, 24, 34c, 34d, 53, 78g, and 78m of The General Property Tax Act, 1893 PA 206, MCL 211.9, 211.24, 211.34c, 211.34d, 211.53, 211.78g, and 211.78m.

m. Section 4 of 1951 PA 77, MCL 211.624 ("tax on low grade iron ore").

n. Sections 5 to 8 of 1963 PA 68, MCL 207.275 to 207.278 ("iron ore tax").

o. Section 811i of the Michigan Vehicle Code, 1949 PA 300, MCL 257.811i.

p. Section 204 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.204.

q. Section 423 of The Drain Code of 1956, 1956 PA 40, MCL 280.423.

r. Section 3 of the Julian-Stille Value-Added Act, 2000 PA 322, MCL 285.303.

s. Section 3 of 2008 PA 330, MCL 285.343 ("publication of information establishing alternative fuels facilities").

t. Section 4 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.474.

u. Section 14 of the Animal Industry Act, 1988 PA 466, MCL 287.714.

v. Sections 3, 6, 7, and 14 of the Privately Owned Cervidae Producers Marketing Act, 2000 PA 190, MCL 287.953, 287.956, 287.957, and 287.964.

w. Section 20 of the Grade A Milk Law of 2001, 2001 PA 266, MCL 288.490.

x. Sections 2 and 4 of the Michigan Agricultural Processing Act, 1998 PA 381, MCL 289.822 and 289.824

y. Section 7107 of the Food Law of 2000, 2000 PA 92, MCL 289.7107.

z. Sections 9j and 10d of the Motor Fuels Quality Act, 1984 PA 44, MCL 290.649j and 290.650d.

aa. The Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 to 324.90106.

bb. The Safe Drinking Water Act, 1976 PA 399, MCL 325.1001 to 325.1023.

cc. Sections 9601, 12103, 12501 to 12563, 12701 to 12771, 13501 to 13536, 13716, 13801 to 13831, and 16631 of the Public Health Code, 1978 PA 368, MCL 333.9601, 333.12103, 333.12501 to 333.12563, 333.12701 to 333.12771, 333.13501 to 333.13536, 333.13716, 333.13801 to 333.13831, and 333.16631.

dd. Low-Level Radioactive Waste Authority, 1987 PA 204, MCL 333.26201 to 333.26226.

ee. Section 3f of 1976 Initiated Law 1, MCL 445.573f ("beverage containers").

ff. Sections 27 and 77 of the Clean, Renewable, and Efficient Energy Act, 2008 PA 295, MCL 460.1027 and 460.1077.

gg. Sections 71 and 71a of the Condominium Act, 1978 PA 59, MCL 559.171 and 559.171a.

hh. Sections 105, 116 to 118, 194, and 254 of the Land Division Act, 1967 PA 288, MCL 560.105, 560.116 to 560.118, 560.194, and 560.254.

ii. Executive Order 1995-18, MCL 324.99903.

jj. Executive Order 1996-1, MCL 330.3101.

kk. Executive Order 1996-2, MCL 445.2001.

ll. Executive Order 1997-2, MCL 29.451.

mm. Executive Order 1997-3, MCL 324.99904.

nn. Executive Order 1998-2, MCL 29.461.

oo. Executive Order 2007-6, MCL 324.99905.

pp. Executive Order 2007-7, MCL 324.99906.

qq. Executive Order 2007-8, MCL 324.99907.

rr. Executive Order 2007-10, MCL 324.99908.

ss. Executive Order 2007-13, MCL 324.99909.

tt. Executive Order 2007-21, MCL 324.99911.

uu. Executive Order 2007-29, MCL 324.99912.

vv. Executive Order 2007-33, MCL 324.99913.

ww. Executive Order 2007-34, MCL 324.99914.

xx. Executive Order 2009-13, MCL 324.99915.

yy. Executive Order 2009-17, MCL 333.26365.

zz. Executive Order 2009-26, MCL 324.99918.

aaa. Executive Order 2009-28, MCL 333.26367.

bbb. Section 11117 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.11117, as transferred under Section IV.D. of this Order.

2. The powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Department of Environmental Quality transferred to the Department of Natural Resources and Environment under Section IV of this Order shall include, without limitation, the powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Department of Environmental Quality relating to invasive species management.

3. Except as otherwise provided in this Order, all of the authority, powers, duties, functions, responsibilities, rule-making authority, personnel, equipment, and budgetary resources of the Director of the Department of Environmental Quality are transferred to the Director of the Department of Natural Resources and Environment.

4. The Department of Environmental Quality is abolished.

5. After the effective date of this Order, statutory and other legal references to the Department of Environmental Quality shall be deemed references to the Department of Natural Resources and Environment.

B. Office of the Great Lakes

1. The Office of the Great Lakes created under Section 32903 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.32903, and subsequently transferred to the Department of Environmental Quality by Executive Order 1995-18, MCL 324.99903, is transferred by Type I transfer from the Department of Environmental Quality to the Department of Natural Resources and Environment.

2. The Director of the Office of the Great Lakes shall continue to serve as a member of the Governor's Cabinet.

C. Low-Level Radioactive Waste Authority

1. The Low-Level Radioactive Waste Authority, created within the Department of Management and Budget under Section 3 of the Low-Level Radioactive Waste Authority Act, 1987 PA 204, MCL 333.26203, and transferred to the Department of Commerce under Executive Order 1991-23, MCL 333.26251, and to the Department of Environmental Quality under Executive Order 1996-2, MCL 445.2001, is transferred by Type I transfer from the Department of Environmental Quality to the Department of Natural Resources and Environment.

2. The authority, powers, duties, and functions of the Commissioner of the Low-Level Radioactive Waste Authority are transferred by Type III transfer to

the Department of Natural Resources and Environment. The Director of the Department of Natural Resources and Environment, or his or her designee from within the Department, may perform the functions of the Commissioner of the Low-Level Radioactive Waste Authority or may administer the assigned functions of the Commissioner of the Low-Level Radioactive Waste Authority in other ways to promote efficient administration.

D. Site Review Board

1. The Site Review Board created within the Department of Environmental Quality under Section 11117 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.11117, is transferred by Type III transfer to the Department of Environmental Quality.

2. The Site Review Board is abolished.

V. DEPARTMENT OF AGRICULTURE

A. Michigan Commission of Agriculture

1. The Michigan Commission of Agriculture is transferred by Type II transfer to the Department of Agriculture. This paragraph does not affect the continued service or terms of office of the Michigan Commission of Agriculture.

2. Upon the effective date of this Order, the Director of the Department of Agriculture shall be the head of the Department. Consistent with Section 3 of Article V of the Michigan Constitution of 1963, after the effective date of this Order, any vacancy in the office of Director of the Department of Agriculture shall be filled by appointment of the Governor, subject to disapproval under Section 6 of Article V of the Michigan Constitution of 1963, and the Director of the Department of Agriculture shall serve at the pleasure of the Governor.

B. Agricultural Preservation Fund Board

1. The Agricultural Preservation Fund Board created within the Department of Agriculture under Section 36204 of the Natural Resources and Environmental Protection Act 1994 PA 451, MCL 324.36204, is transferred by Type III transfer to the Department of Agriculture.

2. The Agricultural Preservation Fund Board is abolished.

C. Michigan Family Farm Development Authority

1. The Michigan Family Farm Development Authority created within the Department of Agriculture under Section 3 of the Michigan Family Farm

Development Act, 1982 PA 220, MCL 285.253, is transferred by Type III transfer to the Department of Agriculture.

2. The Michigan Family Farm Development Authority is abolished.

D. Pesticide Advisory Committee

1. The Pesticide Advisory Committee created within the Department of Agriculture under Section 8326 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.8326, is transferred by Type III transfer to the Department of Agriculture.

2. The Pesticide Advisory Committee is abolished.

3. The Director of the Department of Agriculture may establish advisory workgroups, advisory councils, or other ad hoc committees to provide citizen and other public input and to advise the Director or the Department on the exercise of authority, powers, duties, functions, responsibilities vested in the Department of Agriculture, including, but not limited to, authority, powers, duties, functions, responsibilities vested in the Department of Agriculture under this Section V.D.

E. Office of Racing Commissioner

1. All of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Office of Racing Commissioner created within the Department of Agriculture under Section 3 of the Horse Racing Law of 1995, 1995 PA 279, MCL 431.303, are transferred from the Department of Agriculture to the Michigan Gaming Control Board, including, but not limited to, the authority, powers, duties, functions, records, personnel, property, independent balances of appropriations, allocations, or other funds under all of the following:

a. The Horse Racing Law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

b. 1951 PA 90, MCL 431.252 to 431.257.

c. Section 12 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.212.

d. Sections 4 and 5 of the Compulsive Gaming Prevention Act, 1997 PA 70, MCL 432.254 and 432.255.

2. The Office of Racing Commissioner and the position of Racing Commissioner are abolished.

3. The authority, powers, duties, functions, and personnel transferred under Section V.E. of this Order shall be performed under the direction and supervision of the Executive Director of the Michigan Gaming Control Board.

4. The Executive Director of the Michigan Gaming Control Board shall perform all the functions and exercise the powers of the Racing Commissioner, including, but not limited to, possessing the final authority over contested cases, licensing, and rule promulgation.

5. Except as otherwise provided in Section V.E. of this Order, the Executive Director of the Michigan Gaming Control Board shall provide executive direction and supervision for the implementation of all transfers under Section V.E. of this Order.

6. Internal organizational changes shall be made as may be administratively necessary to complete the realignment of responsibilities necessary under Section V.E. of this Order.

7. The authority, powers, duties, functions, and responsibilities transferred under Section V.E. of this Order shall be administered by the Executive Director of the Michigan Gaming Control Board in such ways as to promote efficient administration.

8. The Executive Director of the Michigan Gaming Control Board may in writing delegate a duty or power conferred on the Executive Director under Section V.E. of this Order or by other law, and the person to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the duty or power is delegated by the Executive Director.

9. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Office of Racing Commissioner for the activities, powers, duties, functions, and responsibilities transferred under Section V.E. of this Order are transferred to the Michigan Gaming Control Board.

10. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of Section V.E. of this Order.

11. Departments, agencies, and state officers within the executive branch of state government shall fully and actively cooperate with the Executive Director of the Michigan Gaming Control Board in the implementation of Section V.E. of this Order. The Executive Director may request the assistance of other departments, agencies, and state officers with respect to personnel, budgeting, procurement,

telecommunications, information systems, legal services, and other issues related to implementation of the transfers under Section V.E. of this Order, and the departments and agencies shall provide the assistance requested.

VI. DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

A. Upon the effective date of this Order, the State Interagency Council on Spanish-Speaking Affairs created under Section 6 of 1975 PA 164, MCL 18.306, transferred to the Director of the Department of Career Development by Type III transfer under Executive Order 2000-5, MCL 18.311, and restored within the Department of Energy, Labor, and Economic Growth under Executive Order 2003-18, MCL 445.2011, shall consist of all of the following members:

1. The Attorney General or his or her designee from within the Department of Attorney General.

2. The Director of the Department of Agriculture or his or her designee from within the Department of Agriculture.

3. The Director of the Department of Civil Rights or his or her designee from within the Department of Civil Rights.

4. The Director of the Department of Community Health or his or her designee from within the Department of Community Health.

5. The Director of the Department of Corrections or his or her designee from within the Department of Corrections.

6. The Director of the Department of Human Services or his or her designee from within the Department of Human Services.

7. The Director of the Department of Information Technology or his or her designee from within the Department of Information Technology.

8. The Director of the Department of Energy, Labor, and Economic Growth or his or her designee from within the Department of Energy, Labor, and Economic Growth.

9. The Director of the Department of Management and Budget or his or her designee from within the Department of Management and Budget.

10. The Director of the Department of Natural Resources and Environment or his or her designee from within the Department of Natural Resources and Environment.

11. The Executive Director of the Women's Commission.

12. The Executive Director of the Michigan State Housing Development Authority or his or her designee from within the Michigan State Housing Development Authority.

13. The President of the Michigan Strategic Fund or his or her designee from within the Michigan Strategic Fund.

14. The State Personnel Director or his or her designee from within the Civil Service Commission.

15. The State Treasurer or his or her designee from within the Department of Treasury.

16. The Secretary of State or his or her designee from within the Department of State.

17. The Superintendent of Public Instruction or his or her designee from within the Department of Education.

VII. IMPLEMENTATION OF TRANSFERS TO DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

A. The Governor shall designate an individual to serve as the Transition Manager for the implementation of transfers to the Department of Natural Resources and Environment. The Transition Manager shall immediately initiate coordination with departments and agencies within the executive branch of state government to facilitate the transfers to the Department under this Order. State departments and agencies shall actively cooperate with the transition manager as the Transition Manager performs duties and functions relating to the implementation of this Order. Except as otherwise provided in this Order, the transition manager shall provide executive direction and supervision for the implementation of the transfers to the Department under this Order.

B. The functions transferred to the Department of Natural Resources and Environment under this Order shall be administered under the direction and supervision of the Director of the Department.

C. The Director of the Department of Natural Resources and Environment shall administer the assigned functions transferred to the Department under this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order based upon initial recommendations from the transition manager.

D. Except as otherwise provided in this Order, any authority, duties, powers, functions, and responsibilities transferred to the Department of Natural

Resources and Environment under this Order, and not otherwise mandated by law, may in the future be reorganized to promote efficient administration by the Director of the Department.

E. Any records, personnel, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the authority, activities, powers, duties, functions, and responsibilities transferred to the Department of Natural Resources and Environment under this Order are transferred to the Department of Natural Resources and Environment.

VIII. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, regulations, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. This Order shall not abate any criminal action commenced by this state prior to the effective date of this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Executive Order, except for Section IV.D. of this Order, are effective January 17, 2010 at 12:01 a.m. Section IV.D of this Order is effective 60 calendar days after the filing of this Order, consistent with Section 2 of Article V of the Michigan Constitution of 1963.

Given under my hand and the Great Seal of the State of Michigan this 8th day of October in the year of our Lord, two thousand nine.

JENNIFER M. GRANHOLM
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

Attachment D

NNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
LT. GOVERNOR

EXECUTIVE ORDER
No. 2009 — 54

DEPARTMENT OF AGRICULTURE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

EXECUTIVE REORGANIZATION

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department of state government shall be under the supervision of the Governor, unless otherwise provided in the Constitution;

WHEREAS, appropriate organization of the Commission of Agriculture will help assure the protection, promotion, and preservation of the food, agricultural, conservation, and economic interests of the People of the State of Michigan;

WHEREAS, changes in the organization of the Michigan Trails Advisory Council will help assure adequate representation of persons in Michigan interested in recreational activities involving snowmobiles;

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

Printed by members of:

B. "Commission of Agriculture" means the commission created under Section 1 of 1921 PA 13, MCL 285.1, and continued under Section 179 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.279.

C. "Department of Agriculture" means the principal department of state government created under Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

D. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

E. "Department of Natural Resources and Environment" means the principal department of state government created under Executive Order 2009-45.

F. "Michigan Agriculture Preservation Fund Board" means the board created within the Department of Agriculture under Section II.C of this Order.

G. "Natural Resources Commission" means the commission created under Section 1 of 1921 PA 17, MCL 299.1, continued under Section 254 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.354, transferred to the Department of Natural Resources under Executive Order 1991-22, MCL 299.13, continued under Section 501 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.501, and renamed the Natural Resources Commission by Executive Order 2009-45.

H. "ORV" means that term as defined under Section 81101 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81101.

I. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. DEPARTMENT OF AGRICULTURE

A. Commission of Agriculture

1. Except as otherwise provided in this Order, all of the authority, powers, duties, functions, responsibilities, and budgetary resources of the Department of Agriculture under all of the following are transferred to the Commission of Agriculture:

a. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Sections 8c and 8e of the Michigan Renaissance Zone Act, 1996 PA 376, MCL

125.2688c and 125.2688e, and transferred to the Department of Agriculture under Executive Order 2009-45.

b. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Sections 2 and 2a of the Julian-Stille Value-Added Act, 2000 PA 322, MCL 285.302 and 285.302a, and transferred to the Department of Agriculture under Executive Order 2009-45.

c. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 6 of The Insect and Plant Disease Act, 1931 PA 189, MCL 286.206, and transferred to the Department of Agriculture under Executive Order 2009-45.

d. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Sections 2, 3, and 4 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.472, 286.473, and 286.474, and transferred to the Department of Agriculture under Executive Order 2009-45, including, but not limited to, the definition of generally accepted agricultural and management practices.

e. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 14 of the Michigan Seed Law, 1965 PA 329, MCL 286.714, and transferred to the Department of Agriculture under Executive Order 2009-45.

f. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 5 of the Anhydrous Ammonia Security Act, 2006 PA 417, MCL 286.775, and transferred to the Department of Agriculture under Executive Order 2009-45.

g. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 15 of the Michigan Organic Products Act, 2000 PA 316, MCL 286.915, and transferred to the Department of Agriculture under Executive Order 2009-45.

h. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 9 of the Animal Industry Act, 1988 PA 466, MCL 287.709, and transferred to the Department of Agriculture under Executive Order 2009-45.

i. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 27 of the Pseudorabies and Swine Brucellosis Control and Eradication Act,

1992 PA 239, MCL 287.827, and transferred to the Department of Agriculture under Executive Order 2009-45.

j. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under the Seal of Quality Act, 1961 PA 70, MCL 289.631 to 289.646, and transferred to the Department of Agriculture under Executive Order 2009-45.

k. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under the Michigan Agricultural Processing Act, 1998 PA 381, MCL 289.821 to 289.825, and transferred to the Department of Agriculture under Executive Order 2009-45.

l. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 4111 of the Food Law of 2000, 2000 PA 92, MCL 289.4111, and transferred to the Department of Agriculture under Executive Order 2009-45.

m. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 2 of 1970 PA 29, MCL 290.422, and transferred to the Department of Agriculture under Executive Order 2009-45.

n. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 3 of 1965 PA 114, MCL 290.553, and transferred to the Department of Agriculture under Executive Order 2009-45.

o. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Section 7 of the Agricultural Commodities Marketing Act, 1965 PA 232, MCL 290.657, and transferred to the Department of Agriculture under Executive Order 2009-45.

p. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under Sections 3120, 8201, 8322, 8328, 8501, 8517, 8703, 8707, 9304a, 30303, 32701, 32708a, 36111b, 36202, 40103, and 41302 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.3120, 324.8201, 324.8322, 324.8328, 324.8501, 324.8517, 324.8703, 324.8707, 324.9304a, 324.30303, 324.32701, 324.32708a, 324.36111b, 324.36202, 324.40103, and 324.41302, and transferred to the Department of Agriculture under Executive Order 2009-45.

q. The authority, powers, duties, functions, responsibilities, and budgetary resources previously vested in the Commission of Agriculture under

Section 20 of the Horse Racing Law of 1995, 1995 PA 279, MCL 431.320, and transferred to the Department of Agriculture under Executive Order 2009-45.

2. The Commission of Agriculture shall exercise its prescribed powers, duties, and functions of rule-making, licensing, and registration, including the prescription of rules, rates, regulations and standards, and adjudication transferred to the Commission under this Order, independently of the Director of the Department of Agriculture.

3. The Commission of Agriculture may provide advice to the Director of the Department of Agriculture or express its views on matters relating to the Department, including, but not limited to, agricultural policy. The Director of the Department shall consult with the Commission on agricultural policy matters. The Commission may perform additional duties as provided by this Order, other law, or as requested by the Director or the Governor.

4. Members of the Commission of Agriculture shall be knowledgeable about modern agriculture or food supply and committed to the protection, promotion, and preservation of the food, agricultural, conservation, and economic interests of the People of the State of Michigan.

5. Subject to 1978 PA 566, MCL 15.181 to 15.185, not later than December 31, 2010, one of the members appointed to the Commission of Agriculture also shall be an appointed member of the Natural Resources Commission, and subsequently the Commission of Agriculture shall include a member who also is an appointed member of the Natural Resources Commission.

6. The Commission of Agriculture may promulgate rules and regulations as may be necessary to carry out functions vested in the Commission under this Order or other law in accordance with the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7. The Commission of Agriculture shall utilize administrative law judges and hearing officers employed by the State Office of Administrative Hearings and Rules created by Executive Order 2005-1, MCL 445.2021, to conduct contested case hearings and to issue proposals for decisions as provided by law or rule.

8. A final decision of the Commission of Agriculture in any matter where the Commission exercises authority, powers, duties, and functions vested in the Commission under this Order or other law shall be made by the Commission. Decisions by the Commission shall be subject to judicial review as provided by law and in accordance with applicable court rules.

9. The Commission of Agriculture shall be staffed and assisted by personnel from the Department of Agriculture, subject to available funding. The

budgeting, procurement, or related management functions of the Commission shall be performed under the direction and supervision of the Director of the Department.

10. Not later than March 31st of each year, the Commission of Agriculture shall designate a member of the Commission of Agriculture to serve as the Chairperson of the Commission until the next March 31st. A member of the Commission shall not be designated as Chairperson for consecutive annual periods. The Commission also may designate a member of the Commission to serve as vice-chairperson of the Commission.

11. The Commission of Agriculture shall adopt procedures consistent with Michigan law and this Order governing its organization and operations.

12. A majority of the members of the Commission of Agriculture serving constitutes a quorum for the transaction of the Commission's business. The Commission shall act by a majority vote of its serving members.

13. The Commission of Agriculture shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Commission.

14. The Commission of Agriculture may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public. Subject to available funding, the Commission also may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

15. Members of the Commission of Agriculture shall serve without compensation. Members of the Commission may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

16. A member of the Commission of Agriculture shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. A member of the Commission shall not make or participate in making a decision, or in any way attempt to use his or her position as a member of the Commission to influence a decision, on a matter before the Department of Agriculture or the Commission regarding a loan, grant, or other expenditure in which the member is directly or indirectly interested. A member of the Commission shall not be interested directly or indirectly in any contract with the Department of Agriculture or the Commission that would cause a substantial conflict of interest. Members of the Commission

shall comply, and the Commission shall adopt policies and procedures for members to comply, with the requirements of this paragraph and all of the following:

a. 1978 PA 472, MCL 4.411 to 4.430.

b. 1978 PA 566, MCL 15.181 to 15.185.

c. 1968 PA 318, MCL 15.301 to 15.310.

d. 1968 PA 317, MCL 15.321 to 15.330.

e. 1973 PA 196, MCL 15.341 to 15.348.

f. Section 2(10) of the Julian-Stille Value-Added Act, 2000 PA 322, MCL 285.302.

17. The Commission of Agriculture may accept on behalf of the Department of Agriculture donations of labor, services, or other things of value from any public or private agency or person.

18. Members of the Commission of Agriculture shall refer all legal, legislative, and media contacts relating to the duties of the Commission to the Department of Agriculture.

B. Director of the Department of Agriculture

1. Consistent with Section 8 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.108, the Director of the Department of Agriculture shall not engage in any business, vocation, or employment other than the office of Director of the Department of Agriculture and shall receive compensation as prescribed by law.

2. Except as otherwise provided in this Order, the Director of the Department of Agriculture shall establish the internal organization of the Department and allocate and reallocate duties and functions to promote economical and efficient administration and operation of the Department.

3. Except as otherwise provided in this Order, the Director of the Department of Agriculture may promulgate rules and regulations as may be necessary to carry out functions vested in the Department in accordance with the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

4. Except as otherwise provided in this Order, the Director of the Department of Agriculture may delegate within the Department of Agriculture a duty or power conferred on the Director by this Order or by other law, and the person to whom the duty or power is delegated may perform the duty or exercise the

power at the time and to the extent that the duty or power is delegated by the Director.

5. Except as otherwise provided in this Order, the Director of the Department of Agriculture shall utilize administrative law judges and hearing officers employed by the State Office of Administrative Hearings and Rules created by Executive Order 2005-1, MCL 445.2021, to conduct contested case hearings and to issue proposals for decisions as provided by law or rule.

6. Except as otherwise provided in this Order, a final decision of the Department of Agriculture shall be made by the Director or a person to whom the Director has lawfully delegated decision-making authority. Decisions by the Director shall be subject to judicial review as provided by law and in accordance with applicable court rules.

7. The Commission of Agriculture shall conduct and transmit to the Governor an annual performance review of the Director of the Department of Agriculture. The Governor shall receive and review the performance review. If the Director receives a negative performance review, the Director shall present the Commission and the Governor with a corrective action plan.

8. Not later than December 15 of each fiscal year, the Commission of Agriculture shall recommend an annual salary level for the Director of the Department of Agriculture for the subsequent fiscal year and transmit the salary recommendation to the Governor and the State Budget Director.

9. The Commission of Agriculture may inquire into the condition and administration of the office of Director of the Department of Agriculture. The Commission may recommend the suspension or removal of the Director pursuant to Section 10 of Article V of the Michigan Constitution of 1963.

C. Michigan Agricultural Preservation Fund Board

1. The Michigan Agriculture Preservation Fund Board is created in the Department of Agriculture.

2. The Michigan Agriculture Preservation Fund Board shall consist of the following members:

a. The Director of the Department of Agriculture or his or her designee from within the Department of Agriculture.

b. The Director of the Department of Natural Resources and Environment or his or her designee from within the Department of Natural Resources and Environment.

c. Five residents of this state appointed by the Governor, including 2 members representing agricultural interests.

3. Members of the Michigan Agriculture Preservation Fund Board shall be appointed for terms of 4 years. A member of the Board shall continue to serve until a successor is appointed and qualified. A vacancy on the Board occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term.

4. The powers, duties, functions, authority, responsibilities, and budgetary resources of the Agricultural Preservation Fund Board created under Section 36204 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 32.36204, and transferred by Type III transfer to the Department of Agriculture under Executive Order 2009-45, are transferred to the Michigan Agriculture Preservation Fund Board.

5. The Michigan Agriculture Preservation Fund Board shall be staffed and assisted by personnel from the Department of Agriculture, subject to available funding. The budgeting, procurement, or related management functions of the Board shall be performed under the direction and supervision of the Director of the Department.

6. The Director of the Department of Agriculture or his or her designee from within the Department of Agriculture shall serve as the Chairperson of the Michigan Agriculture Preservation Fund Board. The Board may select from among the members of the Board a vice-chairperson and other officers as the Board deems necessary.

7. The Michigan Agriculture Preservation Fund Board shall adopt procedures consistent with applicable law governing its organization and operations.

8. A majority of the serving members of the Michigan Agriculture Preservation Fund Board constitutes a quorum for the transaction of the Board's business. The Board shall act by a majority vote of the serving members of the Board.

9. The Michigan Agriculture Preservation Fund Board shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Board.

10. The business of the Michigan Agriculture Preservation Fund Board shall be conducted at public meetings held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of all meetings of the Board shall be given in the manner required by the Open Meetings Act.

11. A writing prepared, owned, used, in the possession of, or retained by the Michigan Agriculture Preservation Fund Board in the performance of official business shall be made available to the public under the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

12. The Michigan Agriculture Preservation Fund Board may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The Board also may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

13. The Michigan Agriculture Preservation Fund Board may establish advisory workgroups composed of members of the public who are not members of the Board to assist the members of the Board in performing duties under this Order. The Board may adopt, reject, or modify any recommendations proposed by an advisory workgroup.

14. Members of the Michigan Agriculture Preservation Fund Board shall serve without compensation. Members of the Board may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available funding.

15. The Michigan Agriculture Preservation Fund Board may accept donations of labor, services, or other things of value from any public or private agency or person.

16. Members of the Michigan Agriculture Preservation Fund Board shall refer all legal, legislative, and media contacts to the Department of Agriculture.

III. DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

A. Natural Resources Commission

1. The Natural Resources Commission, to the greatest extent practicable, shall continue to use principles of sound scientific management in making decisions regarding the taking of fish and game in this state. Consistent with the intention of the People of the State of Michigan expressed through the adoption of Proposal G of 1996, the Natural Resources Commission shall have and continue to exercise the authority, powers, duties, functions, and responsibilities previously vested in the Commission on Natural Resources under all of the following:

a. Part 435 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.43501 to 324.43561.

b. Section 40111a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40111a, or any successor to this statute in effect on the effective date of this Order.

c. Section 40113a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.40113a.

2. The Natural Resources Commission shall continue to exercise its prescribed powers, duties, and functions of rule-making, licensing, and registration, including the prescription of rules, rates, regulations and standards, and adjudication, and the authority, powers, duties, and functions vested in the Commission under Section II.B.1 of Executive Order 2009-45 and Section III.A.1 of this Order, independently of the Director of the Department of Natural Resources and Environment.

3. The Natural Resources Commission may provide advice to the Director of the Department of Natural Resources and Environment on matters relating to conservation policy. The Director of the Department shall consult with the Commission on conservation policy matters. The Commission may perform additional duties as provided by this Order, other law, or as requested by the Director or the Governor.

4. Subject to 1978 PA 566, MCL 15.181 to 15.185, not later than December 31, 2010, one of the members appointed to the Natural Resources Commission also shall be an appointed member of the Commission of Agriculture, and subsequently the Natural Resources Commission shall include a member who also is an appointed member of the Commission of Agriculture.

5. A member of the Natural Resources Commission shall discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. A member of the Commission shall not make or participate in making a decision, or in any way attempt to use his or her position as a member of the Commission to influence a decision, on a matter before the Department of Natural Resources and Environment or the Commission regarding a loan, grant, or other expenditure in which the member is directly or indirectly interested. A member of the Commission shall not be interested directly or indirectly in any contract with the Department of Natural Resources and Environment or the Commission that would cause a substantial conflict of interest. Members of the Commission shall comply, and the Commission shall adopt policies and procedures for members to comply, with the requirements of this paragraph and all of the following:

a. 1978 PA 472, MCL 4.411 to 4.430.

b. 1978 PA 566, MCL 15.181 to 15.185.

c. 1968 PA 318, MCL 15.301 to 15.310.

d. 1968 PA 317, MCL 15.321 to 15.330.

e. 1973 PA 196, MCL 15.341 to 15.348.

B. Michigan Snowmobile and Trails Advisory Council

1. The Michigan Trails Advisory Council created within the Department of Natural Resources and Environment under Section II.D of Executive Order 2009-45 is renamed the Michigan Snowmobile and Trails Advisory Council. Any references to the Michigan Trails Advisory Council shall be deemed references to the Michigan Snowmobile and Trails Advisory Council.

2. Effective March 15, 2010, the Michigan Snowmobile and Trails Advisory Council shall consist of 9 members. The 2 additional members required by this paragraph shall be appointed for an initial term not exceeding 4 years and expiring on the same date as the initial 7 members of the Council appointed under Section II.D of Executive Order 2009-45.

3. Not less than 5 of the members of the Michigan Snowmobile and Trails Advisory Council shall be an owner of an ORV licensed under Section 81115 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81115, or an owner of a snowmobile registered under Section 82105 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.82105. Not less than 3 members of the Michigan Snowmobile and Trails Advisory Council shall be an owner of a snowmobile registered under Section 82105 of the Natural Resources and Environmental Protection Act, 1994 PA 451 MCL 324.82105. Not less than 1 member of the Michigan Snowmobile and Trails Advisory Council shall possess experience as an instructor in a snowmobile safety education and training program or an ORV safety education course. Not less than 1 member of the Michigan Snowmobile and Trails Advisory Council shall be a resident of the Upper Peninsula of this state.

IV. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in this state's financial management system necessary to implement this Order.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. All rules, regulations, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

D. This Order shall not abate any criminal action commenced by this state prior to the effective date of this Order.

E. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Executive Order are effective March 15, 2010 at 12:01 a.m.

Given under my hand and the Great Seal of the State of Michigan this 1st day of December in the year of our Lord, two thousand nine.

JENNIFER M. GRANHOLM
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

FILED WITH SECRETARY OF STATE
ON 12/1/09 AT 4:22PM

Attachment E

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

EXECUTIVE ORDER
No. 2011-2

DEPARTMENT OF AGRICULTURE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT
DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

EXECUTIVE REORGANIZATION

AND

AMENDMENT OF EXECUTIVE ORDER
2009 - 54

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department of state government shall be under the supervision of the Governor, unless otherwise provided in the Constitution; and

WHEREAS, appropriate organization of the Department of Agriculture and the Commission of Agriculture will help assure the protection, promotion, and preservation of the food, agricultural, conservation, and economic interests of the People of the State of Michigan; and

WHEREAS, rural development is integral to the growth of Michigan's rural housing and infrastructure, the agricultural and food processing industries, and the overall economy of the state; and

WHEREAS, certain modifications in Executive Order 2009-54 are necessary; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to change the organization of the executive branch of state government;

NOW THEREFORE, I, Richard D. Snyder, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Commission of Agriculture" means the commission created under Section 1 of 1921 PA 13, MCL 285.1, and continued under Section 179 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.279.

B. "Department of Agriculture" means the principal department of state government created under Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

C. "Department of Natural Resources" means the principal department by that name created by Executive Order 2011-1.

D. "Natural Resources Commission" means the commission created under Section 1 of 1921 PA 17, MCL 299.1, continued under Section 254 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.354, transferred to the Department of Natural Resources under Executive Order 1991-22, MCL 299.13, continued under Section 501 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.501, renamed the Natural Resources Commission by Executive Order 2009-45, and transferred to the Department of Natural Resources by Executive Order 2011-1.

II. DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT; and the COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT

A. The Department of Agriculture is renamed the Department of Agriculture and Rural Development; the Commission of Agriculture is renamed the Commission of Agriculture and Rural Development.

B. The Department of Agriculture and Rural Development and the Commission of Agriculture and Rural Development shall utilize their statutory powers and authority to further the goal of developing the rural areas of this state.

C. The following parts of Executive Order 2009-54 concerning the Commission of Agriculture and Rural Development are rescinded:

1. Section II(A)(2);

2. Section II(A)(5);

3. Section II(A)(17);

4. Section II(B)(7), II(B)(8), and II(B)(9); and

5. Section II(C)(15).

III. DEPARTMENT OF NATURAL RESOURCES AND NATURAL RESOURCES COMMISSION

A. The following parts of Executive Order 2009-54 concerning the Department of Natural Resources and the Natural Resources Commission are rescinded:

1. Section III(A)(2);

2. Section III(A)(4); and

3. Section III(B) (The Michigan Snowmobile and Trails Advisory Council having been established by 2010 PA 46).

This Executive Order shall become effective on March 13, 2011, consistent with Section 2 of Article V of the Michigan Constitution of 1963.

Given under my hand and the Great Seal of the state of Michigan this 7th day of January in the year of our Lord, two thousand eleven.

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

FILED WITH SECRETARY OF STATE
ON 1/11/11 AT 1:18 P.M

OPEN MEETINGS ACT
Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 267, Eff. Mar. 31, 1977.

The People of the State of Michigan enact:

15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.

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

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.262 Definitions.

Sec. 2. As used in this act:

(a) "Public body" means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.4o.

(c) "Closed session" means a meeting or part of a meeting of a public body that is closed to the public.

(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 2001, Act 38, Imd. Eff. July 11, 2001.

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

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(7) This act does not apply to the following public bodies only when deliberating the merits of a case:

(a) The worker's compensation appeal board created under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(b) The employment security board of review created under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws.

(c) The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, when acting as a board of review from the decision of a controlling board.

(d) An arbitrator or arbitration panel appointed by the employment relations commission under the authority given the commission by Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Michigan Compiled Laws.

(e) An arbitration panel selected under chapter 50A of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.5040 to 600.5065 of the Michigan Compiled Laws.

(f) The Michigan public service commission created under Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body which adopts a nonpolicymaking resolution of tribute or memorial which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act.

(11) This act shall not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under Act No. 9 of the Public Acts of the first extra session of 1946, being sections 35.601 to 35.610 of the Michigan Compiled Laws, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation which the board of trustees, by rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, determines requires immediate action.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988.

Administrative rules: R 35.621 of the Michigan Administrative Code.

15.264 Public notice of meetings generally; contents; places of posting.

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; time for posting; statement of date, time, and place; applicability of subsection (4); recess or adjournment; emergency

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sessions; meeting in residential dwelling; notice.

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting. The requirement of 18-hour notice shall not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting. This subsection does not apply to a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.

(5) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice, which is equivalent to that required under subsection (4), has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section shall bar a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body which is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984.

15.266 Providing copies of public notice on written request; fee.

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.267 Closed sessions; roll call vote; separate set of minutes.

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

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15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements:

(*i*) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(*ii*) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(*iii*) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.269 Minutes.

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4. The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.

(3) A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public

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inspection within 5 business days after the meeting at which the minutes are approved by the public body.

(4) A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 305, Imd. Eff. Aug. 11, 2004.

15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than $1,000.00.

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(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than $2,000.00, or imprisoned for not more than 1 year, or both.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273 Violation; liability.

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than $500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273a Selection of president by governing board of higher education institution; violation; civil fine.

Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution at any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than $500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

History: Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.274 Repeal of §§ 15.251 to 15.253.

Sec. 14. Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.275 Effective date.

Sec. 15. This act shall take effect January 1, 1977.

History: 1976, Act 267, Eff. Mar. 31, 1977.

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FREEDOM OF INFORMATION ACT
Act 442 of 1976

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 1997, Act 6, Imd. Eff. May 16, 1997.

Popular name: Act 442

Popular name: FOIA

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Field name" means the label or identification of an element of a computer data base that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(b) "FOIA coordinator" means either of the following:

(*i*) An individual who is a public body.

(*ii*) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(c) "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

(d) "Public body" means any of the following:

(*i*) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(*ii*) An agency, board, commission, or council in the legislative branch of the state government.

(*iii*) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(*iv*) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority.

(*v*) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(e) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(*i*) Those that are exempt from disclosure under section 13.

(*ii*) All public records that are not exempt from disclosure under section 13 and which are subject to disclosure under this act.

(f) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored

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information or data, or a field name if disclosure of that field name does not violate a software license.

(g) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(*i*) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(*ii*) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(h) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

(i) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.233 Public records; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable. An employee of a public body who receives a request for a public record shall promptly forward that request to the freedom of information act coordinator.

(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

(4) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

(5) This act does not require a public body to create a new public record, except as required in section 11, and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(6) The custodian of a public record shall, upon written request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.234 Fee; waiver or reduction; affidavit; deposit; calculation of costs; limitation; provisions inapplicable to certain public records.

Sec. 4. (1) A public body may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record. Subject to subsections (3) and (4), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first $20.00 of the fee for each request to an

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individual who is entitled to information under this act and who submits an affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

(2) A public body may require at the time a request is made a good faith deposit from the person requesting the public record or series of public records, if the fee authorized under this section exceeds $50.00. The deposit shall not exceed 1/2 of the total fee.

(3) In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), a public body may not charge more than the hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request under this act. Fees shall be uniform and not dependent upon the identity of the requesting person. A public body shall utilize the most economical means available for making copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.

(4) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body.*Kestenbaum v Michigan State University*, 414 Mich 510; 417 NW2d 1102 (1982).

Popular name: Act 442

Popular name: FOIA

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; damages; contents of notice denying request; signing notice of denial; notice extending period of response; action by requesting person.

Sec. 5. (1) Except as provided in section 3, a person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the FOIA coordinator of a public body. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made.

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

(a) Granting the request.

(b) Issuing a written notice to the requesting person denying the request.

(c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.

(d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request pursuant to subsection (2) constitutes a public body's final determination to deny the request. In a circuit court action to compel a public body's disclosure of a public record under section 10, the circuit court shall assess damages against the public body pursuant to section 10(8) if the circuit court has done both of the following:

(a) Determined that the public body has not complied with subsection (2).

(b) Ordered the public body to disclose or provide copies of all or a portion of the public record.

(4) A written notice denying a request for a public record in whole or in part is a public body's final determination to deny the request or portion of that request. The written notice shall contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion of the request.

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(c) A description of a public record or information on a public record that is separated or deleted pursuant to section 14, if a separation or deletion is made.

(d) A full explanation of the requesting person's right to do either of the following:

(*i*) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.

(*ii*) Seek judicial review of the denial under section 10.

(e) Notice of the right to receive attorneys' fees and damages as provided in section 10 if, after judicial review, the circuit court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(5) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(6) If a public body issues a notice extending the period for a response to the request, the notice shall specify the reasons for the extension and the date by which the public body will do 1 of the following:

(a) Grant the request.

(b) Issue a written notice to the requesting person denying the request.

(c) Grant the request in part and issue a written notice to the requesting person denying the request in part.

(7) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion of that public record, the requesting person may do either of the following:

(a) Appeal the denial to the head of the public body pursuant to section 10.

(b) Commence an action in circuit court, pursuant to section 10.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Compiler's note: In subsection (3), the reference to "section 10(8)" evidently should be a reference to "section 10(7)."

Popular name: Act 442

Popular name: FOIA

15.236 FOIA coordinator.

Sec. 6. (1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator. The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners is designated the FOIA coordinator for that county.

(2) For all other public bodies, the chief administrative officer of the respective public body is designated the public body's FOIA coordinator.

(3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.240 Options by requesting person; appeal; orders; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

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(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing an action in circuit court under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his or her principal place of business, or the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the circuit court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of $500.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.241 Matters required to be published and made available by state agencies; form of publications; effect on person of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements which implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person shall not in any manner be required to resort to, or be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records which are exempt from disclosure under section 13.

(5) A person may commence an action in the circuit court to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The circuit court for the county in which the state agency is located shall have jurisdiction to issue the order.

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(6) As used in this section, "state agency", "contested case", and "rules" shall have the same meanings as ascribed to those terms in Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.243 Exemptions from disclosure; public body as school district or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(*i*) Interfere with law enforcement proceedings.

(*ii*) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(*iii*) Constitute an unwarranted invasion of personal privacy.

(*iv*) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(*v*) Disclose law enforcement investigative techniques or procedures.

(*vi*) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(*i*) The information is submitted upon a promise of confidentiality by the public body.

(*ii*) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(*iii*) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(*i*) An agreement is entered into.

(*ii*) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(*l*) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.

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(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(*i*) Identify or provide a means of identifying an informant.

(*ii*) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(*iii*) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(*iv*) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(*v*) Disclose operational instructions for law enforcement officers or agents.

(*vi*) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(*vii*) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(*viii*) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(*ix*) Disclose personnel records of law enforcement agencies.

(*x*) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(*i*) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(*ii*) The fact that an allegation was received by the department; the fact that the department did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an

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institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1993, Act 82, Eff. Apr. 1, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2000, Act 88, Imd. Eff. May 1, 2000;—Am. 2001, Act 74, Imd. Eff. July 24, 2001;—Am. 2002, Act 130, Eff. May 1, 2002;—Am. 2002, Act 437, Eff. Aug. 1, 2002;—Am. 2006, Act 482, Imd. Eff. Dec. 22, 2006.

Popular name: Act 442

Popular name: FOIA

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

Popular name: Act 442

Popular name: FOIA

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15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.245 Repeal of §§ 24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

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PERSONS WITH DISABILITIES CIVIL RIGHTS ACT
Act 220 of 1976

AN ACT to define the civil rights of persons with disabilities; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1992, Act 123, Imd. Eff. June 29, 1992;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

The People of the State of Michigan enact:

ARTICLE 1

37.1101 Short title.

Sec. 101. This act shall be known and may be cited as the "persons with disabilities civil rights act".

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1102 Opportunity guaranteed; civil right; accommodation of person with disability; undue hardship.

Sec. 102. (1) The opportunity to obtain employment, housing, and other real estate and full and equal utilization of public accommodations, public services, and educational facilities without discrimination because of a disability is guaranteed by this act and is a civil right.

(2) Except as otherwise provided in article 2, a person shall accommodate a person with a disability for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1103 Definitions.

Sec. 103. As used in this act:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Commission" means the civil rights commission established by section 29 of article V of the state constitution of 1963.

(c) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(d) Except as provided under subdivision (f), "disability" means 1 or more of the following:

(*i*) A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:

(A) For purposes of article 2, substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's ability to perform the duties of a particular job or position or substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's qualifications for employment or promotion.

(B) For purposes of article 3, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service.

(C) For purposes of article 4, is unrelated to the individual's ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution.

(D) For purposes of article 5, substantially limits 1 or more of that individual's major life activities and is unrelated to the individual's ability to acquire, rent, or maintain property.

(*ii*) A history of a determinable physical or mental characteristic described in subparagraph (*i*).

(*iii*) Being regarded as having a determinable physical or mental characteristic described in subparagraph (*i*).

(e) "Drug" means that term as defined in section 7105 of the public health code, 1978 PA 368, MCL 333.7105.

(f) For purposes of article 2, disability does not include either of the following:

(*i*) A determinable physical or mental characteristic caused by the current illegal use of a controlled substance by that individual.

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(*ii*) A determinable physical or mental characteristic caused by the use of an alcoholic liquor by that individual, if that physical or mental characteristic prevents that individual from performing the duties of his or her job.

(g) "Person" includes an individual, agent, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, this state, or any other legal, commercial, or governmental entity or agency.

(h) "Person with a disability" or "person with disabilities" means an individual who has 1 or more disabilities.

(i) "Political subdivision" means a county, city, village, township, school district, or special district or authority of this state.

(j) "State average weekly wage" means the state average weekly wage as determined by the Michigan employment security commission under section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.

(k) "Temporary employee" means an employee hired for a position that will not exceed 90 days in duration.

(*l*) "Unrelated to the individual's ability" means, with or without accommodation, an individual's disability does not prevent the individual from doing 1 or more of the following:

(*i*) For purposes of article 2, performing the duties of a particular job or position.

(*ii*) For purposes of article 3, utilizing and benefiting from a place of public accommodation or public service.

(*iii*) For purposes of article 4, utilizing and benefiting from educational opportunities, programs, and facilities at an educational institution.

(*iv*) For purposes of article 5, acquiring, renting, or maintaining property.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1992, Act 123, Imd. Eff. June 29, 1992;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998;—Am. 1999, Act 201, Eff. Mar. 10, 2000.

Compiler's note: Enacting section 1 of Act 201 of 1999 provides:

"Enacting section 1. This amendatory act is curative and intended to correct any misinterpretation of legislative intent in the court of appeals decision in Doe v Department of Corrections, 236 Mich App 801 (1999). This legislation further expresses the original intent of the legislature that an individual serving a sentence of imprisonment in a state or county correctional facility is not within the purview of this act."

ARTICLE 2

37.1201 Definitions.

Sec. 201. As used in this article:

(a) "Employee" does not include an individual employed in domestic service of any person.

(b) "Employer" means a person who has 1 or more employees or a person who as contractor or subcontractor is furnishing material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person.

(c) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) "Genetic information" means information about a gene, gene product, or inherited characteristic of an individual derived from the individual's family history or a genetic test.

(e) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis including, but not limited to, a chemical analysis of body fluids unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(f) "Labor organization" includes:

(*i*) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

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(*ii*) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.

(*iii*) An agent of a labor organization.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 2000, Act 32, Imd. Eff. Mar. 15, 2000.

37.1202 Employer; prohibited conduct; exceptions; access to genetic information.

Sec. 202. (1) Except as otherwise required by federal law, an employer shall not:

(a) Fail or refuse to hire, recruit, or promote an individual because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.

(b) Discharge or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment, because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.

(c) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive an individual of employment opportunities or otherwise adversely affects the status of an employee because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.

(d) Fail or refuse to hire, recruit, or promote an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.

(e) Discharge or take other discriminatory action against an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.

(f) Fail or refuse to hire, recruit, or promote an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.

(g) Discharge or take other discriminatory action against an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.

(h) Require an individual to submit to a genetic test or to provide genetic information as a condition of employment or promotion.

(2) Subsection (1) does not prohibit an individual from voluntarily providing to an employer genetic information that is related to the employee's health or safety in the workplace. Subsection (1) does not prohibit an employer from using genetic information received from an employee under this subsection to protect the employee's health or safety.

(3) This section shall not apply to the employment of an individual by his or her parent, spouse, or child.

(4) Except as otherwise provided in subsection (2), no employer may directly or indirectly acquire or have access to any genetic information concerning an employee or applicant for employment, or a member of the employee's or applicant's family.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998;—Am. 2000, Act 32, Imd. Eff. Mar. 15, 2000.

37.1203 Employment agency; prohibited conduct.

Sec. 203. An employment agency shall not fail or refuse to refer for employment, or otherwise discriminate against an individual because of a disability or classify or refer for employment an individual on the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1204 Labor organization; prohibited conduct.

Sec. 204. A labor organization shall not:

(a) Exclude or expel from membership, or otherwise discriminate against a member or applicant for membership because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position which entitles the individual to membership.

(b) Limit, segregate, or classify membership, or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive an individual of employment opportunities, or which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

(c) Cause or attempt to cause an employer to violate this article.

(d) Fail to fairly and adequately represent a member in a grievance process because of the member's disability.

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History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1205 Apprenticeship, on the job, or other training or retraining programs; discrimination prohibited.

Sec. 205. An employer, labor organization, or joint labor management committee controlling apprenticeship, on the job, or other training or retraining programs shall not discriminate against an individual because of a disability in admission to, or employment or continuation in, a program established to provide apprenticeship or other training.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1206 Prohibited notices, advertisements, inquiries, applications, and records.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

(2) Except as permitted by applicable federal law, an employer or employment agency shall not:

(a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.

(b) Make or keep a record of information or disclose information concerning the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.

(c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, or specification based on the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1207 Repealed. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

Compiler's note: The repealed section pertained to exemptions.

37.1208 Plan.

Sec. 208. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have disabilities if the plan has been filed with the commission under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

37.1209 Contract to which state a party; covenant not to discriminate against employee or applicant for employment; breach.

Sec. 209. A contract to which this state, or a political subdivision, or an agency of this state or of a political subdivision of this state is a party shall contain a covenant by the contractor and any subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant shall be regarded as a material breach of the contract.

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1210 Burden of proof; cost of accommodation as undue hardship; reduction of limitations; restructuring job or altering schedule; applicability of subsections (2) to (16); violation; notices.

Sec. 210. (1) In an action brought pursuant to this article for a failure to accommodate, the person with a disability shall bear the burden of proof. If the person with a disability proves a prima facie case, the person shall bear the burden of producing evidence that an accommodation would impose an undue hardship on that person. If the person produces evidence that an accommodation would impose an undue hardship on that person, the person with a disability shall bear the burden of proving by a preponderance of the evidence that

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an accommodation would not impose an undue hardship on that person.

(2) Except as provided in subsections (7), (13), and (17), if the person employs fewer than 4 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person for that equipment or device is limited to an amount equal to the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(3) Except as provided in subsections (7), (13), and (17), if the person employs 4 or more employees but fewer than 15 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person is limited to an amount equal to 1.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(4) Except as provided in subsections (6), (7), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person is limited to an amount equal to 2.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(5) Except as provided in subsections (6), (7), (13), and (17), if the person employs 25 or more employees and the total purchase cost of any equipment or device required to accommodate an employee under this article is equal to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.

(6) Except as provided in subsections (7), (13), and (17), if the person employs 15 or more employees and the total purchase cost of any equipment or device required to accommodate an employee under this article is equal to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.

(7) Subsections (2) to (6) do not limit the cost of reasonable routine maintenance or repair of equipment or devices needed to accommodate a person with a disability under this article.

(8) Except as provided in subsections (13) and (17), if the person employs fewer than 4 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 7 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 5 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(9) Except as provided in subsections (13) and (17), if the person employs 4 or more employees but fewer than 15 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 10 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 7 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(10) Except as provided in subsections (12), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that

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accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(11) Except as provided in subsections (12), (13), and (17), if the person employs 25 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.

(12) Except as provided in subsections (13) and (17), if the person employs 15 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.

(13) If the person with a disability is a temporary employee, the limitations established for accommodations under subsections (2), (3), (4), (5), (6), (8), (9), (10), (11), and (12) are reduced by 50%.

(14) A person who employs fewer than 15 employees is not required to restructure a job or alter the schedule of employees as an accommodation under this article.

(15) Job restructuring and altering the schedule of employees under this article applies only to minor or infrequent duties relating to the particular job held by the person with a disability.

(16) If a person can accommodate a person with a disability under this article only by purchasing equipment or devices and hiring or retaining 1 or more individuals as readers or interpreters, the person shall, subject to subsections (2) to (13) and subsection (17), purchase the equipment or devices and hire or retain 1 or more individuals as readers or interpreters to accommodate that person with a disability. However, if the person can accommodate that person with a disability by purchasing equipment or devices or by hiring or retaining 1 or more individuals as readers or interpreters, the person shall consult the person with a disability and, subject to subsections (2) to (13) and subsection (17), choose whether to purchase equipment or devices or hire or retain 1 or more individuals as readers or interpreters.

(17) Subsections (2) to (16) do not apply to either of the following:

(a) A public employer. As used in this subdivision, "public employer" means this state or a political subdivision of this state.

(b) An organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986.

(18) A person with a disability may allege a violation against a person regarding a failure to accommodate under this article only if the person with a disability notifies the person in writing of the need for accommodation within 182 days after the date the person with a disability knew or reasonably should have known that an accommodation was needed.

(19) A person shall post notices or use other appropriate means to provide all employees and job applicants with notice of the requirements of subsection (18).

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1211 Powers of person under article.

Sec. 211. A person may, under this article, do 1 or more of the following:

(a) Establish employment policies, programs, procedures, or work rules regarding the use of alcoholic liquor or the illegal use of drugs.

(b) Apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, transfer system, scheduling system, assignment system, or attendance plan if those standards of compensation or terms, conditions, or privileges of employment are not a subterfuge to evade the purposes of this article.

(c) Establish uniform policies requiring employees who have been absent from work because of illness or injury to submit evidence of the ability to return to work. This subdivision does not allow a person to establish a policy requiring only persons with disabilities to submit evidence of the ability to return to work.

(d) Either of the following:

(*i*) Prohibit an employee who is being compensated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for an injury arising out of and in the course of his or her employment with that person from returning to work in a restructured job.

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(*ii*) Require an employee who is being compensated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for an injury arising out of and in the course of his or her employment with that person to return to work as provided by law, if the person accommodates the employee as required under this article.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1212 Education and training programs.

Sec. 212. The department of civil rights shall offer education and training programs to employers, labor organizations, and employment agencies to assist employers, labor organizations, and employment agencies in understanding the requirements of this article.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1213 Article not in conflict with civil rights act.

Sec. 213. Nothing in this article shall be construed to conflict with the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1214 Accommodation not construed as preferential treatment or employee benefit.

Sec. 214. For purposes of this act, an accommodation required under this article shall not be construed to be preferential treatment or an employee benefit.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

ARTICLE 3

37.1301 Definitions.

Sec. 301. As used in this article:

(a) "Place of public accommodation" means a business, educational institution, refreshment, entertainment, recreation, health, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

(b) "Public service" means a public facility, department, agency, board, or commission owned, operated, or managed by or on behalf of this state or a subdivision of this state, a county, city, village, township, or independent or regional district in this state or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions or decisions regarding an individual serving a sentence of imprisonment.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1999, Act 201, Eff. Mar. 10, 2000.

Compiler's note: Enacting section 1 of Act 201 of 1999 provides:

"Enacting section 1. This amendatory act is curative and intended to correct any misinterpretation of legislative intent in the court of appeals decision in Doe v Department of Corrections, 236 Mich App 801 (1999). This legislation further expresses the original intent of the legislature that an individual serving a sentence of imprisonment in a state or county correctional facility is not within the purview of this act."

37.1302 Prohibited conduct.

Sec. 302. Except where permitted by law, a person shall not:

(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

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37.1303 Exemptions.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation, or if it is licensed, chartered, or certified by the state or any of its political subdivisions.

History: 1976, Act 220, Eff. Mar. 31, 1977.

ARTICLE 4

37.1401 "Educational institution" defined.

Sec. 401. As used in this article, "educational institution" means a public or private institution or a separate school or department of a public or private institution, includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, school district, or university, and a business, nursing, professional, secretarial, technical, or vocational school, and includes an agent of an educational institution.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1402 Educational institution; prohibited conduct.

Sec. 402. An educational institution shall not do any of the following:

(a) Discriminate in any manner in the full utilization of or benefit from the institution, or the services provided and rendered by the institution to an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution or its services, or because of the use by an individual of adaptive devices or aids.

(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution, or because of the use by an individual of adaptive devices or aids.

(c) Make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or make or keep a record, concerning the disability of an applicant for admission for reasons contrary to the provisions or purposes of this act.

(d) Print or publish or cause to be printed or published a catalog or other notice or advertisement indicating a preference, limitation, specification, or discrimination based on the disability of an applicant that is unrelated to the applicant's ability to utilize and benefit from the institution or its services, or the use of adaptive devices or aids by an applicant for admission to the educational institution.

(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of a disability that is unrelated to the group or member's ability to utilize and benefit from the institution or its services, or because of the use by the members of a group or an individual in the group of adaptive devices or aids.

(f) Develop a curriculum or utilize textbooks and training or learning materials which promote or foster physical or mental stereotypes.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1403 Educational institution; plan.

Sec. 403. An educational institution may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to persons with disabilities if the plan is filed with the commission, under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

ARTICLE 5

37.1501 Definitions.

Sec. 501. As used in this article:

(a) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of 1 or more persons.

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(b) "Immediate family" means a spouse, parent, child, or sibling.

(c) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these persons.

(d) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest therein.

(e) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1502 Owners, persons engaging in real estate transactions, real estate brokers, and real estate salesmen; prohibited conduct.

Sec. 502. (1) An owner or any other person engaging in a real estate transaction, or a real estate broker or salesman shall not, on the basis of a disability of a buyer or renter, of a person residing in or intending to reside in a dwelling after it is sold, rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:

(a) Refuse to engage in a real estate transaction with a person.

(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(c) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction from a person.

(d) Refuse to negotiate for a real estate transaction with a person.

(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect real property, or otherwise deny or make real property unavailable to a person.

(f) Make, print, circulate, post, or mail or cause to be made or published a statement, advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect to a real estate transaction.

(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(h) Discriminate against a person in the brokering or appraising of real property.

(2) A person shall not deny a person access to or membership or participation in a multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting real property, or discriminate against a person in the terms or conditions of that access, membership, or participation.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1503 Certain rentals excepted from § 37.1502.

Sec. 503. Section 502 shall not apply to the rental of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other, if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single housing dwelling by a person if the lessor or a member of the lessor's immediate family resides therein.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1504 Financial assistance or financing; prohibited conduct.

Sec. 504. A person shall not discriminate on the basis of disability in making or purchasing loans for acquiring, constructing, improving, repairing, or maintaining real property, or in providing other financial assistance secured by or otherwise related to real property.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992;—Am. 1998, Act 20, Imd. Eff. Mar. 12,

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1998.

37.1505 Information as to applicant's credit worthiness.

Sec. 505. Nothing in this article shall be considered to prohibit an owner, lender, or his or her agent from requiring that an applicant who seeks to buy, rent, lease, or obtain financial assistance for housing accommodations supply information concerning the applicant's financial, business, or employment status or other information designed solely to determine the applicant's credit worthiness, but not concerning disabilities for reasons contrary to the provisions or purposes of this act.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1506 Prohibited representations.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which he or she may benefit financially or otherwise, that a change has occurred or will or may occur in the composition with respect to persons with disabilities of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1506a Real estate transaction; prohibited conduct; "covered multifamily dwellings" defined.

Sec. 506a. (1) A person shall not do any of the following in connection with a real estate transaction:

(a) Refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person with a disability if those modifications may be necessary to afford the person with a disability full enjoyment of the premises. In the case of a rental, the landlord may, if reasonable, make permission for a modification contingent on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) Refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy residential real property.

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, fail to include all of the following features:

(*i*) The dwellings have at least 1 building entrance on an accessible route, unless that is impractical because of the terrain or unusual characteristics of the site.

(*ii*) The public and common use portions of the dwellings are readily accessible to and usable by persons with disabilities.

(*iii*) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs.

(*iv*) All premises within covered multifamily dwellings contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and kitchens and bathrooms designed so that an individual in a wheelchair can maneuver about the space.

(2) As used in this section, "covered multifamily dwellings" means buildings consisting of 4 or more units if the buildings have 1 or more elevators, and ground floor units in other buildings consisting of 4 or more units.

History: Add. 1992, Act 123, Imd. Eff. June 29, 1992;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1507 Person subject to article; plan.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have disabilities, if the plan is filed with the commission under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

ARTICLE 6

37.1601 Administration of act; rules.

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Sec. 601. This act shall be administered by the civil rights commission. The commission may promulgate rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1602 Prohibited conduct.

Sec. 602. A person or 2 or more persons shall not do the following:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.

(c) Attempt directly or indirectly to commit an act prohibited by this act.

(d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or any of its authorized representatives.

(e) Willfully obstruct or prevent a person from complying with this act or an order issued.

(f) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by article 5.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

37.1603 Adjustment order; violation of terms prohibited.

Sec. 603. A person shall not violate the terms of an adjustment order made under this act.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1604 Other acts not invalidated.

Sec. 604. Nothing in this act shall be interpreted as invalidating any other act that establishes or provides programs or services for persons with disabilities.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1605 Complaints.

Sec. 605. A complaint alleging an act prohibited by this act shall be subject to the same procedures as a complaint alleging an unfair employment practice under Act No. 453 of the Public Acts of 1976, as amended, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1606 Civil action; commencement; "damages" defined; compensation for lost wages; notice as condition to bringing civil action; applicability of subsection (5).

Sec. 606. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his or her principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorneys' fees.

(4) The amount of compensation awarded for lost wages under this act for an injury under article 2 shall be reduced by the amount of compensation received for lost wages under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for that injury and by the present value of the future compensation for lost wages to be received under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for that injury.

(5) A person with a disability may not bring a civil action under subsection (1) for a failure to accommodate under article 2 unless he or she has notified the person of the need for accommodation as required under section 210(18). This subsection does not apply if the person failed to comply with the requirements of section 210(19).

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1998, Act 20, Imd. Eff. Mar. 12, 1998.

37.1607 Diminishment of rights prohibited.

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Sec. 607. This act shall not diminish the right of a person to seek direct and immediate legal or equitable remedies in the courts of this state.

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

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EMERGENCY MANAGEMENT ACT
Act 390 of 1976

AN ACT to provide for planning, mitigation, response, and recovery from natural and human-made disaster within and outside this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; and to repeal acts and parts of acts.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2006, Act 267, Imd. Eff. July 7, 2006.

The People of the State of Michigan enact:

30.401 Short title.

Sec. 1. This act shall be known and may be cited as the "emergency management act".

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan Emergency Management Advisory Council from the Department of State Police to the Director of State Police, as head of the Department of State Police, and the abolishment of the Michigan Emergency Management Advisory Council, see E.R.O. No. 1993-15, compiled at MCL 28.702 of the Michigan Compiled Laws.

30.402 Definitions.

Sec. 2. As used in this act:

(a) "Chief executive official" means:

(*i*) In the case of a county with an elected county executive, the county executive.

(*ii*) In the case of a county without an elected county executive, the chairperson of the county board of commissioners, or the appointed administrator designated by appropriate enabling legislation.

(*iii*) In the case of a city, the mayor or the individual specifically identified in the municipal charter.

(*iv*) In the case of a township, the township supervisor.

(*v*) In the case of a village, the village president or the individual specifically identified in the village charter.

(b) "Council" means the Michigan emergency management advisory council.

(c) "Department" means the department of state police.

(d) "Director" or "state director of emergency management" means the director of the department of state police or his or her designee.

(e) "Disaster" means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders.

(f) "Disaster relief forces" means all agencies of state, county, and municipal government, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities under this act or pursuant to a lawful order or directive authorized by this act.

(g) "District coordinator" means the state police emergency management division district coordinator.

(h) "Emergency" means any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state.

(i) "Emergency management coordinator" means a person appointed pursuant to section 9 to coordinate emergency management within the county or municipality. Emergency management coordinator includes a civil defense director, civil defense coordinator, emergency services coordinator, emergency program manager, or other person with a similar title and duties.

(j) "Local state of emergency" means a proclamation or declaration that activates the response and recovery aspects of any and all applicable local or interjurisdictional emergency operations plans and authorizes the furnishing of aid, assistance, and directives under those plans.

(k) "Michigan emergency management plan" means the plan prepared and maintained by the emergency management division of the department and signed by the governor.

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

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

(n) "Political subdivision" means a county, municipality, school district, or any other governmental unit, agency, body, board, or commission which is not a state department, board, commission, or agency of state government.

(o) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(p) "State of disaster" means an executive order or proclamation that activates the disaster response and recovery aspects of the state, local, and interjurisdictional emergency operations plans applicable to the counties or municipalities affected.

(q) "State of emergency" means an executive order or proclamation that activates the emergency response and recovery aspects of the state, local, and interjurisdictional emergency operations plans applicable to the counties or municipalities affected.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.403 Responsibility of governor; executive orders, proclamations, and directives; declaration, duration, and termination of state of disaster or state of emergency; contents and dissemination of executive order or proclamation.

Sec. 3. (1) The governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency.

(2) The governor may issue executive orders, proclamations, and directives having the force and effect of law to implement this act. Except as provided in section 7(2), an executive order, proclamation, or directive may be amended or rescinded by the governor.

(3) The governor shall, by executive order or proclamation, declare a state of disaster if he or she finds a disaster has occurred or the threat of a disaster exists. The state of disaster shall continue until the governor finds that the threat or danger has passed, the disaster has been dealt with to the extent that disaster conditions no longer exist, or until the declared state of disaster has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of disaster terminated, unless a request by the governor for an extension of the state of disaster for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the disaster, the area or areas threatened, the conditions causing the disaster, and the conditions permitting the termination of the state of disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(4) The governor shall, by executive order or proclamation, declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. The state of emergency shall continue until the governor finds that the threat or danger has passed, the emergency has been dealt with to the extent that emergency conditions no longer exist, or until the declared state of emergency has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the emergency, the area or areas threatened, the conditions causing the emergency, and the conditions permitting the termination of the state of emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the emergency prevent or impede its prompt filing.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.404 Effect of executive order or proclamation of state of disaster or state of emergency; federal assistance; reciprocal aid agreement or compact; appropriation.

Sec. 4. (1) An executive order or proclamation of a state of disaster or a state of emergency shall serve to authorize the deployment and use of any forces to which the plan or plans apply and the use or distribution of supplies, equipment, materials, or facilities assembled or stockpiled pursuant to this act.

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(2) Upon declaring a state of disaster or a state of emergency, the governor may seek and accept assistance, either financial or otherwise, from the federal government, pursuant to federal law or regulation.

(3) The governor may, with the approval of the state administrative board, enter into a reciprocal aid agreement or compact with another state, the federal government, or a neighboring state or province of a foreign country. A reciprocal aid agreement shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; the services of the national guard when not mobilized for federal service or state defense force as authorized by the Michigan military act, Act No. 150 of the Public Acts of 1967, as amended, being sections 32.501 to 32.851 of the Michigan Compiled Laws, and subject to federal limitations on the crossing of national boundaries by organized military forces; health, medical, and related services; fire fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and other necessary equipment, facilities, and services. A reciprocal aid agreement shall specify terms for the reimbursement of costs and expenses and conditions necessary for activating the agreement. The legislature shall appropriate funds to implement a reciprocal aid agreement.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.405 Additional powers of governor; prohibition; disobeying or interfering with rule, order, or directive as misdemeanor.

Sec. 5. (1) In addition to the general authority granted to the governor by this act, the governor may, upon the declaration of a state of disaster or a state of emergency do 1 or more of the following:

(a) Suspend a regulatory statute, order, or rule prescribing the procedures for conduct of state business, when strict compliance with the statute, order, or rule would prevent, hinder, or delay necessary action in coping with the disaster or emergency. This power does not extend to the suspension of criminal process and procedures.

(b) Utilize the available resources of the state and its political subdivisions, and those of the federal government made available to the state, as are reasonably necessary to cope with the disaster or emergency.

(c) Transfer the direction, personnel, or functions of state departments, agencies, or units thereof for the purpose of performing or facilitating emergency management.

(d) Subject to appropriate compensation, as authorized by the legislature, commandeer or utilize private property necessary to cope with the disaster or emergency.

(e) Direct and compel the evacuation of all or part of the population from a stricken or threatened area within the state if necessary for the preservation of life or other mitigation, response, or recovery activities.

(f) Prescribe routes, modes, and destination of transportation in connection with an evacuation.

(g) Control ingress and egress to and from a stricken or threatened area, removal of persons within the area, and the occupancy of premises within the area.

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles.

(i) Provide for the availability and use of temporary emergency housing.

(j) Direct all other actions which are necessary and appropriate under the circumstances.

(2) Subsection (1) does not authorize the seizure, taking, or confiscation of lawfully possessed firearms or ammunition.

(3) A person who willfully disobeys or interferes with the implementation of a rule, order, or directive issued by the governor pursuant to this section is guilty of a misdemeanor.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2006, Act 545, Imd. Eff. Dec. 29, 2006.

30.406 Obligation of person within state; compensation for services or property; record; claims; exceptions.

Sec. 6. (1) All persons within this state shall conduct themselves and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to cope with the effects of a disaster or an emergency. This obligation includes appropriate personal service and the use or restriction of the use of property in time of a disaster or an emergency. This act neither increases nor decreases these obligations but recognizes their existence under the state constitution of 1963, the statutes, and the common law. Compensation for services or for the taking or use of property shall be paid only if obligations recognized herein are exceeded in a particular case and only if the claimant has not volunteered his or her services or property without compensation.

(2) Personal services may not be compensated by the state, or a subdivision or agency of the state, except pursuant to statute, local law, or ordinance.

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(3) Compensation for property shall be paid only if the property is taken or otherwise used in coping with a disaster or emergency and its use or destruction is ordered by the governor or the director. A record of all property taken or otherwise used under this act shall be made and promptly transmitted to the office of the governor.

(4) A person claiming compensation for the use, damage, loss, or destruction of property under this act shall file a claim with the emergency management division of the department in the form and manner prescribed by the division.

(5) If a claimant refuses to accept the amount of compensation offered by the state, a claim may be filed in the state court of claims which court shall have exclusive jurisdiction to determine the amount of compensation due the owner.

(6) This section does not apply to or authorize compensation for either of the following:

(a) The destruction or damaging of standing timber or other property to provide a firebreak.

(b) The release of waters or the breach of impoundments to reduce pressure or other danger from actual or threatened flood.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.407 Powers and duties of director.

Sec. 7. (1) The director shall implement the orders and directives of the governor in the event of a disaster or an emergency and shall coordinate all federal, state, county, and municipal disaster prevention, mitigation, relief, and recovery operations within this state. At the specific direction of the governor, the director shall assume complete command of all disaster relief, mitigation, and recovery forces, except the national guard or state defense force, if it appears that this action is absolutely necessary for an effective effort.

(2) If the governor has issued a proclamation, executive order, or directive under section 3 regarding state of disaster or state of emergency declarations, section 5 regarding actions directed by the governor, or section 21 regarding heightened state of alert, the director may, with the concurrence of the governor, amend the proclamation or directive by adding additional counties or municipalities or terminating the orders and restrictions as considered necessary.

(3) The director shall comply with the applicable provisions of the Michigan emergency management plan in the performance of the director's duties under this act.

(4) The director's powers and duties shall include the administration of state and federal disaster relief funds and money; the mobilization and direction of state disaster relief forces; the assignment of general missions to the national guard or state defense force activated for active state duty to assist the disaster relief operations; the receipt, screening, and investigation of requests for assistance from county and municipal governmental entities; making recommendations to the governor; and other appropriate actions within the general authority of the director.

(5) In carrying out the director's responsibilities under this act, the director may plan for and utilize the assistance of any volunteer group or person having a pertinent service to render.

(6) The director may issue a directive relieving the donor or supplier of voluntary or private assistance from liability for other than gross negligence in the performance of the assistance.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

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30.407a Emergency management division; establishment; purpose; employees; emergency management plan; grants; powers of division; definition.

Sec. 7a. (1) The department shall establish an emergency management division for the purpose of coordinating within this state the emergency management activities of county, municipal, state, and federal governments. The department shall provide the division with professional and support employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a Michigan emergency management plan that is a comprehensive plan that encompasses mitigation, preparedness, response, and recovery for this state.

(3) The division shall receive available state and federal emergency management and disaster related grants-in-aid and shall administer and apportion the grants according to appropriately established guidelines to the agencies of this state and local political subdivisions.

(4) The division may do 1 or more of the following:

(a) Promulgate rules that establish standards and requirements for the appointment, training, and professional development of emergency management coordinators.

(b) Promulgate rules that establish standards and requirements for local and interjurisdictional emergency management programs.

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(c) Periodically review local and interjurisdictional emergency operations plans.

(d) Promulgate rules that establish standards and requirements for emergency training and exercising programs and public information programs.

(e) Make surveys of industries, resources, and facilities within this state, both public and private, necessary to carry out the purposes of this act.

(f) Prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters and emergencies.

(g) Provide for 1 or more state emergency operations centers to provide for the coordination of emergency response and disaster recovery in this state.

(h) Provide for the coordination and cooperation of state agencies and departments with federal and local government agencies and departments in emergency management activities.

(i) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster mitigation, preparation, response, and recovery.

(j) Propose and administer statewide mutual aid compacts and agreements.

(k) Do other activities necessary, incidental, or appropriate for the implementation of this act.

(5) For purposes of this section, the judicial branch of this state is considered a department of state government.

(6) As used in this section, "division" means the emergency management division of the department.

History: Add. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002.

30.408 Emergency management coordinator; employment or appointment; duties; annexes to emergency management plan; cooperation of state agencies.

Sec. 8. (1) The director of each department of state government, and those agencies of state government required by the Michigan emergency management plan to provide an annex to that plan, shall serve as emergency management coordinator for their respective departments or agencies. Each director may appoint or employ a designated representative as emergency management coordinator, provided that the representative shall act for and at the direction of that director while functioning in the capacity of emergency management coordinator upon the activation of the state emergency operations center, or the declaration of a state of disaster or emergency. Each department or agency emergency management coordinator shall act as liaison between his or her department or agency and the emergency management division of the department in all matters of emergency management, including the activation of the Michigan emergency management plan. Each department or agency of state government specified in the Michigan emergency management plan shall prepare and continuously update an annex to the plan providing for the delivery of emergency management activities by that agency or the department. The annexes shall be in a form prescribed by the director. The emergency management coordinator shall represent the agency or department head in the drafting and updating of the respective agency's or the department's emergency management annex and in coordinating the agency's or department's emergency management efforts with those of the other state agencies as well as with county and municipal governments.

(2) Upon the declaration of a state of disaster or a state of emergency by the governor, each state agency shall cooperate to the fullest possible extent with the director in the performance of the services that it is suited to perform, and as described in the Michigan emergency management plan, in the prevention, mitigation, response to, or recovery from the disaster or emergency. For purposes of this section, the judicial branch of this state is considered a department of state government and the chief justice of the Michigan supreme court is considered the director of that department.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.409 Emergency management coordinator; appointment; duties; eligibility.

Sec. 9. (1) The county board of commissioners of each county shall appoint an emergency management coordinator. In the absence of an appointed person, the emergency management coordinator shall be the chairperson of the county board of commissioners. The emergency management coordinator shall act for, and at the direction of, the chairperson of the county board of commissioners in the coordination of all matters pertaining to emergency management in the county, including mitigation, preparedness, response, and recovery. In counties with an elected county executive, the county emergency management coordinator may act for and at the direction of the county executive. Pursuant to a resolution adopted by a county, the county boards of commissioners of not more than 3 adjoining counties may agree upon and appoint a coordinator to act for the multicounty area.

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(2) A municipality with a population of 25,000 or more shall either appoint a municipal emergency management coordinator or appoint the coordinator of the county as the municipal emergency management coordinator pursuant to subsection (7). In the absence of an appointed person, the emergency management coordinator shall be the chief executive official of that municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 25,000 or more shall act for and at the direction of the chief executive official of the municipality or the official designated in the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(3) A municipality with a population of 10,000 or more may appoint an emergency management coordinator for the municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 10,000 or more shall act for and at the direction of the chief executive official or the official designated by the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(4) A municipality having a population of less than 10,000 may appoint an emergency management coordinator who shall serve at the direction of the county emergency management coordinator.

(5) A public college or university with a combined average population of faculty, students, and staff of 25,000 or more, including its satellite campuses within this state, shall appoint an emergency management coordinator for the public college or university. Public colleges or universities with a combined average population of faculty, students, and staff of 10,000 or more, including its satellite campuses within this state, may appoint an emergency management coordinator for the public college or university.

(6) A person is not ineligible for appointment as an emergency management coordinator, or as a member of a county or municipal emergency services or emergency management agency or organization, because that person holds another public office or trust, and that person shall not forfeit the right to a public office or trust by reason of his or her appointment as an emergency management coordinator.

(7) A county coordinator may be appointed a municipal coordinator for any municipality within the county and a municipal coordinator may be appointed a county coordinator.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

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30.410 Powers of county and municipality; mutual aid or reciprocal aid agreements or compacts; assistance of emergency management coordinator.

Sec. 10. (1) Each county and municipality that has appointed an emergency management coordinator under section 9 may do 1 or more of the following:

(a) Direct and coordinate the development of emergency operations plans and programs in accordance with the policies and plans established by the appropriate federal and state agencies. Each department or agency of a county or municipality specified in the emergency operations plan to provide an annex to the plan shall prepare and continuously update the annex providing for emergency management activities, including mitigation, preparedness, response, and recovery, by the department or agency and those other emergency activities the department or agency is specified to coordinate. Emergency operations plans and programs developed under this subsection shall include provisions for the dissemination of public information and local broadcasters shall be consulted in developing such provisions. Emergency operations plans and programs developed under this subdivision shall include local courts.

(b) Declare a local state of emergency if circumstances within the county or municipality indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists and, under a declaration of a local state of emergency, issue directives as to travel restrictions on county or local roads. This power shall be vested in the chief executive official of the county or municipality or the official designated by charter and shall not be continued or renewed for a period in excess of 7 days except with the consent of the governing body of the county or municipality. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the department, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(c) Appropriate and expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for disaster purposes.

(d) Provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.

(e) Direct and coordinate local multi-agency response to emergencies within the county or municipality.

(f) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster workers.

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(g) Appoint a local emergency management advisory council.

(h) If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the county or municipality relating to fire fighting; engineering; rescue; health, medical, and related services; police; transportation; construction; and similar items or service for disaster relief purposes within or without the physical limits of the county or municipality as ordered by the governor or the director.

(i) In the event of a foreign attack upon this state, waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

(2) For the purpose of providing assistance during a disaster or emergency, municipalities and counties may enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, public agencies, federally recognized tribal nations, or private sector agencies, or all of these entities. A compact entered into pursuant to this subsection is limited to the exchange of personnel, equipment, and other resources in times of emergency, disaster, or other serious threats to public health and safety. The arrangements shall be consistent with the Michigan emergency management plan.

(3) The emergency management coordinator may assist in the development or negotiation, or both, of a mutual aid or reciprocal aid agreement or compact made pursuant to section 4(3) and shall carry out the agreement or compact.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.411 Powers and duties of personnel of disaster relief forces; liability for personal injury or property damage; right to benefits or compensation; disaster relief workers; immunity; liability and legal obligation of persons owning or controlling real estate or other premises used for shelter; "gross negligence" defined.

Sec. 11. (1) Personnel of disaster relief forces while on duty are subject to all of the following provisions:

(a) If they are employees of this state, they have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of this state, regardless of where serving, they have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of this state or a political subdivision of this state, they are entitled to the same rights and immunities as provided by law for the employees of this state. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) This state, any political subdivision of this state, or the employees, agents, or representatives of this state or any political subdivision of this state are not liable for personal injury or property damage sustained by any person appointed or acting as a member of disaster relief forces. This act does not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, any pension law, or any act of congress.

(3) This state or a political subdivision of this state engaged in disaster relief activity is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of this state or a political subdivision of this state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided under section 7 of 1964 PA 170, MCL 691.1407. As used in this section, "disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

(4) A person licensed to practice medicine or osteopathic medicine and surgery or a licensed hospital, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or an individual listed in subsection (6), who renders services during a state of disaster declared by the governor and at the express or implied request of a state official or agency or county or local coordinator or executive body, is considered an authorized disaster relief worker or facility and is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. The immunity granted by this subsection does not apply in the

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event of an act or omission that is willful or gross negligence. If a civil action for malpractice is filed alleging an act or omission that is willful or gross negligence resulting in injuries, the services rendered that resulted in those injuries shall be judged according to the standards required of persons licensed in this state to perform those services.

(5) An individual listed in subsection (6), during a state of disaster declared by the governor, may practice, in addition to the authority granted by other statutes of this state, the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedure; or oral and topical medication; or a combination of these under the supervision of a member of the medical staff of a licensed hospital of this state, and may assist the staff member in other medical and surgical proceedings.

(6) Subsections (4) and (5) apply to all of the following individuals:

(a) Any of the following, if licensed in this or another state or by the federal government or a branch of the armed forces of the United States:

(*i*) A registered nurse.

(*ii*) A practical nurse.

(*iii*) A nursing student acting under the supervision of a licensed nurse.

(*iv*) A dentist.

(*v*) A veterinarian.

(*vi*) A pharmacist.

(*vii*) A pharmacist intern acting under the supervision of a licensed pharmacist.

(*viii*) A paramedic.

(b) A medical resident undergoing training in a licensed hospital in this or another state.

(7) A person owning or controlling real estate or other premises who voluntarily and without compensation grants to this state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(8) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(9) As used in this section, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002 ;—Am. 2005, Act 321, Imd. Eff. Dec. 27, 2005.

Administrative rules: R 30.1 et seq. of the Michigan Administrative Code.

30.411a Disaster or emergency relief assistance provided by state employee; unpaid leave of absence; leave of absence with pay; conditions; limitation.

Sec. 11a. (1) A state employee who is not in the state classified civil service and who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted an unpaid leave of absence from his or her state employment to provide disaster or emergency relief assistance in this state.

(2) A state employee in the state classified civil service who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted a leave of absence from his or her classified employment to provide disaster or emergency relief assistance in this state as authorized by the civil service commission.

(3) In addition to unpaid leave under subsection (1) or (2), an employee of an agency in any branch of state government who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted leave from work with pay for not more than 10 days in any 12-month period to participate in specialized disaster relief services within or outside of this state if all of the following circumstances are present:

(a) The governor or the president of the United States has declared the disaster.

(b) The American Red Cross has requested the services of the employee.

(c) The employee's department head has approved the leave.

(d) If the services are rendered outside the state by an employee in the executive branch, the governor has

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approved the leave.

(e) If the employee is in the state classified civil service, the civil service commission has approved the leave.

(4) Not more than 50 state employees shall be granted paid leave under subsection (3) during the fiscal year. The governor may increase the limit on the number of state employees who may be granted paid disaster leave during the fiscal year by executive order.

(5) This state shall not penalize or otherwise take adverse employment action against a state employee because the employee takes a leave of absence authorized under this section to provide disaster or emergency relief assistance. However, the state shall recover payment for paid disaster leave from an employee who is granted paid leave under subsection (3) if the employee does not use the leave time for the approved purpose.

History: Add. 2006, Act 267, Imd. Eff. July 7, 2006.

30.412 Disaster or emergency occurring in county or municipality; procedure; ordinances or rules.

Sec. 12. (1) If a disaster or an emergency occurs in a county or municipality and is beyond the control of local public or private agencies, the chief executive official of the county or municipality may request the governor to declare that a state of disaster or state of emergency exists in the county or municipality, utilizing the procedure set forth in section 14. The director may order the disaster relief forces of a county or municipality to aid the community. The chief executive official of the municipality or the governing body of the county shall comply with the order of the director and cooperate with the director in matters of emergency management.

(2) A county, municipality, or other agency designated or appointed by the governor may make, amend, and rescind ordinances or rules necessary for emergency management purposes and supplementary to a rule, order, or directive issued by the governor or a state agency exercising a power delegated to it by the governor. The ordinance or rule shall be temporary and, upon the governor's declaration that a state of disaster or state of emergency is terminated, shall no longer be in effect.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.413 Repealed. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

Compiler's note: The repealed section pertained to foreign attack on state.

30.414 Assessment of disaster or emergency; findings and recommendations; notice; temporary assistance; action by governor.

Sec. 14. (1) In the event a disaster or emergency occurs that has not yet been declared to be a state of disaster or a state of emergency by the governor, and the disaster or emergency is considered by the chief executive official of the municipality or the governing body or the county in which it occurs to be beyond the control of the county or municipality, the emergency management coordinator shall immediately contact the district coordinator. The chief executive official of a county shall not request state assistance or a declaration of a state of disaster or a state of emergency for an emergency which has occurred or is occurring solely within the confines of a township, city, or village within the county unless requested to do so by the chief executive official of the affected township, city, or village. The district coordinator, in conjunction with the county or municipal coordinator, shall assess the nature and scope of the disaster or emergency, and they shall recommend the personnel, services, and equipment that will be required for its prevention, mitigation, or relief.

(2) Upon completing the assessment, the district coordinator shall forthwith notify the director of the findings and recommendations. The director shall immediately notify the governor. If the director determines that immediate action is essential to the preservation of life and property, the director may initiate temporary assistance to the affected area as necessary and compatible with the policies and procedures of the Michigan emergency management plan.

(3) The director shall advise the governor of the magnitude of the disaster or emergency. The governor may take the necessary action he or she considers appropriate to mitigate the disaster or emergency. This act shall not be construed to restrain the governor from exercising on his own initiative any of the powers set forth in this act.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.415 Repealed. 2002, Act 132, Eff. May 1, 2002.

Compiler's note: The repealed section pertained to Michigan emergency management advisory council.

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30.416 Declaration of emergency or major disaster by president; federal grants; agreement pledging state's share.

Sec. 16. After the president of the United States declares an emergency or a major disaster, as defined in the disaster relief act of 1974, Public Law 93-288, 88 Stat. 143, to exist in this state, the governor may apply for, accept, and disburse grants from the federal government pursuant to the disaster relief act of 1974. To implement and administer the grant program and to make financial grants, the governor may enter into an agreement with the federal government or any officer, or agency of the federal government, pledging the state's share for the financial grants.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.417 Construction of act.

Sec. 17. This act shall not be construed to do any of the following:

(a) Interfere with the course or conduct of a labor dispute. However, actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

(b) Interfere with the dissemination of news or comment on public affairs. However, any communications facility or organization, including radio and television stations, wire services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster or emergency.

(c) Affect the jurisdiction or responsibilities of law enforcement agencies, fire fighting forces, and units or personnel of the armed forces of the United States when on active duty. However, state, local, and interjurisdictional emergency operations plans shall place reliance upon the forces available for performance of functions related to disasters or emergencies.

(d) Limit, modify, or abridge the authority of the governor to proclaim a state of emergency pursuant to Act No. 302 of the Public Acts of 1945, being sections 10.31 to 10.33 of the Michigan Compiled Laws, or exercise any other powers vested in him or her under the state constitution of 1963, statutes, or common law of this state independent of, or in conjunction with, this act.

(e) Relieve any state or local official, department head, or agency of its normal responsibilities.

(f) Limit or abridge the power, duty, or responsibility of the chief executive official of a county or municipality to act in the event of a disaster or emergency except as expressly set forth in this act.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.418 Disaster contingency fund; creation; administration; accounting; appropriation; expenditures; reimbursement.

Sec. 18. (1) A disaster contingency fund is created and shall be administered by the director. An annual accounting of expenditures under this act shall be made to the legislature and the legislature shall annually appropriate sufficient funds to maintain the fund at a level not to exceed $750,000.00 and not less than $30,000.00.

(2) The director may expend money from the disaster contingency fund upon appropriation for the purpose of paying necessary and reasonable overtime, travel, and subsistence expenses incurred by an employee of an agency of the state acting at the direction of the director in a disaster or emergency related operation, and, with the concurrence of the governor or the governor's designated representative, for other needs required for the mitigation of the effects of, or in response to, a disaster or emergency.

(3) The director may place directly in the disaster contingency fund a reimbursement for expenditures out of the fund received from the federal government, or another source.

(4) If a state of major disaster or emergency is declared by the president of the United States, and when authorized by the governor, an expenditure from the fund may be made by the director upon appropriation to pay the state's matching share of grants as provided by the disaster relief act of 1974, Public Law 93-288, 88 Stat. 143.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.419 Disaster contingency fund; expenditures when federal assistance not available; application for grant; resolution; rules.

Sec. 19. (1) Under extraordinary circumstances, upon the declaration of a state of disaster or a state of emergency by the governor and subject to the requirements of this subsection, the governor may authorize an expenditure from the disaster contingency fund to provide state assistance to counties and municipalities when federal assistance is not available. If the governor proclaims a state of disaster or a state of emergency, the first recourse for disaster related expenses shall be to funds of the county or municipality. If the demands

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placed upon the funds of a county or municipality in coping with a particular disaster or emergency are unreasonably great, the governing body of the county or municipality may apply, by resolution of the local governing body, for a grant from the disaster contingency fund. The resolution shall certify that the affected county or municipality emergency operations plan was implemented in a timely manner. The resolution shall set forth the purpose for which the assistance is sought, the extent of damages sustained, and certify an exhaustion of local efforts. Assistance grants under this section shall not exceed $30,000.00 or 10% of the total annual operating budget for the preceding fiscal year of the county or municipality, whichever is less. The assistance under this subsection is to provide grants, excluding reimbursement for capital outlay expenditures, in mitigation of the extraordinary burden of a county or municipality in relation to its available resources.

(2) The director shall promulgate rules governing the application and eligibility for the use of the state disaster contingency fund. Rules that have been promulgated prior to December 31, 1988 to implement this section shall remain in effect until revised or replaced. The rules shall include, but not be limited to, all of the following:

(a) Demonstration of exhaustion of local effort.

(b) Evidence that the applicant is a county that actively maintains an emergency management program, reviewed by and determined to be current and adequate by the emergency management division of the department, before the disaster or emergency for which assistance is being requested occurs. If the applicant is a municipality with a population of 10,000 or more, evidence that the municipality either maintains a separate emergency management program, reviewed by and determined to be current and adequate by the emergency management division of the department, before the disaster or emergency for which assistance is being requested or occurs, or the municipality is incorporated in the county emergency management program.

(c) Evidence that the applicable county or municipal emergency operations plan was implemented in a timely manner at the beginning of the disaster or emergency.

(d) Reimbursement for expenditures shall be limited to public damage and direct loss as a result of the disaster or emergency, or expenses incurred by the applicant for reimbursing employees for disaster or emergency related activities which were not performed as a part of their normal duties, or for other needs required specifically for the mitigation of the effects, or in response to the disaster or emergency.

(e) A disaster assessment team established by the emergency management division of the department has substantiated the damages claimed by the applicant. Damage estimates submitted by the applicant shall be based upon a disaster assessment carried out by the applicant according to standard procedures recommended by the emergency management division.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

Administrative rules: R 30.1 et seq. of the Michigan Administrative Code.

30.420 Repeal of §§ 30.221 to 30.233.

Sec. 20. Act No. 154 of the Public Acts of 1953, as amended, being sections 30.221 to 30.233 of the Compiled Laws of 1970, and Act No. 14 of the Public Acts of 1973, are repealed.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976.

30.421 Heightened state of alert; cause; powers of governor; violation as misdemeanor; penalty; civil action; definitions.

Sec. 21. (1) If good cause exists to believe that terrorists or members of a terrorist organization are within this state or that acts of terrorism may be committed in this state or against a vital resource, the governor may by executive order or proclamation declare a heightened state of alert and subsequently exercise the authority provided in section 3(2) and section 5(1)(b), (c), (e), (f), (g), (h), (i), and (j) in an effort to safeguard the interests of this state or a vital resource, to prevent or respond to acts of terrorism, or to facilitate the apprehension of terrorists or members of a terrorist organization and those acting in concert with them. However, in exercising the authority under section 5(1)(h), the governor shall not suspend or limit the sale, dispensing, or transportation of alcoholic beverages under this section. Within 7 days after declaring a heightened state of alert, the governor shall notify the majority leader and minority leader of the senate and the 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

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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.

History: Add. 2002, Act 132, Eff. May 1, 2002.

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