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OBSOLETE LAWS: WATER, TREES, RATS, SPARROWS, ETC.

House Bill 5582 as introduced
Sponsor: Rep. David Mead

House Bill 5633 as introduced
Sponsor: Rep. Paul Tesanovich

**Committee: Conservation and Outdoor
Recreation**

Senate Bill 1068 as passed by the Senate
Sponsor: Sen. Raymond M. Murphy

Senate Bill 1072 as passed by the Senate
Sponsor: Sen. Dave Jaye

Senate Bill 1125 as passed by the Senate
Sponsor: Sen. Joel D. Gougeon

Senate Bill 1126 as passed by the Senate
Sponsor: Sen. Mike Goschka

Senate Bill 1127 as passed by the Senate
Sponsor: Sen. John J. H. Schwarz, M.D.

Senate Bill 1128 as passed by the Senate
Sponsor: Sen. Thaddeus G. McCotter

Senate Bill 1129 as passed by the Senate
Sponsor: Sen. Bev Hammerstrom

**Senate Committee: Government
Operations**
**House Committee: Conservation and
Outdoor Recreation**

First Analysis (5-2-00)

THE APPARENT PROBLEM:

On June 22, 1999, the Senate Majority Leader established the Senate Law Revision Task Force to review state statutes and recommend for repeal those laws that “to reasonable modern minds, [were] clearly arcane or irrelevant to life in modern Michigan.”

According to the task force’s December 16, 1999, report, “Inherent in [its] mission was the belief that arcane and/or irrelevant statutes that remained enforceable were detrimental to the public welfare” for the following reasons: 1.) “Michigan residents must be

free from the threat of the state arbitrarily enforcing arcane and/or irrelevant laws; 2.) Residents must never be required to be aware of and abide by laws that no reasonable person could ever know were extant, let alone enforceable; and 3.) Governmental resources – especially precious law enforcement resources – should not be squandered perpetuating and/or imposing arcane and/or irrelevant laws upon residents.”

According to its report, the task force began by reviewing statutes enacted in the 19th century, scheduling public meetings, and seeking public input. The task force also sought suggestions from the chief judges of each of Michigan’s district, circuit, and appellate courts, the prosecutors from each of Michigan’s 83 counties, the State Bar of Michigan, various legal associations, and the law enforcement community, as well as all Michigan legislators, the executive branch’s agencies and departments, the Michigan Law Review Commission, and the Mackinac Center for Public Policy. The task force compiled a list of hundreds of laws that might deserve to be repealed or amended, and then conducted a detailed analysis of each law’s original intent and existing utility. The result was the introduction of legislation, in both the Senate and the House, repealing many obsolete statutes and obsolete provisions within statutes.

THE CONTENT OF THE BILLS:

Each of the bills is designed to repeal an obsolete statute or obsolete provisions in a statute.

House Bill 5582 would amend Public Act 313 of 1929 (MCL 286.102), dealing with the control and eradication of white pine blister rust, to eliminate the rule making authority of the Commissioner of Agriculture (now the director of the Department of Agriculture) and other state departments.

House Bill 5633 would amend Public Act 162 of 1955 (MCL 290.538), which provides for the licensing and inspection of liming material and the regulation of its sale, to eliminate provisions granting rule making authority to the director of the Department of Agriculture.

Senate Bill 1068 would repeal Public Act 275 of 1927 (MCL 12.31- 12.35), which authorizes the refunding of bonds secured by the Michigan State Fairgrounds.

Senate Bill 1072 would repeal the John C. Hertel Toxic Substance Control Commission Act (MCL 286.181-286.194), which governs a commission abolished in 1989.

Senate Bill 1124 would repeal Public Act 229 of 1887 (MCL 426.1-426.15), which provides for liens on forest products for labor or services performed in manufacturing lumber or shingles, or cutting, skidding, falling, hauling, banking, driving, running, rafting, or booming logs, timber, posts, poles, etc.

Senate Bill 1125 would repeal Public Act 263 of 1861 (MCL 426.51- 426.57), which allows people floating logs in navigable waters to break up log jams caused by others, and gives those who break up log jams a lien on the logs or timber for their expenses.

Senate Bill 1126 would repeal Public Act 202 of 1867 (MCL 426.101-426.107), which provides that people who float logs on water must have some previously approved and recorded mark impressed on the logs.

Senate Bill 1127 would repeal Public Act 43 of 1897 (MCL 390.81-390.83), which says that water samples may be sent to the University of Michigan for analysis.

Senate Bill 1128 would repeal Public Act 50 of 1915, the “rat bounty” act (MCL 433.251-433.253), which requires a local clerk to pay a person ten cents for each rat head brought to the clerk.

Senate Bill 1129 would repeal Public Act 226 of 1907, the English sparrow bounty act (MCL 433.281-433.284), which requires a local clerk to pay to a person two cents for each dead English sparrow brought to the clerk in the months of December, January, and February.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would have no fiscal impact on the state or on local governments. (Fiscal notes dated 4-25-00)

ARGUMENTS:

For:

The bills are the result of the work of the Senate Law Revision Task Force, which has recommended the repeal of a large number of obsolete, antiquated, and archaic laws and provisions in law. The task force says the provisions are arcane (a word meaning mysterious, secret, or obscure) or irrelevant. The consensus is that these provisions have outlived their usefulness, have

fallen into desuetude, and should not remain in the law books. (They do, however, sometimes provide an interesting glimpse into the state's history, and in particular, the legislature's ongoing attempts to address the problems of the day. And while the task force's useful efforts remind us, as their report says, that not all laws "stand the test of time," perhaps we can generously assume that some of them served a useful purpose in their time.) The bills described in this analysis are part of a larger package of bills addressing obsolete laws, and the task force report should be consulted for a fuller discussion of each of the recommendations for repeal.

Senate Bills 1125 and 1126, for example, pertain to the practice of transporting logs in waterways, a method that is no longer utilized, as the task force report points out. Senate Bill 1127 would repeal an 1897 provision that allow water samples to be sent by local units of government to the University of Michigan for testing to see if the sample contains any substance detrimental for health. The university no longer does this as the Department of Environmental Quality (DEQ) now regulates water quality in the state. Senate Bill 1068 would repeal a law that pertains to state fairground bonds issued in 1927. Of the bounty on English sparrows, the task force says, "modern day conservation methods prove more effective and less dangerous." The bills removing the rule making authority of the Department of Agriculture in certain statutes have the department's approval.

POSITIONS:

The Department of Agriculture has indicated its support for House Bills 5582 and 5633 and for Senate Bills 1068 and 1072. (4-27-00)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.