



CRC Report



Report No. 340

A publication of the Citizens Research Council of Michigan

August 2006

STATEWIDE ISSUES ON THE NOVEMBER GENERAL ELECTION BALLOT

PROPOSAL 2006-01: CONSTITUTIONAL AMENDMENT TO PROTECT DNR FUNDS

At the November 7, 2006 general election Michigan voters will be presented with a legislatively proposed amendment to the State Constitution to protect Department of Natural Resource funds. The proposed amendment would add sections 40-42 to Article IX in the State Constitution. It restructures several restricted DNR accounts by combining them into one large fund, the Michigan Conservation and Recreation Legacy Fund, and places that fund within the State Constitution. The Michigan Non-Game Fish and Wildlife Trust Fund and the Game and Fish Protection Trust Fund would be placed in the Constitution as well. The funds and accounts currently exist in Public Act 451 of 1994, the Natural Resources and Environmental Protection Act.

The Proposed Funds

The proposed fund structure is as follows:

Michigan Conservation & Recreation Legacy Fund

- Forest Recreation Account
- Game and Fish Protection Account
- Off-Road Vehicle Account
- Recreation Improvement Account
- Snowmobile Improvement Account
- State Park Improvement Account
- Waterways Account

Game and Fish Protection Trust Fund

Michigan Non-Game Fish & Wildlife Trust Fund

Michigan Conservation & Recreation Legacy Fund

Section 40 of Article IX would contain the proposed Legacy Fund, an umbrella account for several sub accounts.

Forest Recreation Account. A similar account, which currently exists within state statute, is funded primarily through contracts and fees from recreational activities on forestlands. The money in this account is used for the development, improvement, operation, promotion, and maintenance of forest recreation.

Game and Fish Protection Account. A similar account, which currently exists within state statute, receives funding from hunting and fishing licenses and

up to \$6 million from the Fish and Game Protection Trust Fund. The money in this account may be spent for statewide hunting and fishing programs, including management, research, enforcement, and acquisition of land.

Off-Road Vehicle Account. A similar account, which currently exists within state statute, is funded by fees imposed upon the use or registration of off-road vehicles and the Recreation Improvement Account. Expenditures for this account must be consistent with the development, improvement, operation, promotion, and maintenance of off-road vehicle trails, routes, or areas. This account is also used to restore any natural resources damaged by the use of off-road vehicles.

Recreation Improvement Account. A similar account, which currently exists within state statute, is funded through tax revenues from two percent of the gasoline sold in the state. The account makes annual transfers in the following amounts: 80 percent to the Waterways Account; 14 percent to the Snowmobile Account. The remaining 6 percent of the money will be used on recreation projects including grants to state colleges and universities to implement projects and off-road vehicle projects. Of the 6 percent, at least 25 percent must be spent to repair damages as a result of pollution of the air, water or other natural resources due to the use of off-road vehicles.



CITIZENS RESEARCH COUNCIL OF MICHIGAN

MAIN OFFICE 38777 West Six Mile Road, Suite 208 • Livonia, MI 48152-3974 • 734-542-8001 • Fax 734-542-8004

LANSING OFFICE 124 West Allegan, Suite 1502 • Lansing, MI 48933 • 517-485-9444 • Fax 517-485-0423

CRCMICH.ORG

The Snowmobile Account will combine two former snowmobile accounts, the Recreation Snowmobile Trail Improvement Fund and the Snowmobile Registration Fee Fund, into a single account. It would receive revenue from fees for registration or use of snowmobiles, the use of snowmobile trails, and 14 percent of the Recreation Improvement Account. This account will be used for the planning, construction, maintenance, and acquisition of trails and areas for snowmobiling, to provide snowmobile safety education programs, basic snowmobile facilities, and access to trails and areas for snowmobiling.

State Park Improvement Account. A similar fund, which currently exists within state statute, is funded primarily through fees and permits for activities in state parks and recreation areas. The money in the account is used for the development, improvement, operation, promotion, and maintenance of state parks and recreation areas.

The Waterways Account will combine three accounts which exist within state statute as the

Michigan State Waterways Fund, the Michigan Harbor Development Fund, and the Marine Safety Fund into a single account. The Waterways Account would receive revenue from 1) registration and operation fees of watercraft, 2) moorages of watercraft on state-operated moorage facilities, 3) access fees for the use of state-operated public access sites, 4) the sale of diesel fuel used by watercraft transfers, and 5) 80 percent of the Recreation Improvement Account. The funding will be spent for the construction, operation, and maintenance of recreational boating facilities that provide the public access to waterways or mooring facilities, and to acquire property for these purposes. The account may also fund law enforcement or boating education for recreational watercraft operators. In FY 2002-2003, \$7.8 million from the Waterways Fund was diverted to the State General Fund.

Game and Fish Protection Trust Fund

Section 41 of Article IX would contain the Game and Fish Protec-

tion Fund. A similar fund exists within state statute. The fund receives the majority of its income from the removal of minerals, coal, oil, gas, timber or other resources from state-owned lands. The accumulated interests and earnings and not more than \$6 million of the principal fund may be spent each year to fund the game and fish protection account of the Legacy Fund.

Michigan Non-Game Fish & Wildlife Trust Fund

Section 42 of Article IX would contain the Michigan Non-Game Fish & Wildlife Trust Fund. A similar fund exists within state statute. This fund receives direct donations, and receipts from the sale of specialty license plates. The assets of the fund will be invested by the state treasurer by law and the interest and earnings from investments will belong to this fund. The fund must maintain a balance of at least \$6 million. Any interest or earnings or other revenues above the \$6 million may be spent to manage a plan consistent with a long-range plan to manage Michigan's nongame and fish resources.

Recent History of the Proposed Funds

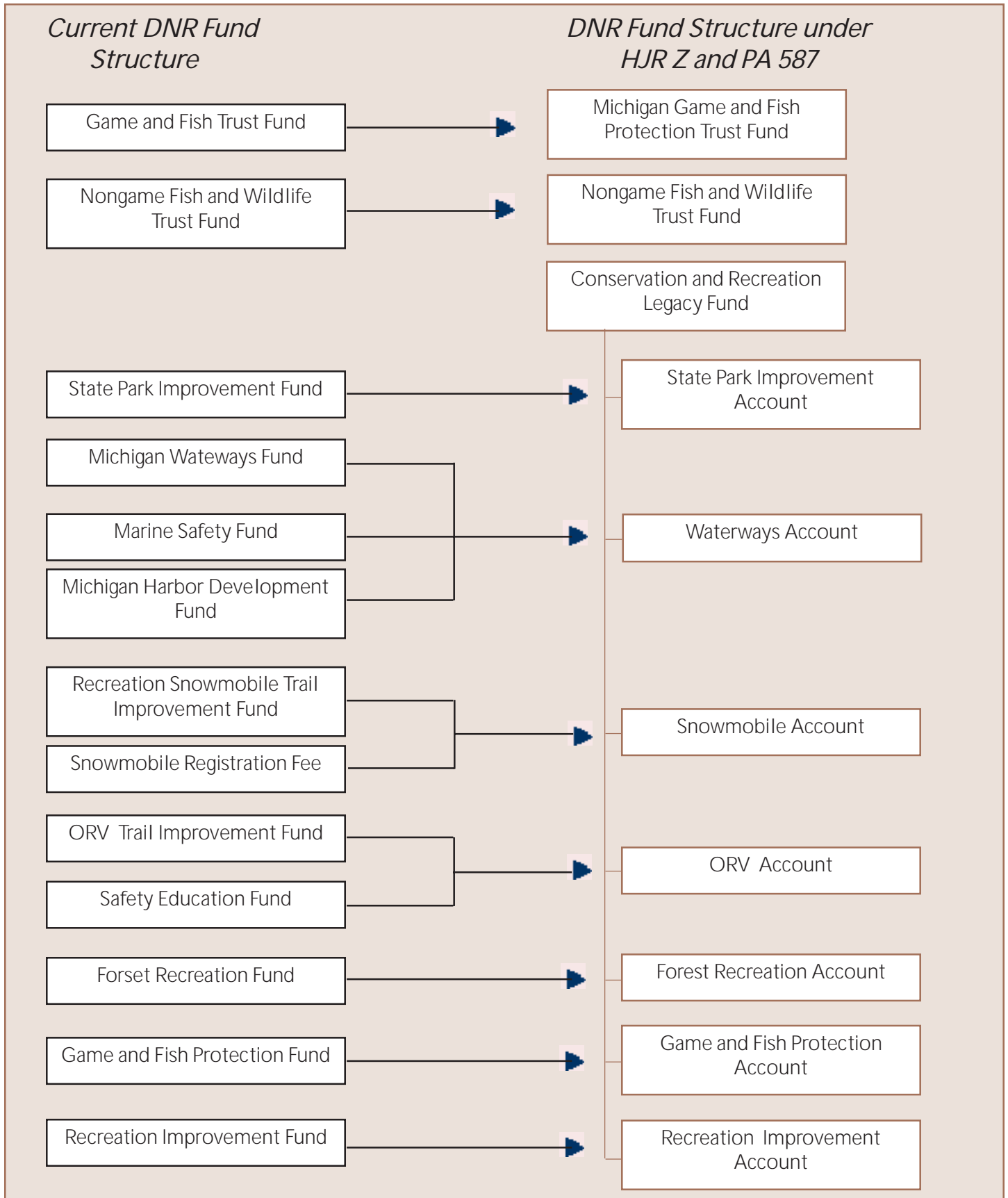
This amendment proposes to place accounts that currently exist as restricted funds within state statute within the State Constitution. This move has been prompted by concern that future governors and the legislature will divert funds from these accounts to aid ailing state budgets.

When accounts are funded through user fees it is expected

they will be spent on the specific activity for which they were collected, or for purposes consistent with that intent. While legislatively restricted accounts are called restricted, this can be misleading because the money is ultimately available to the government to use. The legislature dedicated the revenues to the expressed purposes and has the

power to "undedicate" the revenues as well.

The Government Finance Officers Association notes that governments often set up state restricted funds as expendable trust funds when the revenues are restricted by the government itself. Both the principal and the earnings on the principal of an expendable trust fund may be spent toward an in-



tended purpose. However, this is somewhat misleading because, as the GFOA points out, the government maintains ultimate discretion and such restricted funds are available for all governmental purposes.

While some of these funds have low balances, they result not from legislative diversions of funds, but from external factors. The only diversion of funds from these accounts took place in FY2003, when \$7.8 million from the Waterways Fund was used to support the general fund.

One cause of the low balances is a decline in activities that result in revenues for these accounts. Some low balances relate to declines in the number of hunters and fishers or declines in the timber industry. Some revenues from user fees are dependent on outside factors such as the weather. They are unstable funding sources because in years with bad weather when the number of users is low, revenues come in lower than expected forcing the Department of Natural Resources to use existing fund balances. Even when the number of users falls, the cost of

maintaining the programs continues and the fund balance is depleted making up the difference.

As the State's budget troubles have worsened, the pressure on the restricted funds has increased significantly. The money these funds received from the general fund has decreased considerably forcing the revenues from user fees to play a more substantial role in funding the programs. (See *Tables 1 and 2*.)

Table 1
Department of Natural Resources
FY 2000-2004 Year-end Fund Balances

<u>Fund</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>
Forest Recreation	\$ 131,600	\$ 129,900	\$ 397,900	\$ 463,200	\$ 394,800
Game and Fish - Deer Range Improvement	5,096,800	3,765,000	4,071,500	4,683,400	4,120,200
Game and Fish - Fisheries Settlements	692,800	484,000	564,400	659,500	1,049,500
Game and Fish - General Purpose	6,223,500	12,097,000	14,465,400	12,785,300	9,918,000
Game and Fish - Report All Poaching	1,614,100	1,588,500	509,900	572,100	635,300
Game and Fish - Turkey	1,967,500	2,756,700	1,607,200	1,770,200	2,033,900
Game and Fish - Waterfowl	909,600	1,216,400	999,400	1,240,000	1,481,700
Game and Fish - Youth Ed & Outreach	130,400	181,400	218,100	252,600	261,300
Game and Fish Trust	85,495,100	90,857,600	91,292,800	93,344,700	96,071,200
Harbor Development*	0	3,079,900	6,715,300	0	2,171,800
Marine Safety	4,463,900	3,986,700	1,076,200	817,900	521,100
Nongame Fish and Wildlife Trust	6,857,300	6,544,700	6,417,400	6,402,100	6,366,500
ORV Trail Improvement	3,819,600	3,902,800	4,225,700	3,272,100	4,027,400
Park Improvement	7,142,100	5,300,800	5,706,500	4,425,300	3,703,500
Recreation Improvement	1,165,300	1,131,600	1,145,300	1,237,300	1,058,100
Snowmobile Registration Fees	2,072,400	2,907,800	3,247,400	3,062,000	1,600,000
Snowmobile Trail Improvement	1,684,300	958,300	1,974,300	2,789,800	1,616,800
Waterways	19,026,200	25,852,400	10,947,800**	2,131,200	5,667,900

*The Harbor Development fund was originally set up to complete the harbors of refuge around the state. Since those are complete, the money is now transferred into the Waterways Fund.

**In FY 2002, \$7.8 million of the Waterways Fund was diverted to the general fund.

Source: Michigan Department of Natural Resources

Table 2
Financial Activity of Funds in FY2005 and FY2006
(thousands of dollars)

	Fiscal Year 2004-05				Estimated Fiscal Year 2005-06		
	Beginning Balance	Revenue	Expenditures	Ending Balance	Estimated Revenue	Estimated Expenditures	Est. Ending Balance
Forestry Funds							
Forest Development	\$ 8,280.5	\$33,380.0	\$ (29982.9)	\$11,677.6	\$ 33,037.1	\$(32,862.5)	\$11,852.2
Forest Recreation ¹	394.8	1,071.6	(1,254.0)	212.4	1,150.0	(1,362.4)	-
Forest Land User Fund	422.4	340.5	(278.5)	484.4	369.4	(319.4)	534.4
Commercial Forest	124.2	33.1	(21.6)	135.7	32.6	(48.6)	119.7
Game and Fish Funds							
Game and Fish Protection Trust Fund ²	\$ 6,000.0	\$15,203.3	\$ (15,203.3)	\$ 6,000.0	\$ 11,823.5	\$(11,823.5)	\$ 6,000.0
Game and Fish-General Purpose	9918.0	58,095.8	(60,190.1)	7,823.7	59,823.4	(60,535.8)	7,111.3
Deer Range improvement Program	5,120.2	2,504.1	(2,160.9)	5,463.4	2,415.3	(6,019.4)	1,859.3
Turkey	2,033.9	1,500.5	(1,360.5)	2,173.9	1,549.2	(2,753.6)	969.5
Waterfowl License and Fees	1,481.7	303.4	(94.0)	1,691.1	295.4	(999)	1,886.6
Fisheries Settlements	1,049.5	698.5	(836.4)	911.6	631.1	(967.6)	575.1
Wildlife Resource Protection	635.3	1,199.7	(1,374.2)	460.8	1,179.3	(1,620.1)	20.0
Youth Hunting & Fishing Ed. & Outreach	261.3	32.0	(6.7)	287.6	31.0	(276.8)	41.8
Parks Funds							
State Parks Endowment Fund ²	\$10,873.6	\$16,883.0	\$(16,904.7)	\$ 10,851.9	\$ 16,153.0	\$(17,536.3)	\$ 9,468.6
State Park Improvement Fund	3,703.5	36,695.5	(36,766.8)	3,632.2	41,171.7	(42,526.4)	2,277.5
Michigan Civil Conservation Corps Endow.	372.4	1,011.5	(1,034.4)	349.5	978.7	(1,151.2)	177.0
Snowmobile and ORV Funds							
ORV Trail Improvement Fund	\$ 4,027.4	\$ 3,353.9	\$ (2,625.4)	\$ 4,755.9	\$ 3,250.0	\$(4,223.1)	\$ 3,782.8
Snowmobile Trail Improvement Fund ⁴	1,616.8	8,884.1	(8,977.3)	1,523.6	8,409.3	(9,737.7)	195.2
Snowmobile Registration Fees ⁴	1,600.0	1,442.0	(1,442.0)	1,600.0	1,541.0	(2,263.9)	877.1
Safety Education Fund	343.2	175.3	(203.1)	315.4	170.0	(206.4)	279.0
Waterways Funds							
Waterways ^{5,6}	\$ 5,667.9	\$21,120.8	\$ (16,569.0)	\$ 10,219.7	\$ 21,158.8	\$(29,844.1)	\$ 1,534.4
Harbor Development Fund ⁵	2,171.8	3,634.9	(1,165.4)	4,641.3	3,295.8	(7,937.1)	-
Marine Safety Fund	521.1	5,560.6	(5,105.8)	975.9	4,955.5	(5,455.8)	475.6
Miscellaneous Funds							
Michigan Natural Resources Trust Fund ²	\$31,772.7	\$83,473.3	\$(81,124.4)	\$34,121.6	\$ 46,351.3	\$(54,626.9)	\$ 25,846.0
Land Exchange Facilitation Fund	44.8	3,224.0	(1,846.4)	1,422.4	7,001.2	(5,923.6)	2,500.0
Nongame Fish and Wildlife Trust Fund	366.5	507.0	(550.4)	323.1	548.1	(692.1)	179.1
Recreation Improvement Fund	1,058.1	1,105.8	(1,350.8)	813.1	1,105.8	(1,448.3)	470.6
MacMullan Conference Center ¹	220.4	1,151.5	(1,192.2)	179.7	1,183.2	(1,362.9)	-
Air Photo/Geographic Info. Syst. Fees ¹	28.5	14.1	(25.2)	17.4	8.0	(25.4)	-

(1) Fiscal year 2005-6 expenditures have been reduced to reflect available revenue.

(2) The expenditures include the portion to be transferred to permanent investment.

(3) Fiscal year 2005-6 expenditures assume that \$3,500,000 for deer yard acquisitions will be appropriated.

(4) The Fiscal Year 2004-5 Snowmobile Registration expenditures include a transfer of \$196,750 to Snowmobile Trail Improvement Fund revenue.

(5) Fiscal year 2004-5 and 2005-6 expenditures assume transfers of \$1,000,000 and \$7,776,000.

(6) Fiscal Year 2005-6 expenditures assume that \$5,000,000 for lump sum capital outlay appropriations will be appropriated.

Source: Department of Natural Resources

The Proposed Amendment

Proposal 2006-01 would amend Article IX of the Michigan Constitution to add the following language:

Sec. 40. The Michigan conservation and recreation legacy fund is established. The state treasurer shall direct the investment of the legacy fund. The state treasurer shall establish within the legacy fund restricted accounts as authorized by this section and may establish additional subaccounts as authorized by law. The state treasurer may receive gifts, grants, bequests, or assets from any source for deposit into a particular account or subaccount. The assets of the legacy fund shall be invested as provided by law. Interest and earnings accruing from each account or subaccount shall be credited to that account or subaccount.

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

- (a) The development, improvement, operation, promotion, and maintenance of forest recreation activities.
- (b) Grants to state colleges and universities to implement programs funded by the forest recreation account.
- (c) The administration of the forest recreation account.

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

- (a) The development, improvement, operation, promotion, and maintenance of wildlife and fisheries programs and facilities.
- (b) The acquisition of land and rights in land that support wildlife and fisheries programs.
- (c) Research to support wildlife and fisheries programs.
- (d) The enforcement and administration of the wildlife and fisheries laws of the state, including the necessary equipment and apparatus incident to the operation and enforcement of wildlife and fisheries laws.
- (e) The protection, propagation, distribution, and control of wildlife and fish.
- (f) Grants to state colleges and universities to implement programs funded by the game and fish protection account.
- (g) The administration of the game and fish protection account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the game and fish protection fund or account.

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

- (a) Signage for and the improvement, maintenance, and construction of off-road vehicle trails, routes, or areas.
- (b) The administration and enforcement of state regulations related to off-road vehicles.
- (c) The leasing of land for use by off-road vehicles.
- (d) The acquisition of easements, permits, or other agreements for the use of land for off-road vehicle trails, routes, or areas.
- (e) The restoration of any of the natural resources of the state on public land that are damaged due to off-road vehicle use.
- (f) Safety education programs related to the operation of off-road vehicles.
- (g) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's off-road vehicle programs.
- (h) Grants to state colleges and universities to implement programs funded by the off-road vehicle account.
- (i) The administration of the off-road vehicle account.

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

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

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

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

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

- (a) Planning, construction, maintenance, and acquisition of trails and areas for the use of snowmobiles.
- (b) Providing access to trails and areas for the use of snowmobiles.
- (c) Providing basic snowmobile facilities.
- (d) The administration and enforcement of state regulations related to snowmobiles.
- (e) Safety education programs related to the operation of snowmobiles.
- (f) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's snowmobile programs.
- (g) Grants to state colleges and universities to implement programs funded by the snowmobile account.
- (h) The administration of the snowmobile account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the recreational snowmobile trail improvement fund or snowmobile account.

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

- (a) The development, improvement, operation, promotion, and maintenance of state parks and recreation areas.
- (b) Grants to state colleges and universities to implement programs funded by the state park improvement account.
- (c) The administration of the state park improvement account.

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

- (a) The construction, operation, and maintenance of recreational boating facilities that provide public access to waterways or moorage of watercraft.
- (b) The acquisition of property for the purpose of paragraph (a).
- (c) Grants to local units of government and state colleges and universities for the provision of public access or moorage of watercraft and law enforcement or boating education to recreational watercraft operators.
- (d) The acquisition and development of harbors and public access sites.
- (e) The enforcement of laws related to the operation of watercraft and education related to the operation of watercraft. Not less than forty-nine percent of revenues from watercraft registration fees received by the waterways account shall be used for the purposes of this subdivision.
- (f) The administration of programs funded by the waterways account.
- (g) Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's waterways programs.
- (h) The administration of the waterways account, which may include payments in lieu of taxes on state owned land that has been or will be purchased through the Michigan state waterways fund or waterways account.

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

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

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

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

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

Sec. 42. The Michigan nongame fish and wildlife trust fund is established. The Michigan nongame fish and wildlife trust fund shall consist of revenue designated by a member of the public for the benefit of nongame fish and wildlife. The Michigan nongame fish and wildlife trust fund may also receive gifts, grants, bequests, or assets from any source and may receive other revenues as authorized by law.

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

The Michigan nongame fish and wildlife trust fund shall maintain a principal balance of not less than \$6,000,000.00. The interest and earnings of the Michigan nongame fish and wildlife trust fund and other revenues not retained on a permanent basis shall be expended only for the following:

(a) The management of nongame fish and wildlife species consistent with a long-range plan for the management of Michigan's nongame fish and wildlife resources.

(b) Grants to state colleges and universities to implement programs funded by the Michigan nongame fish and wildlife trust fund.

(c) The administration of the Michigan nongame fish and wildlife trust fund.

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

Proposed Amendment

Other funds to receive constitutional protection

The move to seek constitutional protection for these accounts comes on the heels of moving other DNR accounts into the Constitution for similar reasons. In 1984, an amendment, also proposed by the legislature, was approved by the voters to grant constitutional protection to the Natural Resources Trust Fund. In 1994, the legislature and voters placed the Michigan State Parks Endowment Fund in the Constitution. Most recently the Recreation Land Acquisition ("Kammer") Trust Fund was placed in the Constitution in 2002.

The Natural Resources Trust Fund receives revenue from leases for the "extraction of non-renewable resources from state owned land" except from lands acquired with state or federal game and fish protection funds. Since being placed within the Constitution the fund has grown steadily and is now approaching the cap.

The State Parks Endowment Fund has also grown significantly since being placed in the Constitution in 1994. The majority of the revenues in the fund are from user fees, however a diversion from the Michigan Natural Resources Fund was included with the passage of the State Parks Endowment Fund

and provides some stable revenue for state parks.

In 2002, a constitutional amendment addressed two DNR trust funds in the Constitution, the Recreational Land Acquisition ("Kammer") Trust Fund and the Michigan Natural Resources Trust Fund. The Kammer Trust Fund was originally created by Public Act 204 of 1976. Before receiving constitutional protection to limit spending, the Kammer Trust Fund was the subject of several controversial diversions to the Michigan Strategic Fund. These diversions kept the fund balance significantly lower than its target asset level.

The 2002 amendment to Kammer raised the cap to \$500 million and limited the spending of the trust fund. The amendment allowed only one-third of revenues to the trust fund to be appropriated until the fund reached its \$500 million cap. When the cap is reached, only the interest earnings may be appropriated. The changes to the Michigan Natural Resources Trust Fund in the amendment permitted interest and earnings plus 50 percent of the annual revenues from the Michigan Natural Resources Trust Fund to be appropriated from the Genevieve Gillette State Parks Endowment Fund.

One significant difference between past amendments and the current proposal is that the former had spending caps on the amount that could be spent in addition to limiting the ways in which the money could be spent. The accounts were required to save cer-

tain amounts in order to increase the fund over the years. Only the two proposed trust funds have set limitations on the amounts that may be spent in addition to the limits on expenditures.

Currently, some of the proposed funds are more restricted than others. For instance, those tied to federal matching dollars are not as vulnerable as those protected only by statute. The Game and Fish Protection Fund is tied to federal dollars. If the expenditures do not meet federal standards then the federal government will withhold funding.

Constitutional Concerns

The proposed amendment is more consistent with the issues that are most often addressed by state statute.

Once the Constitution has been amended it requires another vote

by the people to change it in the future. Should any technical changes to the amendment be necessary, another amendment would have to pass a statewide vote, a lengthy and expensive process.

The proposed language is basically identical to current statute. This proposal would extend the length of the Michigan Constitution by 1,834 words, a full 6 percent.

The length and complexity of the Constitution limits the ability of lawmakers to exercise judgment. During tight budgets the legislature and governor benefit from flexibility in order to balance the state's budget and spend tax dollars where they are most needed. However, this flexibility does allow funds, even funds restricted by state statute, to be spent at the discretion of elected officials.

Conclusion

Moving these DNR funds into the Constitution would eliminate the chance of the accounts being raided to balance budgets in the future. It grants significant protection to these restricted funds and ensures that the user fees are spent on programs for which they were collected. Spending the money collected through user fees on programs not related to their intent means that snowmobilers, for example, pay more for general fund services.

The funds already receiving constitutional protection are growing steadily while those protected only by state statute have seen mixed results. However, the low balances are not entirely related to diversions. These accounts are funded through user fees which make them good candidates for strong restrictions and which also means their revenues are unstable. Some of the struggling funds may not see improvement unless the number of users paying fees increases.

The content of the proposed amendment is more commonly addressed in state statute. Any changes to the proposal, if adopted, would have to be approved by the voters, which is a lengthy, expensive process. However, this would not be the first fund to receive constitutional protection. Those funds already moved into the Constitution have not been subject to diversions and have seen the growth desired.

CRC Board of Directors

KENT J. VANA, *Chair*
EUGENE A. GARGARO, JR., *Vice Chair*
JEFFREY D. BERGERON, *Treasurer*
J. EDWARD BERRY
WILLIAM M. BRODHEAD
BETH CHAPPELL
GARY L. COLLINS
JAMES G. DAVIDSON
TERENCE M. DONNELLY
RANDALL W. EBERTS
DAVID O. EGNER
JOSHUA D. EICHENHORN
W. FRANK FOUNTAIN
EUGENE A. GARGARO, JR.
INGRID A. GREGG
FRANK M. HENNESSEY
MARYBETH S. HOWE
NICK A. KHOURI
DANIEL T. LIS
MICHAEL H. MICHALAK
ALEKSANDRA MIZIOLEK
IRVING ROSE
AMANDA VAN DUSEN
KENT J. VANA
GAIL L. WARDEN
JEFFREY K. WILLEMAIN
EARL M. RYAN, *President*



Citizens Research Council of Michigan

38777 West Six Mile Road, Suite 208
Livonia, MI 48152-2660